



April 27, 2012

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



Attn: Karen Randle
Executive Secretary

Re: City Council Bill 11-0006– Zoning – Conditional Use Banquet
Hall – 5503 Richard Avenue

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 11-0006 for form and legal sufficiency. The bill permits the establishment, maintenance, and operation of a banquet hall on the property known as 5503 Richard Avenue.

The subject property is zoned B-2-2 (Community Business District). The conditional uses that require the enactment of an ordinance in a B-2 zone include banquet halls. City Zoning Code (“ZG”) Section 6-309(9). A conditional use is the subject of this proposed ordinance; accordingly, the proposed ordinance satisfies the above requirements.

We note that the Planning Department’s report on the bill (“Report”) states that off-street parking for the facility will not meet the requirements of the Zoning Code. According to the Report, the banquet hall will seat 250. It requires at least 25 off-street parking spaces pursuant to ZG Section 10-405.22i.

In reviewing this issue, the Law Departments believes a provision of the Zoning Code is relevant. Specifically, Section 10-203 provides that if the existing “structure was lawfully erected before April 20, 1971, additional off-street parking facilities are mandatory only in the amount by which the requirements for the new use exceed those for the existing use.” According to the Report, this structure was erected prior to 1971. It was formerly used as a club or lodge. Under the Zoning Code, a club or lodge must provide one parking space for every four persons. ZG Section 10-405.7. For a structure serving 250 persons, a lodge owner needs therefore to provide 63 parking spaces, which is considerably more than the 25 parking spaces required by a banquet hall.

#/comments

According to the Report, the lodge did not provide the required off-street parking, presumably because it was considered a "non-conforming use." This fact, however, does not diminish the significance or application of Section 10-203 to the number of parking spaces required of the applicant. The current zoning code requires less off-street parking for the applicant's proposed use than the amount required for its existing use. Moreover, the structure was built prior to 1971. Under these facts, no additional parking spaces are needed.

While it may be appropriate to seek an amendment to Section 10-203 to provide an exception under the circumstances presented in this case, until then the City is compelled to abide by the Zoning Code as written. The Law Department is not unmindful of the deleterious effects discussed in the Report on projected neighborhood parking conditions. Yet, according to the Report, the applicant has obtained agreements with nearby property owners to provide off-street parking. The Report seeks to minimize the significance of these agreements because they were made orally and were not in writing. Presumably, if the applicant obtains the agreements in writing and accounts for 25 parking spaces, the chief objection to the application disappears.

Pursuant to the City Zoning Code, a bill concerning a conditional use is classified as a "legislative authorization." ZC § 16-101. Legislative authorizations require that certain procedures be followed in the bill's passage. Specifically, certain notice requirements apply to the introduction of the bill. *See* ZC § 16-203. The bill must be referred to certain City agencies, which are obligated to review the bill in a specified manner. *See* ZC §§ 16-301, 16-302 & 16-304. Additional public notice and hearing requirements also apply to the bill. *See* ZC § 16-402. Finally, certain limitations on the City Council's ability to amend the bill apply. *See* ZC § 16-403.

Assuming all the procedural requirements are met, the Law Department will approve the bill for form and legal sufficiency.

Sincerely yours,



Victor K. Tervala
Assistant Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor
Hilary Ruley, Assistant Solicitor
Ashlea Brown, Assistant Solicitor