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CITY OF BALTIMORE

BERNARD C. "JACK" YOUNG,  
Mayor



DEPARTMENT OF LAW  
ANDRE M. DAVIS, CITY SOLICITOR  
100 N. HOLLIDAY STREET  
SUITE 101, CITY HALL  
BALTIMORE, MD 21202

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August 19, 2019

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 19-0371 - Conditional Use Banquet Hall – 4339 York  
Road (A Portion of the Property Known as 4335-4339 York Road)

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 19-0371 for form and legal sufficiency. The bill permits, subject to certain conditions, the establishment, maintenance, and operation of a banquet Hall on the property known as 4339 York Road.

This property is zoned I-MU, which, under the Zoning Code, requires banquet halls 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 that the “consideration.” in Sec. 5-406 were reviewed and the Planning Staff found that the use meets the criteria for approval. 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). It is not clear in the Report what the facts are that were relied on for this determination. **For this reason, the City Council should not rely solely on the Report to establish the necessary facts to lawfully approve this**

**conditional use. Instead, the City Council must be presented with and find the necessary facts at the public hearing.**

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 require 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 and all procedural requirements are met, the Law Department is prepared to approve the bill for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro  
Chief Solicitor  
Practice Group Chief

cc: Andre Davis, City Solicitor  
Nicholas Blendy, Mayor's Office of Government Relations  
Caylin Young, Council President's Legislative Liaison  
Victor Tervalá, Chief Solicitor  
Hilary Ruley, Chief Solicitor  
Ashlea Brown, Assistant Solicitor