

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



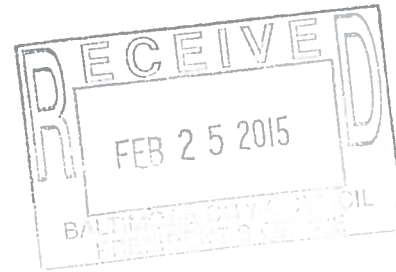
DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

February 24, 2015

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

Attn: Natawna B. Austin,
Executive Secretary



Re: City Council Bill 15-0470 – Zoning – Conditional Use Conversion of a Single Family Dwelling Unit to a 15-Family Dwelling Unit in the R-7 Zoning District – 3110 Crittenton Place

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 15-0470 for form and legal sufficiency. The bill permits the conversion of a single-family dwelling unit to a 15-family dwelling unit at 3110 Crittenton Place, which is in an R-7 Zoning District. Such conversions are permitted in an R-7 District only by ordinance. Zoning Code of Baltimore City (“ZC”), §§3-305(b)(2), 14-102(2). This is the requisite ordinance to permit this change, for which there are no legal impediments.

The Staff Report from the Planning Department (Report) states that, applying the Title 14 considerations for conditional uses, the proposed use of the structure as a 15-family dwelling “would be consistent with residential use in the area, and would enable continuing use of an important historic contributing structure in one of Baltimore’s most important historic districts.” Report at 3. The report also notes, however, that the structure dominates the lot on which it sits. In an R-7 District, lot coverage is per F.A.R.. The existing F.A.R. is 1.2. Assuming that “dominates the lot” means that the lot coverage regulation is not complied with, an amendment to the bill to add a variance for lot coverage is required. Section 15-202(b) of the Zoning Code provides that “[a] variance may authorize a lot coverage that is more than otherwise allowed by the applicable regulation.” The Law Department requests an amendment to the bill which states: “That pursuant to the authority granted by Title 15 of the Zoning Code of Baltimore City, specifically by §§ 15-101, 15-202(b), 15-218 and 15-219, permission is granted for a variance for lot coverage that is more than otherwise allowed by the applicable regulation.” The text amendment is attached to this report.

F w/ Amend

With regard to parking requirements, the Planning Commission report does not explicitly state the number of available spaces for this structure. "Under 10-405(1)(iv), one parking space per dwelling unit is required. However, under 10-203(b), changes to structures built before April 20, 1971 must provide off-street parking, but only in the amount by which the requirements for the new use exceed those for the existing use. Here, 14 spaces would be required, but a variance of 75% under 15-208(b) would require 3.5 spaces, which would equal 4 spaces under 10-402(a)(2) of the zoning code." If 14 parking spaces are not provided for the conversion, the bill must be amended to provide for a variance for parking but at least 4 spaces must be provided for in the variance request.

In addition, certain procedures must be followed for any conditional use, including conversions to additional dwelling units. See ZC § 3-305(c) (requirements of Title 14 apply); ZC §§14-208; 16-101(c)(2), 16-101(d)(1) (conditional use is a type of legislative authorization); ZC §16-203, 16-402 (notice and posting requirements); ZC §16-301 et. seq. (referral to certain City agencies, which are obligated to review the bill in a specified manner); ZC §16-403 (limitations on the City Council's ability to amend the bill); *see also* Md. Land Use Code Ann., §10-303. Also, with the addition of the variance for lot coverage, a third reading hold-over is required. *See* §16-404.

This 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 conversion has been met, and to make the required findings under Sections 15-218 and 15-219. If the bill is amended to include a variance from the bulk regulation for lot coverage or parking if necessary, and assuming all procedural requirements have or will be satisfied, the Law Department will approve the bill for form and legal sufficiency.

Sincerely,



Elena DiPietro
Chief Solicitor
Chief General Counsel Division

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Hilary Ruley, Chief Solicitor
Victor K. Tervala, Chief Solicitor

Jennifer Landis, Assistant Solicitor

CITY OF BALTIMORE

COUNCIL BILL 14-0419

(Law Department Amendments)

On page 1, line 18, before “SECTION” insert “SECTION 2. AND BE IT FURTHER ORDAINED, THAT PURSUANT TO THE AUTHORITY GRANTED BY TITLE 15 OF THE ZONING CODE OF BALTIMORE CITY, SPECIFICALLY BY §§ 15-101, 15-202(B), 15-218 AND 15-219, PERMISSION IS GRANTED FOR A VARIANCE FOR LOT COVERAGE THAT IS MORE THAN OTHERWISE ALLOWED BY THE APPLICABLE REGULATION.”

On page 1, line 18, strike “2” and substitute “3”

On page 2, line 1, strike “3” and substitute “4.”