


TJA

<b>FROM</b>	NAME & TITLE	THOMAS J. STOSUR, 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 #17-0099 / Zoning – Conditional Use Banquet Hall – 2 <sup>nd</sup> Floor Rear & Patio – 5604 York Rd.		

**TO**

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

DATE: September 8, 2017

At its regular meeting September 7, 2017, the Planning Commission considered City Council Bill #17-0099, for the purpose of permitting, subject to certain conditions, the establishment, maintenance, and operation of a banquet hall on the second floor rear area and the adjoining fenced-in patio on the property known as 5604 York Road (aka 5609 Hess Avenue), as outlined in red on the accompanying plat; and providing for a special effective date.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended amendment and approval of City Council Bill #17-0099, and adopted the following resolution, eight members being present (eight in favor):

**RESOLVED**, That the Planning Commission finds, in accordance with §5-406 of Article 32, the Zoning Code of Baltimore City, that the proposed use provided in this bill:

- will not be detrimental to or endanger the public health, security, general welfare, or morals;
- is not in any way precluded by any other law, including an applicable Urban Renewal Plan;
- is not otherwise in any way contrary to the public interest; and
- is in harmony with the purpose and intent of that article;

and further **RESOLVED**, That the Planning Commission concurs with the recommendation of its Departmental staff, and recommends that City Council Bill #17-0099 be amended and passed as amended by the City Council. The amendment recommended by the Planning Commission states: The banquet hall will continue to maintain and operate an open-air off-street parking area on the opposite side of Benninghaus Road, in accordance with the approved parking lot site plan for the property known as 408-416 Benninghaus Road attached hereto, for use by banquet hall patrons during banquet hall events; and to lease or otherwise provide other additional off-street parking resources for use by banquet hall patrons and staff.

If you have any questions, please contact Mr. Wolde Ararsa, Division Chief, Land Use and Urban Design Division, at 410-396-4488.

TJS/WA

Attachment

cc: (next page)

cc: Mr. Pete Hammen, Chief Operating Officer  
Mr. Jim Smith, Chief of Strategic Alliances  
Ms. Karen Stokes, Mayor's Office  
Mr. Colin Tarbert, Mayor's Office  
Mr. Kyron Banks, Mayor's Office  
The Honorable Edward Reisinger, Council Rep. to Planning Commission  
Mr. David Tanner, BMZA  
Mr. Geoffrey Veale, Zoning Administration  
Ms. Sharon Daboin, DHCD  
Mr. Patrick Fleming, DOT  
Ms. Elena DiPietro, Law Dept.  
Ms. Natawna Austin, Council Services  
Mr. Paul Plymouth, Council President's Office  
Mr. Francis Burnszynski, PABC  
Mr. Jonathan Fishman (for Accelerator LLC)

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Catherine E. Pugh  
Mayor

## PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman



Thomas J. Stosur  
Director

### STAFF REPORT

September 7, 2017

**REQUEST:** City Council Bill #17-0099/ Zoning – Conditional Use Banquet Hall – The Second Floor Rear Area and Adjoining Fenced-In Patio – 5604 York Road (AKA 5609 Hess Avenue):

For the purpose of permitting, subject to certain conditions, the establishment, maintenance, and operation of a banquet hall on the second floor rear area and the adjoining fenced-in patio on the property known as 5604 York Road, (aka 5609 Hess Avenue), as outlined in red on the accompanying plat; and providing for a special effective date.

**RECOMMENDATION:** Amend, and Approve as amended

Recommended Amendment: Section 1 of City Council Bill 17-0099 should include this condition: The banquet hall will continue to maintain and operate an open-air off-street parking area on the opposite side of Benninghaus Road, in accordance with the approved parking lot site plan for the property known as 408-416 Benninghaus Road attached hereto, for use by banquet hall patrons during banquet hall events; and to lease or otherwise provide other additional off-street parking resources for use by banquet hall patrons and staff.

**STAFF:** Martin French

**PETITIONERS:** Councilmember Henry, at the request of Accelerator LLC

**OWNER:** Accelerator LLC

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

Site Conditions: 5604 York Road and 5609 Hess Avenue, addressed now as 5604 York Road, is a consolidated property on the west side of York Road approximately 50' south of the intersection of York Road and Bellona Avenue, an intersection considered the center-point of the Govans community that originated as Govanstown in the 19<sup>th</sup> Century. This property has 37' of frontage on York Road, 48'2" of former frontage on Hess Avenue which is roughly parallel to York Road, and approximately 173'8" of frontage on the side street known as Benninghaus Road. The site contains approximately 0.436 acre and is improved with a two-story semi-detached commercial structure covering the entire lot. Part of the northern portion of this structure is a one-story infill addition along Benninghaus Road, on the roof of which is a fenced-in patio that is to be covered by the authorization contained in this bill. The property and its immediate neighbors are zoned C-2, a zoning district in which banquet halls are a conditional use approvable by ordinance (Article 32, Zoning Code, Table 10-301). (The original Govans Hotel, now Epiphany House, on the southwest side of the intersection of

York Road and Bellona Avenue, is zoned C-1; the property that is the subject of this bill wraps around its southern and western sides.)

**General Area:** The Govans area is characterized by various commercial uses that have evolved around or along the original York Turnpike, now York Road, a commercial corridor its entire length from the City limits (and beyond, in Baltimore County further north) southward to the 1888 City line near the northeast corner of Guilford. West of the Govans commercial area is the Homeland community, a National Register Historic District characterized by single-family detached housing; east of the Govans commercial area are the Belvedere, Mid-Govans, and Woodbourne-McCabe residential areas containing a mix of detached, semi-detached, and attached dwellings with some schools, religious institutional uses, and a few scattered small commercial uses.

## **HISTORY**

There are no previous legislative or Planning Commission actions regarding this specific site. The property is included in the York Road Community Strategic Neighborhood Action Plan (SNAP) area. This SNAP was adopted by the Planning Commission on February 2, 2006.

## **CONFORMITY TO PLANS**

The proposed action is consistent with LIVE EARN PLAY LEARN, the Comprehensive Master Plan for Baltimore, Play Goal 2: Improve nightlife, entertainment, and recreation experiences for residents and visitors, Objective 1: Expand access to nightlife. It is also consistent with a York Road Community SNAP objective: to improve the mix of businesses in the York Road commercial nodes to better serve surrounding communities.

## **ANALYSIS**

**Background:** The applicant wishes to use the second floor level of the commercial building known as 5604 York Road as a banquet hall, and use part of the rooftop above a side-rear portion of the building that is only one story tall as a patio that functions as part of the banquet area. This allows use of the building's street level on York Road for active pedestrian-oriented retail commercial uses, while upstairs offering an alternative to downtown or suburban banquet hall locations for nearby residents to take advantage of. The one aspect of the proposal needing a solution is off-street parking for patrons of the banquet hall. The applicant has taken the initiative to address this by purchasing and planning to consolidate two lots opposite the handicapped-accessible entrance to the banquet hall facility which is on Benninghaus Road, and offering to convert them into an open-air off-street parking lot according to current Baltimore City standards. As the anticipated capacity of this lot will not accommodate all banquet patrons, the applicant has also leased parking spaces at other locations close to 5604 York Road. This supports his effort to limit possible adverse effects on the existing on-street parking needs of the nearby residential communities.

**Conditional Use:** Per §5-406 {"Approval standards"} of Article 32 – Zoning:

(a) *Limited criteria for denying.*

Neither the Board of Municipal and Zoning Appeals, nor the City Council, as the case may be, may approve a conditional use unless, after public notice and hearing and on consideration of the standards required by this subtitle, it finds that:

- (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.

Below is the staff's review of §5-406(b) {"Required considerations"} of Article 32 – *Zoning*:

"Banquet hall" means an establishment: (i) for which all events are directly managed by the owner of the facility or by a person regularly employed by the owner and responsible to the owner for the on-site management of all events held in that facility and for event arrangements; (ii) that is used regularly for serving food or beverage provided by the owner or by caterers and suppliers approved in advance by the owner; (iii) that serves designated groups that, before the day of the event, have reserved the facility for banquets or meetings and provided all insurance certificates, security contracts, off-street parking contracts required by the facility's owner; (iv) to which the general public is not admitted; (v) for which no admission fee is charged at the door; and (vi) in which no third party promoter is involved or stands to profit (§1-303(c)(1)). This definition of a banquet hall, which is both stricter and more extensive than the definition contained in the Zoning Code before June 5, 2017, will help protect nearby residential areas from the "floating nightclub" phenomenon that would occasionally occur under the previous Code's less detailed provisions. For these reasons, the proposed use's location, maintenance and operation would not be detrimental to or endanger public health, safety, or welfare.

The proposed banquet hall has a rated capacity of approximately 400 persons, for which at least 40 off-street parking spaces are required (Table 16-406). The parking lot on the opposite side of Benninghaus Road is designed to provide approximately 18 spaces. The balance of required spaces, according to the applicant, would be provided in 60 spaces leased from one or more nearby properties. As the Benninghaus Road parking lot is for now the only one actually owned by an entity controlled by the petitioning owner, it is important to have its layout, which meets Zoning Code standards, made part of this legislation.

The patio area proposed for use as an adjunct to the banquet hall's interior is on the north side of the existing building, shielded from York Road and Hess Avenue by the second floor level of the building; and across Benninghaus Road all properties are zoned Commercial (C-1). Therefore, there would be minimal adverse noise impact upon nearby residents, and since escaping sound would go northward among the rear portions of commercial establishments fronting on York Road or Bellona Avenue, no adverse noise impact on nearby businesses or York Road pedestrians.

To the extent that there can be conflicts with residential or local business uses when banquet halls have located in other areas, this site could be considered one not likely to generate such conflicts provided that the banquet hall continues to provide off-street parking for its patrons.

The banquet hall is not precluded at this location by any other law, and there is no Urban Renewal Plan for the Govans area. As noted above, the proposed use is actually consistent with the York Road Community Plan's objective of improving the mix of businesses to better serve

surrounding communities. The authorization would not be contrary to the public interest, and would be in harmony with the purpose and intent of the Zoning Code.

Notification: Govans Ecumenical Development Corporation (GEDCO), the Homeland Association, and the York Road Partnership have been notified of this action.



**Thomas J. Stosur**  
**Director**