


FROM	NAME & TITLE	CHRIS RYER, DIRECTOR	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 <sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #22-0285 / ABUNDANT HOUSING ACT		

TO

The Honorable President and  
Members of the City Council  
City Hall, Room 400  
100 North Holliday Street

DATE: June 5, 2023

At its special meeting of June 1, 2023, the Planning Commission considered City Council Bill #22-0285, the purpose of amending certain provisions of the Baltimore City Zoning Code to promote increased development of low-density multi-family dwellings in certain residential districts; establishing standards for the conversion of single-family dwellings into low-density multi-family dwellings; establishing opportunities to increase density if a low-density multi-family dwelling is a certain distance from certain City amenities; amending certain permitted and conditional uses; amending certain bulk and yard standards; eliminating certain required off-street parking requirements; and defining certain terms.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report; reviewed input from a public listening session conducted by the Department; listened to several hours of testimony from the staff and public; the Commission read and considered over 200 emails and letters; the Commission delayed deliberation to have the opportunity to collect additional information and conduct more research to inform its recommendation; and the Commission deliberated the issues for more than one hour during a special hearing, where it specifically considered all of the sides of the issue and the various issues at play. In addition, the Chairman contacted Planning agencies from other jurisdictions to better understand how similar inclusionary housing efforts have worked in those jurisdictions and reported those findings to the Commission during deliberation. Based on this substantial review, investigation and deliberation, the Commission voted to recommended approval of City Council Bill #22-0285 and adopted the following resolution, with six members being present (six in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, with consideration for testimony and facts presented in the meeting, and recommends that City Council Bill #22-0285 be **amended and approved** by the City Council, with the following amendments:

- Construction of, or conversion to, a Low-Density Multi-Family Dwelling with two dwelling units in residential zones should be permitted by right, provided that all bulk requirements are met.
- Construction of, or conversion to, a Low-Density Multi-Family Dwelling with three or four dwelling units in residential zones should be a conditional use requiring approval by

the Board of Municipal and Zoning Appeals (BMZA), provided bulk requirements are met.

- For parking:
  - Parking requirements should be exempted for Single-Family Dwellings and Low-Density Multi-Family Dwellings with two dwelling units;
  - A parking exemption should be available for a Low-Density Multi-Family Dwelling with three or four dwelling units in residential districts that meet the standards listed in the bill under the current "bonus unit" section; and
  - Parking requirements should otherwise not be removed for dwelling units City-wide in general.
- The Planning Commission does not support the "bonus unit" provisions to add eligibility for an additional dwelling unit.

If you have any questions, please contact Mr. Eric Tiso, Division Chief, Land Use and Urban Design Division at 410-396-8358.

CR/ewt

attachment

cc: Ms. Nina Themelis, Mayor's Office  
Mr. Ethan Cohen, Mayor's Office  
The Honorable Eric Costello, Council Rep. to Planning Commission  
The Honorable Ryan Dorsey, Sponsor  
Mr. Colin Tarbert, BDC  
Ms. Rebecca Witt, BMZA  
Mr. Geoffrey Veale, Zoning Administration  
Ms. Stephanie Murdock, DHCD  
Ms. Elena DiPietro, Law Dept.  
Mr. Francis Burnszynski, PABC  
Mr. Liam Davis, DOT  
Ms. Natawna Austin, Council Services



Brandon M. Scott  
Mayor

## PLANNING COMMISSION

Sean D. Davis, Chair; Eric Stephenson, Vice Chair

### STAFF REPORT



Chris Ryer  
Director

May 18, 2023

#### **REQUEST:** City Council Bill #22-0285/ Abundant Housing Act:

For the purpose of amending certain provisions of the Baltimore City Zoning Code to promote increased development of low-density multi-family dwellings in certain residential districts; establishing standards for the conversion of single-family dwellings into low-density multi-family dwellings; establishing opportunities to increase density if a low-density multi-family dwelling is a certain distance from certain City amenities; amending certain permitted and conditional uses; amending certain bulk and yard standards; eliminating certain required off-street parking requirements; and defining certain terms.

#### **RECOMMENDATION:** Amendment and Approval, with the following amendment:

- (In reference to Law Department’s second concern) Correct four references to nonconformity as follows:
  - On page 14 of the bill, in line 29, delete “NON-” in “NON-CONFORMING.”
  - On page 16 of the bill, in line 26, delete “NON-” in “NON-CONFORMING.”
  - On page 19 of the bill, in line 5, delete “NON-” in “NON-CONFORMING.”
  - On page 21 of the bill, in line 3, delete “NON-” in “NON-CONFORMING.”
  - Further, staff recommends considering whether the fourth example on page 21, which is slightly different than the others, should instead be written in the same way for consistency.
- On page 31 of the bill, in Table 10-301, add “P” in line 11 under C-5.
- On page 34 of the bill, in Table 11-301, add “P” in line 11 under IMU-1

**STAFF:** Eric Tiso

**INTRODUCED BY:** Councilmember Dorsey

#### **SITE/GENERAL AREA**

This bill will affect all zoning districts where residential use is allowed.

#### **HISTORY**

There are no previous legislative or Planning Commission actions regarding this specific topic.

#### **ANALYSIS**

Background: In a public listening session hosted by Planning, Councilman Dorsey explained his intent behind this bill at length at the start of the meeting ([Video Link](#)). A brief summary of those reasons would be principally to grow the population of the City while affirmatively furthering fair housing options. To do that, the bill includes four main themes: 1) Allowing the conversion of dwellings in more places than is currently allowed, where adequate space allows

for that density. It was noted that the proposed changes will not permit more people in a structure than would otherwise be allowed today, and provided an example where a large extended family may all live in one home and be considered a single dwelling unit. That same building divided into multiple units should not allow more people to live there than would otherwise be allowed by housing codes; 2) The bill removes the difficult and politicized process of requiring conditional uses for conversion, and to allow them as permitted instead. 3) The bill removes the prioritization of cars over people by eliminating the requirement of off-street parking spaces to be provided as a required condition before another unit can be approved; and 4) The bill incentivizes density near certain community features like transit and grocery stores.

Notes on Terminology: Through this report, I will refer to various land uses either by their formally defined land use title, as well as informal plain-language descriptions. By illustration, the formal land use of *Dwelling: Single-family* is most commonly referred to as a single-family dwelling. Likewise, Low-Density Multi-Family is easier to read and say than the formal *Dwelling: Multi-Family (Low Density)*. Formal definitions will be italicized, and informal terms will not. If in doubt, the bill proposes new cross-reference terms to aid the reader, and they can be relied upon in this staff report as well.

In the City Code, Article 32 – Zoning (the zoning code) provides for approving land uses either as a permitted use by right (shown as a “P” in the land use tables), as a conditional use by Ordinance (“CO” in the tables), or as a conditional use through the Board of Municipal and Zoning Appeals (“CB” in the tables). If permitted or conditional use is referenced - that’s the approval path in that instance. These may be collectively referenced as “allowed” across a group of districts, which would include both permitted and conditional uses as the case may be, or as “not allowed” if neither option is available.

Bill Effects: This bill will have a number of effects, which are summarized below.

- The existing definition for *Dwelling: Multi-Family* will be split into two categories, with a Low-Density and a High-Density option:
  - *Dwelling: Multi-Family (Low Density)* – will be for two to four units, with the potential for a bonus fifth unit, under certain circumstances. Even with that bonus unit, they will still be considered in this same land use category.
  - *Dwelling: Multi-Family (High Density)* – will generally be for five or more units, but will not include those with a bonus fifth unit that are still to be considered under the Low-Density Multi-Family category.
  - The new definitions above will result in the renumbering of several definitions that are otherwise not changing.
  - A formal definition for *Multi-family dwelling* is proposed, which will replace the existing common term cross-reference to be a defined term that will include both Low-Density and High-Density Multi-family dwellings collectively for ease of reference where something applies to both equally.
- R-1A through R-4 zones will add Low-Density Multi-Family use as a permitted use (*i.e.* as new construction) and the related bulk standards are added.
  - Residential conversions from a single-family dwelling to Low-Density Multi-Family use are proposed to be permitted in these residential districts, subject to certain requirements.

Conversions are currently not allowed in R-1A through R-4, but are only allowed in R-7 through R-10 districts as conditional uses which will be outlined below.

- Design Review for exterior modifications for residential conversion will be expanded to include all residential districts that gain the conversion option.
- Conversions of a single-family dwelling to Low-Density Multi-Family use, will be permitted when meeting certain standards, in addition to single-family dwellings. Conversions will be permitted in R-5 through R-10, provided they meet the standards. Conversions are currently not allowed in R-5 and R-6 districts. Conversions are currently allowed in R-7 through R-10 districts, as a conditional use by Ordinance for R-7 and R-8 district, or as a conditional use through the Board of Municipal and Zoning Appeals (BMZA) for R-9 and R-10 districts.
  - An “opportunity density” bonus for a potential fifth dwelling unit will be allowed, under certain circumstances.
- Standards for newly constructed Low-Density Multi-Family use are added.
- Corresponding changes are made to the related Tables at the back of the zoning code to reflect the text changes above.
- Table 16-406: *Required Off-Street Parking* is amended to remove vehicle parking requirements for all residential uses across all districts. Staff notes that bike parking is not referenced in the bill, and so would be left as it is today.

Law Department Amendments: In the Law Department’s comment letter to the City Council, two concerns are noted:

“... First, the bill seeks to permit a land use based on the “census tract where the household median income is 200% of the area medium income” for a particular region. This is not proper zoning material because income is not a characteristic of the district, land or building. ...”

Staff defers to the Law Department on this topic, and we have no objection to that proposed amendment.

“Second, the bill attempts to define approved uses of property as non-conforming. This would not be the proper characterization because a non-conforming use is defined as ‘all uses and structures incompatible with allowed uses and structures.’ ...”

Staff believes this is actually a simple drafting mistake in listing “non-conforming” where “conforming” was intended. For that reason, references to non-conformity don’t need to be removed, but instead they should be amended to read “conforming” instead. The idea that the bill is trying to express is that Low-Density Multi-Family Dwellings are defined in the bill as having two to four units, but the option to allow a bonus fifth unit would otherwise make the five-unit building fall under the High-Density Multi-Family Dwelling category, which is defined as having more than four dwelling units. The idea is to allow a building to have that bonus fifth unit, but remain classified as a Low-Density Multi-Family Dwelling, and that the five-unit building should be considered conforming. Without that provision, the building would instead become either non-conforming in districts where High-Density Multi-Family Dwellings are not allowed (such as R-1A through R-4), or it would instead become a High-Density Multi-Family Dwelling where they are allowed.

There are four locations where the reference to the bonus fifth unit as non-conforming is discussed: through conversion and as new construction for Title 8 (in R-1A through R-4 districts), and then again through conversion, and as new construction for Title 9 (in R-5 through R-10 districts). Further, staff recommends considering whether the fourth instance on page 21 of the bill (the new construction option for R-9), which is worded slightly different than the others, should instead be written in the same way for consistency.

Additional Amendments: There are two instances where Low-Density Multi-Family dwellings are not listed as permitted, but High-Density Multi-Family dwellings are permitted, in the C-5 and IMU-1 districts. Staff believes this was an oversight, and that allowing for a single dwelling above a commercial first floor and five or more units, but nothing between does not make sense. There are no bulk standards differences between uses in the C-5 districts, so Table 10-401 would not be affected. The IMU-1 bulk standards list lot area requirements for both Low-Density Multi-Family dwellings and High-Density Multi-Family dwellings, indicating that Low-Density was accidentally omitted in the use table. For those reasons, staff recommends adding Low-Density Multi-Family dwellings as a permitted use in the C-5 districts, and in IMU-1.

Public Comment: The Planning Commission has in its file a number of letters and emails from concerned individuals and organizations, with a variety of opinions on the merits of this bill.

**Letters in Support:** Themes mentioned include the racist and inequitable history of zoning in Baltimore and its effect of segregating the population of the City; Providing more options for the “missing middle”; Problems with required off-street parking; Reducing affordability barriers for residents; Incentivizing transit; Capitalizing on potentially available Federal HUD funding sources; Allowing residents to keep their homes by adding a rental unit that will subsidize their ownership and/or fund needed maintenance of those homes; Bridging the “appraisal gap” where an existing vacant home may not be valuable enough to renovate without additional density, thereby continuing its deterioration.

**Letters in Opposition:** Themes mentioned include increased competition for on-street parking spaces in already dense neighborhoods; May lower property values for property owners (many of which are diverse) as neighborhoods increase in density; The high number of vacant homes across the City should be first renovated and used before additional density is added to occupied homes; Allowing for additional density can incentivize absentee owners to increase the profitability of a property while only minimally maintaining it; The City’s ability to enforce existing code violations is under pressure, and cannot be relied upon; Some neighborhoods have covenants on properties preventing multi-family use – what appears to be apply equally across the City, will not; As a practical matter, already dense neighborhoods are easier to make more dense and will therefore suffer from agglomeration of poverty than existing low-density neighborhoods that are not likely to become more dense as a result of this bill; If investment companies can better afford a property than a potential home-owner, and the additional density makes it worth the investment company’s while, then this may reduce homeownership, trading renters for owners, and where renters may pay more than a buyer; Increased density in some neighborhoods will further strain aging/inadequate infrastructure; Incentivizing density near transit is laudable only if that transit system is reliable;

Equity: Through the letters received, we have heard conflicting opinions on whether the bill would help or harm equity. Some believe this will open opportunity for a wider variety of affordable housing options, while others believe it will only shift owners to renters. Some see the potential of owners remaining in-place with an income unit to fund their maintenance, while others see out-of-town investors outcompeting first-time buyers. Zoning is a blunt tool, and this bill will enable change without requiring it. While all of these conditions may be true simultaneously, there is no guarantee in either direction. Staff believes that the impacts on communities may be different, as there is no one-size-fits-all solution.

Staff attempted to provide outreach by hosting a public listening session, and inviting the lead sponsor to answer questions. By providing significant notice of the bill, it allowed more than the average amount of time for individuals and organizations to do their own research, make up their own minds, and let us know of their opinions.

Finally, staff does not believe there will be any significant impact on staff time or resources as a result of this bill above the ordinary demands of development oversight.

A handwritten signature in blue ink, consisting of a stylized, cursive 'C' followed by a horizontal line extending to the right.

**Chris Ryer**  
**Director**