

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



DEPARTMENT OF LAW

ANDRE M. DAVIS, City Solicitor
101 City Hall
Baltimore, Maryland 21202

April 25, 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 17-0091 – Zoning -- Conditional Use Parking Lot – 1904
Wilmington Avenue

Dear Mr. President and City Council Members:

The Law Department has reviewed City Council Bill 17-0091 for form and legal sufficiency. The bill permits the establishment, maintenance, and operation of a parking lot on the property known as 1904 Wilmington Avenue.

The subject property is zoned R-5. The conditional uses that require the enactment of an ordinance in an R-5 zone include “Parking Lot (Principal Use).” *See* Art. 32, Zoning Code of Baltimore City (“ZC”) §5-201(a) and Table 9-301(R-5). A conditional use is the subject of this proposed ordinance; accordingly, the ordinance satisfies the above requirements.

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 Report of the Planning Commission (“Report”) provides findings of fact that would support the authorization of this conditional use. *See* Report



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at 2. The Planning Commission has also recommended that an amendment be made to the legislation to note that “the site plan and landscaping plans approved by the Site Plan Review Committee (SPRC) are attached to and made part of the legislation.” The adoption of this amendment by the Committee would not affect the legal sufficiency of the bill.

Pursuant to the City Zoning Code, a bill concerning 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* §5-602. The bill must be referred to certain City agencies, which are obligated to review the bill in a specified manner. *See* §§5-504, 5-506, 5-604. Finally, certain limitations on the City Council’s ability to amend the bill apply. *See* §5-507. Assuming all the procedural requirements are met, the Law Department can approve the bill for form and legal sufficiency.

Sincerely,



Elena DiPietro
Chief Solicitor
Division Chief

cc: Andre Davis, City Solicitor
Karen Stokes, Mayor’s Office of Government Relations
Kyron Banks, Mayor’s Legislative Liaison
Hilary Ruley, Chief Solicitor
Victor Tervalo, Chief Solicitor
Ashlea Brown, Assistant Solicitor
Avery Aisenstark, Director, Dept of Legislative Reference