
CITY OF BALTIMORE

CATHERINE E. PUGH,
Mayor



DEPARTMENT OF LAW
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April 23, 2018

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

Attn: Natawna B. Austin,
Executive Secretary

Re: City Council Bill 18-0181 – Zoning – Conditional Use Conversion of a
Single-Family Dwelling Unit to 2 Dwelling Units in the R-8 Zoning District
– 824 North Carrollton Avenue

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 18-0181 for form and legal sufficiency. Subject to certain conditions, the bill permits the conversion of a single-family dwelling unit to 2 dwelling units in the R-8 Zoning District on the property known as 824 North Carrollton Avenue.

Under the Zoning Article of the City Code, the conversion of a single-family dwelling to a multi-family dwelling in an R-8 District requires conditional-use approval by ordinance. Baltimore City Code (BCC), Art. 32, § 9-701(2). Further, approval of a conditional use must be based on the following findings:

(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.

§ 5-406(a). Moreover, the above findings must be guided by 14 “considerations” involving, for example, 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 character of the neighborhood,” and “the resulting traffic patterns and adequacy of proposed off-street parking.” § 5-406(b).

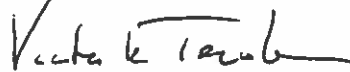
The Land Use and Transportation Committee (the "Committee") must consider the above law at the scheduled public hearing wherein it will hear and weigh the evidence as presented in: (1) the Planning Report and other agency reports; (2) testimony from the Planning Department and other City agency representatives; and (3) testimony from members of the public and interested persons. After weighing the evidence presented and submitted into the record before it, the Committee is required to make findings of fact with respect to the factors and considerations outlined above. If, after its investigation of the facts, the Committee makes findings which support the conditional use and the four variances sought, it may adopt these findings and the legal requirements will be met.

The Law Department notes that the Planning Staff Report ("Report") fails to provide any findings of fact that would allow approval of the conditional use. The report notes the required criteria needed to lawfully approve the bill and concludes those criteria are satisfied, but it does not provide any facts that support this conclusion. For this **all the necessary facts must be provided in oral or written testimony at the bill's public hearing. In their absence, the Law Department will be unable to approve the bill for form and legal sufficiency.**

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.

The bill is the appropriate method for the City Council to review the facts and make the determination as to whether the legal standard for conditional use and variances have been met.

Sincerely,



Victor K. Tervalo
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
Ashlea Brown, Assistant City Solicitor