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CITY OF BALTIMORE

BRANDON M. SCOTT  
Mayor



DEPARTMENT OF LAW  
JAMES L. SHEA, CITY SOLICITOR  
100 N. HOLLIDAY STREET  
SUITE 101, CITY HALL  
BALTIMORE, MD 21202

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September 2, 2021

The Honorable President and Members  
of the Baltimore City Council  
Attn: Executive Secretary  
Room 409, City Hall  
100 N. Holliday Street  
Baltimore, Maryland 21202

Re: Mayor and City Council Bill 21-0111 – Zoning– Conditional Use Conversion of a Single-Family Dwelling Unit to 3 Dwelling Units in the R-7 Zoning District – Variance – 2312 Eutaw Place

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 21-0111 for form and legal sufficiency. The bill would permit the conversion of a single-family dwelling unit at 2312 Eutaw Place to become 3 dwelling units. The bill would also authorize a variance for lot size.

In general, a conversion of a single-family to a multiple family dwelling can occur only in the R-7 through R-10 Districts and only if the structure was originally constructed as a single-family dwelling and has at least 1,500 square feet or more in gross floor area. Baltimore City Code, Art. 32, §§ 9-701; 9-703. This building has over 4,400 square feet.

When a property is converted to multiple dwelling units, as is requested in this bill, each unit must have a certain amount of square feet of gross floor area depending on the number of bedrooms in the unit. Baltimore City Code, Art. 32, § 9-703(c). In this case, the conversion proposed is for three new dwellings. There would be two one-bedroom units, which are both required to have 750 square feet. Baltimore City Code, Art. 32, § 9-703(c)(1). The final unit would be a two-bedroom unit, requiring 1,000 square feet. Baltimore City Code, Art. 32, § 9-703(c)(2). The Planning Staff Report notes that the proposed floor plan satisfies these requirements.

Additionally, at least one off-street parking space must be provided per dwelling unit. Baltimore City Code, Art. 32, § 9-703(f). Therefore, three parking spaces are required. The Planning Staff Report asserts that the requisite parking can be provided.

The converted dwelling must continue to conform to the bulk and yard regulations, including lot area per dwelling unit, for the district in which the building is located. Baltimore City Code, Art. 32, § 9-703(d). The minimum lot size for a multi-family dwelling unit is 1,100 feet per dwelling unit. Baltimore City Code, Art. 32, Tbl. 9-401. The maximum lot coverage

allowed in an R-7 district for a multi-family dwelling is 70%. Baltimore City Code, Art. 32, § 9-401; Tbl. 9-401. The Planning Staff Report notes that the building on this property only covers 52% of the lot, so this requirement is met.

The bill requests a variance for the minimum lot size, which the bill states is 3,300 required square feet. Baltimore City Code, Art. 32, Tbl. 9-401. The lot size is only 2,810.5 feet. However, the zoning code provides that on a lot with 3 or more dwelling units, “a fraction of the total area that is 50% or more of the required lot area factor counts as an additional permitted dwelling unit.” Baltimore City Code, Art. 32, § 15-302. The first two dwelling units would require 2,200 square feet, leaving the lot with 610.5 additional square feet. That number is more than 50% of 1,100 square feet so the zoning code permits the third dwelling unit without a variance. Thus, the Law Department concurs with the recommendation of the Planning Staff Report that the bill should be amended to remove the requested variance by deleting lines 20-24 on page 1.

### Conditional Use Standards

Under the Zoning Article of the City Code, the conversion of a single-family dwelling to a multi-family dwelling in an R-7 District requires conditional-use approval by ordinance. Baltimore City Code, Art. 32, § 9-701(2). To approve a conditional use, the City Council must find, based on facts presented at the hearing on the bill:

- (1) the establishment, location, construction, maintenance, or operation of the conditional use would not be detrimental to or endanger the public health, safety, or welfare;
- (2) the use would not be precluded by any other law, including an applicable Urban Renewal Plan;
- (3) the authorization would not be contrary to the public interest; and
- (4) the authorization would be in harmony with the purpose and intent of this [Zoning] Code.

Baltimore City Code, Art. 32, §§ 5-404(a); 5-406(a). The Planning Report contains findings of fact on these matters.

### Hearing Requirements

The City Council committee assigned the bill must consider it at a scheduled public hearing where it will make the appropriate findings of fact. Baltimore City Code, Art. 32, §§ 5-404(a); 5-406; 5-507; 5-602. Certain procedural requirements apply to this bill because a conditional use is considered a “legislative authorization.” Baltimore City Code, Art. 32, § 5-501(2)(ii). Specifically, notice requirements apply to the bill, and the bill must be referred to certain City agencies which are obligated to review the bill in specified manner. Baltimore City Code, Art. 32, §§ 5-504, 5-506, 5-602. Finally, certain limitations on the City Council’s ability to amend the bill apply. Baltimore City Code, Art. 32, § 5-507(c).

The bill is the appropriate method for the City Council to review the facts and make the determination as to whether the legal standard for a conditional use has been met. Assuming the required findings are made at the hearing, all procedural requirements are satisfied and the

necessary amendment adopted to remove the unnecessary variance, the Law Department can approve the bill for form and legal sufficiency.

Very truly yours,



Hilary Ruley  
Chief Solicitor

cc: James L. Shea, City Solicitor  
Nina Themelis, Mayor's Office of Government Relations  
Elena DiPietro, Chief Solicitor, General Counsel Division  
Victor Tervalva, Chief Solicitor  
Ashlea Brown, Assistant Solicitor