
CITY OF BALTIMORE

**CATHERINE E. PUGH,
Mayor**



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

February 6, 2018

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 17-0157– Zoning – Conditional Use – Banquet Hall – First Floor
Area of 333 West Ostend Street

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 17-0157 for form and legal sufficiency. The bill permits, subject to certain conditions, the establishment, maintenance, and operation of a banquet hall on the first-floor area of the property known as 333 West Ostend Street (Block 0973, Lot 001).

This property is zoned TOD-4, which requires banquet halls to be approved by ordinance. City Code, Art. 32, Table 12-402. 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 facts pertinent to the requirements of Art. 32, § 5-406(a). The Report, however, does discuss any of the 14 “considerations” required

by Art. 32, § 5-406(b). For this reason, the City Council the City Council must elicit those considerations at the public hearing before it lawfully approve this conditional use ordinance.

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 agrees with the facts contained in the Report and establishes the required considerations at the bill's public hearing, the Law Department is prepared to approve the bill for form and legal sufficiency, assuming all other procedural requirements are met.

Sincerely,



Victor K. Tervala
Chief Solicitor

cc: Andre M. Davis, City Solicitor
Karen Stokes, Director, Mayor's Office of Government Relations
Kyron Banks, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
Hilary Ruley, Chief Solicitor
Jennifer Landis, Assistant Solicitor