

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



DEPARTMENT OF LAW

ANDRE M. DAVIS, CITY SOLICITOR  
100 N. Holliday Street  
Suite 101, City Hall  
Baltimore, Maryland 21202

November 7, 2017

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 17-0104 – Zoning – Conditional Use Tavern – 1700 W.  
41<sup>st</sup> St.

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 17-0104 for form and legal sufficiency. The bill permits, subject to certain conditions, the establishment, maintenance, and operation of a tavern on the property known as 1700 W. 41<sup>st</sup> St.

Upon passage of City Council Bill 17-0103, this property will be zoned I-MU which requires a conditional use tavern to be approved by ordinance. City Code, Art. 32, Table 11-301. Under the City Code, approval of a conditional use must be based on a finding 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.

Art. 32, § 5-406(a). Moreover, the finding must be guided by 14 “considerations” involving such things as the “nature of the surrounding area and the extent to which the proposed use might impair its present and future development”: “the resulting traffic patterns and adequacy of proposed off-street parking”; etc. *See* Art. 32, § 5-406(b).

The Law Department notes that the Planning Commission’s Report (“Report”) indicates that the Planning staff has reviewed and commented on the pertinent “considerations.” Furthermore, the Report indicates that the Planning Commission found facts that would allow the conditional use to be granted; that is, facts required by Article 32, § 5-406(a).



City Council Bill 17-0104  
November 7, 2017  
Page 2

Law Department notes further that a bill that would authorize a conditional use is classified as a “legislative authorization.” Art. 32, § 5-501. Legislative authorizations requires that certain procedures be followed in the bill’s passage. Specifically, certain notice requirements apply to the bill. *See* Art 32, § 5-602. The bill must be referred to certain City agencies, which are obligated to review the bill in a specified manner. *See* Art. 32, §§ 5-504, 5-506, 5-604. Finally, certain limitations on the City Council’s ability to amend the bill apply. *See* Art. 32 § 5-507.

In conclusion, if the City Council finds the necessary facts at the public hearing, either from the Planning Report or other testimony, and all procedural requirements are met, the Law Department is prepared to approve the bill for form and legal sufficiency.

Sincerely,



Elena R. DiPietro  
Chief Solicitor

cc: Andre M. Davis, City Solicitor  
Karen Stokes, Director, Mayor’s Office of Government Relations  
Kyron Banks, Mayor’s Legislative Liaison  
Victor Tervalo, Chief Solicitor  
Hilary Ruley, Chief Solicitor  
Jennifer Landis, Assistant Solicitor