

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



DEPARTMENT OF LAW

101 City Hall
Baltimore, Maryland 21202

June 2, 2013

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

Re: City Council Bill 17-0070 – Zoning – Conditional Use Parking, Open Off-Street Area – 1120, 1122, 1124 and 1126 Clarkson Street and 112, 114, 116, and 118 Seldner Place

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 17-0070 for form and legal sufficiency. The bill would permit the establishment, maintenance, and operation of a Parking, open off-street area on the properties outlined on the plat submitted with the bill.

The subject properties were zoned R-8 (General Residence District) under the Zoning Code in existence at the time of the filing of this bill. See Zoning Code of Baltimore City (“ZC”). The conditional uses that require the enactment of an ordinance in an R-8 zone under that Zoning Code include “Parking, open off-street areas, other than accessory, for the parking of 3 or more motor vehicles.” ZC §§4-1004; 4-1104. A conditional use is the subject of this proposed ordinance; accordingly, the ordinance satisfies the above requirements.

It is lawful to proceed under the requirements in the Zoning Code in existence at the time of the filing of this bill because under Section 2-203(k)(1) of the current Zoning Code (“Transform Baltimore”), codified in Article 32 of the City Code, any application that is submitted and considered complete before the effective date of Article 32 is governed by the Zoning Code in existence at the time of filing. City Code, Art. 32, §2-203(k)(1). If this application was considered complete before the effective date of Article 32, it is proper to analyze the application and follow the procedures outlined by the Zoning Code in existence at the time of the filing.

The Law Department also notes that the Report of the Planning Commission (“Report”) provides findings of fact that would support the authorization of this conditional use under the standards in Title 14 of the Zoning Code in existence at the time of the filing of this bill. The Planning Commission has recommended that a site plan be attached and incorporated as part of the conditions if the City Council were to approve this bill. So long as the City Council finds that the site plan meets the criteria in Section 14-103 (Imposition of Conditions) of the Zoning Code in effect at the time of the filing of this bill, the Law Department would have no objection to the amendment.

Pursuant to the City Zoning Code in effect at the time of the filing, 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.

Subject to the foregoing comments, the Law Department can approve this bill and the Planning Commission's suggested amendment for form and legal sufficiency.

Very truly yours,



Hilary Ruley
Chief Solicitor

cc: David Ralph, Interim City Solicitor
Karen Stokes, Director, Mayor's Office of Government Relations
Kyron Banks, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
Victor Tervalá, Chief Solicitor
Jennifer Landis, Assistant Solicitor