


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR <i>Stole / for T. S.S.</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #12-0055 / RESIDENTIAL SUBSTANCE-ABUSE TREATMENT FACILITIES		

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

DATE: April 20, 2012

At its regular meeting of April 19, 2012, the Planning Commission considered City Council Bill #12-0055, for the purpose of allowing in certain zoning districts residential substance-abuse treatment facilities as a conditional use requiring an ordinance or, under certain circumstances, as a permitted use; requiring a certain number of off-street parking spaces for these facilities; authorizing the Zoning Administrator, under certain circumstances, to provide reasonable accommodation in the application of the Zoning Code to individuals protected under certain federal laws; defining certain terms; repealing certain obsolete or obsolescent references to non-bedridden alcoholics; repealing certain obsolete or obsolescent provisions governing the authorization of health facilities; providing for a special effective date; and generally relating to the siting, development, and use of residential substance-abuse treatment facilities.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended approval of City Council Bill #12-0055 and adopted the following resolution; seven members being present (seven in favor).

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #12-0055 be passed by the City Council.

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: Ms. Kaliopé Parthemos, Deputy Chief for Economic and Neighborhood Development
Ms. Thomasina Hiers, Acting Chief of Staff
Ms. Angela Gibson, Mayor's Office
The Honorable Rochelle "Rikki" Spector, Council Rep. to Planning Commission
Mr. David Tanner, BMZA
Mr. Geoffrey Veale, Zoning Administration
Mr. Nicholas Blendy, DHCD
Ms. Barbara Zektick, DOT
Ms. Elena DiPietro, Law Dept.
Mr. Matthew Nayden, Law Dept.
Mr. Dan Sparaco, Law Dept.
Ms. Karen Randle, Council Services



Stephanie Rawlings-Blake
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT



Thomas J. Stosur
Director

April 19, 2012

REQUEST: City Council Bill #12-0055 – Residential Substance-Abuse Treatment Facilities:

For the purpose of allowing in certain zoning districts residential substance-abuse treatment facilities as a conditional use requiring an ordinance or, under certain circumstances, as a permitted use; requiring a certain number of off-street parking spaces for these facilities; authorizing the Zoning Administrator, under certain circumstances, to provide reasonable accommodation in the application of the Zoning Code to individuals protected under certain federal laws; defining certain terms; repealing certain obsolete or obsolescent references to non-bedridden alcoholics; repealing certain obsolete or obsolescent provisions governing the authorization of health facilities; providing for a special effective date; and generally relating to the siting, development, and use of residential substance-abuse treatment facilities.

RECOMMENDATION: Approval

STAFF: Eric Tiso

PETITIONER: The Administration (Law Department)

HISTORY

- CCB #04-1387 – Proposed to amend the Zoning Code to address nursing homes, group homes and emergency shelters, including defining off-street parking requirements, but the bill failed at the end of the term.
- CCB #05-0221 – Proposed to amend the Zoning Code to address nursing homes, assisted living programs and emergency shelters, but the bill was withdrawn on July 11, 2005.
- CCB #07-0002 – Proposed to amend the Zoning Code to address nursing homes, group homes and emergency shelters, to add the ability for the Zoning Administrator to grant reasonable accommodations, and defining off-street parking requirements. The bill failed at the end of the term.
- Ord. #06-342, enacted November 8, 2006, amended the zoning code to broadening the classification for clinics, deleted the separate classification for substance abuse treatment centers, redefined certain terms, and conformed certain language, all generally relating to the zoning of facilities for the examination and treatment of people on an outpatient basis.

CONFORMITY TO PLANS

This proposal is consistent with the Comprehensive Master Plan LIVE section's Goal 1, Objective 3: Increase Substance Abuse Treatment City-wide.

ANALYSIS

Purpose:

The purpose of this bill is to comply with a recent Federal Court Order, in Case No. JFM 09-1766, directing the City to amend its Zoning Code with regard to residential substance abuse.

Effects of the Bill:

- A new §1-182.1 is added to define "Residential substance-abuse treatment facility" as a land use. It is defined as: "Residential substance-abuse treatment facility" means a group-care or similar facility for the 24-hour medical or non-medical care of persons who are recovering from substance abuse and are in need of personal services, supervision, or assistance." (Note that the existing §1-182.1 and §1-182.2 are renumbered to §1-182.2 and §1-182.3 respectively.)
- §2-105 is amended to add to the duties of the Zoning Administrator the ability to provide reasonable accommodations where needed. This makes explicit the duty of the Zoning Administrator to provide reasonable and necessary accommodations in the application of the Zoning Code to provide fair housing opportunities for individuals protected under the Federal Americans With Disabilities Act or the Federal Fair Housing Amendments Act.
- The R-1 through R-5 districts are amended to add Residential substance-abuse treatment facilities as a permitted use. As defined, the uses will need to comply with definitions for §1-136.c.5 "Dwelling: Single-Family Dwelling," §1-137 "Dwelling Unit," and §1-142 "Family."
- The R-6 through R-10, office-residential and business districts are amended to add "Residential Substance-abuse treatment facilities housing 16 or fewer patients..." as a permitted use, so long as they comply with the requirements of §1-137 "Dwelling Unit," and §1-142 "Family."
- "Residential substance-abuse treatment facilities housing 17 or more patients" is added to the list of conditional uses that require approval by ordinance in the various residential, office-residential and business districts.
- Throughout the code, the existing land use "Nonprofit homes [for the rehabilitation of non-bedridden alcoholics and] for the care and custody of homeless persons" is modified to remove the text within the brackets, and will read as "Nonprofit homes for the care and custody of homeless persons."
- §10-405.11.v is added to create a parking requirement for Residential substance-abuse treatment facilities – Housing more than 17 patients. In all districts they will require one parking space per four full-time equivalent staff members, plus one per six residents. However, if the facility does not permit residents to have vehicles at the facility, the facility need not provide off-street parking spaces for residents. A new §10-405.11.vi is added for Residential substance-abuse treatment facilities – housing 16 or fewer patients in all districts, requiring them to provide the same number of parking spaces as required for similarly configured dwellings in the same district.
- Finally, Health Article Title 3, Subtitle 1 {"Ordinance Required to Establish"} is repealed, in its entirety.

Practical Effects:

In short, this bill is intended to respond to the requirements of the Federal Court Order. In general terms, the City's actual practice was deemed to be not discriminatory, but that the Zoning Code's language did not match our actual practice, and so it must be corrected. For that reason, the way that the City handles requests for residential substance-abuse treatment facilities will remain essentially the same. These facilities will still be able to locate by-right where a dwelling unit is allowed, so long as they comply with the dwelling unit and family definitions in the Zoning Code (particularly with regard to not more than four unrelated persons). For increased capacities, applicants will need to request and obtain a reasonable accommodation through the Zoning Administrator. For other applications, a conditional use ordinance will be required (generally for capacities of 17 or more).

Community Input: Staff notified 118 community organizations by direct mailing, as well as by sending notice to the entirety of the Department's e-mail distribution list. On April 17, 2012, staff held a general information session in order to provide a pre-view of the legislation to the public, and to answer questions.

Gary W. Loh for T.J.S.

Thomas J. Stosur
Director