2010-450

FROM		
NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE **MEMO**
AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8TH FLOOR	
SUBJECT	BMZA / 328 Park Avenue	

TO Mr. David Tanner, Executive Director
Board of Municipal and Zoning Appeals
417 East Fayette Street, 14th Floor

DATE: November 15, 2010

REQUEST
The Department of Planning has received Ashawnda Fleming's Board of Municipal and Zoning Appeals (BMZA) application to extend the hours of operation of the existing business on Fridays and Saturdays by closing at 4:15 a.m. on the following day. We understand that this appeal is scheduled for hearing on November 23, 2010.

SITE
328 Park Avenue is located on the west side of the street, approximately 21' south of the intersection with Mulberry Street. This property measures approximately 34' by 51'6" and is currently improved with a three-story attached building covering almost the entire lot. This site is zoned B-4-2 and is located within the Market Center Urban Renewal Plan area and the Market Center National Register Historic District. The 300 block of Park Avenue contains many formerly residential attached buildings which have been converted to non-residential use.

ANALYSIS
Conditional Use: In this zoning district, after-hours establishments are a conditional use, requiring approval by the Board (§6-508). The application does not refer to any live entertainment to be provided in connection with converting the current use (a banquet hall) to an after-hours establishment, but does note that amplified music would be reduced in volume after 2 a.m. on Friday and Saturday nights.

Renewal Plans: Ordinance #01-0165 was approved May 14, 2001 for the purpose of, among other things, clarifying the relationship between conditions or requirements imposed by an Urban Renewal Plan or Conservation Plan, such that the condition or requirement that is more restrictive will govern. Additionally, the ordinance prohibits the approval of a conditional use or a variance if that conditional use or variance is precluded by an applicable renewal plan or master plan.

Required Findings: The Board may not approve a conditional use unless, after public notice and hearing and on consideration of the standards prescribed in this title, it finds that: … (2) the use is not in any way precluded by any other law, including an applicable urban renewal plan; (§14-204). For this reason, the Board must consider the requirements of the Market Center Urban Renewal Plan, which does allow retail uses in this mixed-use district.

Conditional Use – Required findings: The Board may not approve a conditional use unless, after public notice and hearing and on consideration of the standards prescribed in this title, it finds that:

1. the use is not in any way precluded by any other law, including an applicable Urban Renewal Plan;
2. the authorization is not otherwise in any way contrary to the public interest; and
3. the authorization is in harmony with the purpose and intent of this article (§14-204).

Comprehensive Planning: The existing use of this property is a banquet hall which does not have a liquor license. One-day liquor licenses are available to banquet hall users on application to the Baltimore City Liquor Board. However, one-day liquor licenses are restricted to a maximum duration ending at 2 a.m., a time consistent with the current closing hours of the banquet hall. The practical effect of approving an after-hours establishment at this location would be to make potential after-hours violations of one-day liquor licenses the responsibility of the license-holder, which/who would not be the banquet hall. This would open an opportunity for circumvention of the existing controls over serving of alcoholic beverages after 2 a.m. in Baltimore City, as one-day liquor license holders are difficult to apply administrative sanctions to. The success of revitalization connected with the Market Center Urban Renewal Area would not be supported by a use with potential for being used to skirt existing controls on hours of operation of establishments at which alcoholic beverages are served.

RECOMMENDATION

The Department of Planning recommends disapproval of the appeal, because an after-hours establishment at a banquet hall would not contribute to the public interest in enhancement of the Market Center area, a vital part of downtown Baltimore.

TJS/wya/mf

cc: Ashawnda Fleming, Appellant