
CITY OF BALTIMORE

BRANDON M. SCOTT,
Mayor



DEPARTMENT OF LAW
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September 24, 2024

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

Re: City Council Bill 24-0552 - Zoning – Commercial 1 Village Center District
– Conditional Use Retail Goods Establishment (With Alcoholic Beverage
Sales) – Variances – 6242 Bellona Avenue

Dear President and City Council Members:

The Law Department reviewed City Council Bill 24-0552 for form and legal sufficiency. The bill is for the purpose of permitting, subject to certain conditions, the continued operation and expansion of a retail goods establishment (with alcoholic beverage sales) on the property known as the Pinehurst Wine Shoppe, 6242 Bellona Avenue (Block 4976, Lot 011), and granting a variance from corner side-yard setback requirements. The ordinance would take effect on the date of its enactment.

The property in this case is in a C-1-VC District. The property has operated as a wine store since the 1950s. It seeks to expand its conditional use approval to add areas for the consumption of food on the side of the structure and increased storage space and sales space in the rear of the structure. The Zoning Code identifies retail sales establishments with alcohol sales as conditional uses in C-1-VC subject to approval by ordinance. See City Code, Art. 32, Table 10-301. Therefore, the expansion of this conditional use requires approval by ordinance. Section 14-336 of the Zoning Code provides the following additional requirements for retail goods establishment with alcohol sales: (1) must have a Class A or Class A-2 License from the Baltimore City Board of Liquor License Commissioners (2) may not be detrimental to or endanger the public health, safety, and welfare. 3) must be located at least 300 feet from any other existing retail goods establishment with alcoholic beverage sales. Additionally, Table 10-401 provides that no change to an existing setback in the C-1-VC District may be made unless approved as a variance. Lastly, Zoning Code table 16-406 states that for a retail goods establishment 1 parking space per 1,000 square feet of gross floor area is required. The owners submitted a statement of facts which indicates that a total of five parking spaces will be required after the proposed expansion; however, the owners intend to provide 12 parking spaces. The parking lot already exists, and it does not appear that it will be modified by these additions to the existing structure.

Since conditional use approval is needed, the Zoning Code requires that the City Council find the following facts:

- (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 Code.

City Code, Art. 32, §§ 5-404(a); 5-406(a).

These findings must be guided by 14 required considerations:

- (1) the nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures;
- (2) the resulting traffic patterns and adequacy of proposed off-street parking and loading;
- (3) the nature of the surrounding area and the extent to which the proposed use might impair its present and future development;
- (4) the proximity of dwellings, churches, schools, public structures, and other places of public gathering;
- (5) accessibility of the premises for emergency vehicles;
- (6) accessibility of light and air to the premises and to the property in the vicinity;
- (7) the type and location of adequate utilities, access roads, drainage, and other necessary facilities that have been or will be provided;
- (8) the preservation of cultural and historic landmarks and structures;
- (9) the character of the neighborhood;
- (10) the provisions of the City's Comprehensive Master Plan;
- (11) the provisions of any applicable Urban Renewal Plan;
- (12) all applicable standards and requirements of this Code;
- (13) the intent and purpose of this Code; and
- (14) any other matters considered to be in the interest of the general welfare.

City Code, Art. 32, §§ 5-406(b); 5-404(a) (review in accordance with standards in Section 5-406).

The City Council must consider this bill 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. The Law Department notes that the Planning Commission's Report includes a statement of facts submitted by the property owner that the City Council may reference in its review.

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 expanding a conditional use has been met.

Assuming the required findings are made at the hearing and all procedural requirements are met, the Law Department can approve the bill for form and legal sufficiency.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michele M. Toth".

Michele M. Toth
Assistant Solicitor

cc: Stephen Salsbury
Nina Themelis
Tiffany Maclin
Elena DiPietro
Hilary Ruley
Ashlea Brown
Desiree Luckey
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