
CITY OF BALTIMORE

BERNARD C. “JACK” YOUNG
Mayor



DEPARTMENT OF LAW
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September 15, 2020

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

Re: City Council Bill 20-0590– Zoning– Conditional Use Parking Lot – 1301-
1325 Etting Street, 505, 507, 509 and 511 West Lafayette Avenue, and the
Alley adjacent to 1325 Etting Street

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 20 - 590 for form and legal sufficiency. The bill would permit, subject to certain conditions, a parking lot on the properties known as 1301-1325 Etting Street, 505, 507, 509 and 511 West Lafayette Avenue, and the Alley adjacent to 1325 Etting Street. This property is zoned R-8.

The use of a parking lot in an R-8 district requires conditional use approval by ordinance. Baltimore City Code, Art. 32, Tbl 9-301 (R-8).

To approve any conditional use, the City Council must find:

- (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.

Baltimore City Code, Art. 32, § 5-406(a).

In addition, these findings 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” and “the resulting traffic patterns and adequacy of proposed off-street parking” etc. see Art. 32, § 5-406 (b).

The Planning staff report has findings of fact that could support the authorization of this conditional use.

The Planning staff report notes that there is a pedestrian alley included in the parcel that “need[s] to be closed, purchased and consolidated with the other lots in order to have a single parcel that may be developed as a parking lot.” Staff report, p.3. The staff recommends that the alley be closed and sold in separate legislation.

Article V, Section 5(b) of the City Charter grants the Department of Real Estate the authority to sell property that the Mayor and City Council deem by ordinance is no longer needed for public use, subject to the approval of the Board of Estimates. Section 116(b)(2) of Article VII of the City Charter requires that the Department of Transportation prepare all ordinances for the closing of streets. Therefore, for the conditional use to grant permission for a parking lot including the pedestrian alley, the conditional use must be contingent on the enactment of legislation closing and selling the property as well as approval by the Board of Estimates for the sale.

The law department recommends amending the bill with a new section (number and placement to be determined by legislative reference) stating “the permission granted for the establishment, maintenance, and operation of a parking lot as provided in this ordinance is contingent on, and may not be exercised until, the pedestrian alley located northwest of Block 396, Lot 063, running between Etting Street and a 10’ alley, in accordance with all applicable laws, is closed, purchased and consolidated with the other lots in order to have a single parcel that may be developed as a parking lot.”

The City Council committee assigned the bill must consider it at a scheduled and noticed public hearing wherein it will hear and weigh the evidence. Baltimore City Code, Art. 32, §§ 5-404(a); 5-507; 5-602. 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 outlined above. If, after its investigation of the facts, the Committee makes findings which support the conditional use, it may adopt these findings and the legal requirements will be met.

Finally, certain procedural requirements apply to this bill beyond those discussed above because a conditional use is considered a “legislative authorization.” Baltimore City Code, Art. 32, § 5-501(2)(ii). Specifically, notice requirements apply to the bill, and the bill must be referred to certain City agencies which are obligated to review the bill in specified manner. Baltimore City Code, Art. 32, §§ 5-504, 5-506, 5-602. Finally, certain limitations on the City Council’s ability to amend the bill apply. Baltimore City Code, Art. 32, § 5-507(c).

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 a conditional use has been met. Assuming the required findings are made at the hearing and all procedural requirements are satisfied, and assuming the bill is amended as suggested herein, the Law Department approves the bill for form and legal sufficiency.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'Ashlea', with a long horizontal flourish extending to the right.

Ashlea Brown
Assistant Solicitor

cc: Dana Moore, Acting City Solicitor
Matthew Stegman, Mayor's Legislative Liaison
Caylin Young, President's Legislative Director
Elena DiPietro, Chief Solicitor
Hilary Ruley, Chief Solicitor
Victor Tervala, Chief Solicitor