

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



BOARD OF MUNICIPAL AND
ZONING APPEALS

DEREK J. BAUMGARDNER, Executive Director
417 E. Fayette Street, Room 1432
Baltimore, Maryland 21202

March 8, 2019

The Honorable President and
Members of the City Council
City Hall
100 N. Holliday Street
Baltimore, MD 21202

RE: CC Bill #19-0335 Zoning – Use Regulations – Banquet Halls

Ladies and Gentlemen:

City Council Bill No. 19-335 has been referred by your Honorable Body to the Board of Municipal and Zoning Appeals for study and report.

The purpose of City Council Bill No. 19-335 is to provide that, in an I-MU Zoning District (or, as it may be renamed, an “IMU-1” Zoning District), banquet halls are allowed as a conditional use requiring approval by Ordinance of the Mayor or City Council. The BMZA has reviewed the legislation and recommends disapproval of CC Bill. 19-335.

Under ZC Table 11-301, uses designated as conditional use by ordinance (“CO”) in the I-MU zoning district include the following:

- heavy sales, rental, or service
- homeless shelter
- hospital
- motor vehicle service and repair (minor)
- parking garage (principal use)
- parking lot (principal use)
- retail goods establishment (alcohol)
- tavern

Examples of uses designated conditional use by ordinance (“CO”) in zoning districts other than I-MU include, among others, the following: fraternities/sororities, residential care facilities (17 or more residents), bail bonds and check cashing establishments.

The land use designation “conditional use”, whether by ordinance (“CO”) or BMZA (“CB”), requires statutory findings as outlined under Article 32, §§5-405 and 5-406 and Maryland common law. Included in the common law evaluation of conditional uses are a line of cases beginning with *Schultz v. Pritz*, 291 Md. 1, 432 A.2d 1319 (1981) and continuing through the present with a number of related cases which further refine the court’s holding in *Schultz*. While the same standards are applied whether conditional use by ordinance (“CO”) or BMZA (“CB”), in practice, conditional use by ordinance (“CO”) is the most restrictive mechanism for authorizing conditional uses in Maryland. Uses with this designation are typically uses that are particularly intense or otherwise burdensome for neighborhoods (e.g. bail bonds and check cashing establishments, liquor stores, taverns, fraternities/sororities, etc.). “Banquet halls,” when operated complimentary with a neighborhood’s character, are not particularly intense or burdensome uses by themselves. Poor *operation* of a land use, however, is not a function of that land use, but rather, results from a lack of controls and/or enforcement of existing regulations.

As an alternative, BMZA recommends approval with amendment such that approval is obtained by conditional use through the Board of Municipal & Zoning Appeals (indicated by “CB” in Table 11-301). Board hearings are public hearings in which witnesses are sworn, evidence is admitted in support and in opposition to a particular use, and witnesses can be cross-examined by community members and the Board members themselves. Oftentimes, written community agreements (e.g. “MOUs”) are agreed upon between business owners or operators and community groups which can be incorporated into a possible conditional use approval. A formal record is kept of all proceedings and a transcript can be obtained.

Sincerely,



Derek J. Baumgardner
Executive Director

CC: Mayors Office of Council Relations
City Council President
Legislative Reference