


TJA

FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #18-0184 / ZONING – USE REGULATION – HEALTH-CARE CLINICS		

DATE:

TO

The Honorable President and
 Members of the City Council
 City Hall, Room 400
 100 North Holliday Street

March 29, 2018

At its regular meeting of March 29, 2018, the Planning Commission considered City Council Bill #18-0184, for the purpose of providing that health-care clinics in the C-1, C-1-VC, C-1-E, C-2, and C-3 Zoning Districts require conditional use approval by Ordinance of the Mayor and City Council.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended disapproval of City Council Bill #18-0184 and adopted the following resolution; eight members being present (seven in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #18-0184 be disapproved by the City Council.

If you have any questions, please contact Mr. Eric Tiso, Division Chief, Land Use and Urban Design Division at 410-396-8358.

TJS/ewt

attachment

- cc: Mr. Pete Hammen, Chief Operating Officer
 Mr. Jim Smith, Chief of Strategic Alliances
 Ms. Karen Stokes, Mayor's Office
 Mr. Colin Tarbert, Mayor's Office
 Mr. Kyron Banks, Mayor's Office
 The Honorable Edward Reisinger, Council Rep. to Planning Commission
 Mr. William H. Cole IV, BDC
 Mr. Derek Baumgardner, BMZA
 Mr. Geoffrey Veale, Zoning Administration
 Ms. Sharon Daboin, DHCD
 Ms. Elena DiPietro, Law Dept.
 Mr. Francis Burnszynski, PABC
 Ms. Katelyn McCauley, DOT
 Ms. Natawna Austin, Council Services



Catherine E. Pugh
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Thomas J. Stosur
Director

March 8, 2018

REQUEST: City Council Bill #18-0184/ Zoning – Use Regulation – Health-Care Clinics:
For the purpose of providing that health-care clinics in the C-1, C-1-VC, C-1-E, C-2, and C-3 Zoning Districts require conditional use approval by Ordinance of the Mayor and City Council.

RECOMMENDATION: Disapproval

STAFF: Eric Tiso

INTRODUCED BY: Councilmembers Henry, Middleton, Cohen, Burnett, Bullock, Clarke, Reisinger, and Scott

SITE/GENERAL AREA

This bill will affect the C-1, C-1-VC, C-1-E, C-2, and C-3 Zoning Districts, which are scattered throughout the City.

HISTORY

These zoning districts were all created through TransForm Baltimore, the comprehensive rezoning of Baltimore. The various C-1 subdistricts were also newly created, which offer more differentiation options than the former B-1 districts. As part of the zoning code rewrite process, Planning staff recommended that Health-Care Clinics be approvable as permitted uses. The use was later amended to be a conditional use requiring approval by the Board of Municipal and Zoning Appeals (BMZA).

ANALYSIS

Background: This bill is very simple, in that it amends Table 10-301 *Commercial Districts – Permitted and Conditional Uses* to change the table entry for the Health-Care Clinic from “CB” indicating a conditional use requiring approval by the BMZA, to “CO” indicating a conditional use requiring approval by the Mayor and City Council by Ordinance. By contrast, Health-Care Clinics are now a conditional use to the BMZA in the C-1, C-1-VC, and C-1-E districts, and they are permitted by right in C-2 and C-3.

Staff continues to recommend that these uses should be available throughout the lower intensity commercial districts throughout the City, and that the change to requiring an Ordinance for establishment is too onerous for such a necessary service. We note that the conditional use standards are identical for either method of approval, either through the BMZA or through an Ordinance, as outlined in §5-406 of the zoning code below. The only difference this bill will make is it moves the method of approval to a legislative authorization through elected officials, as opposed to an appointed Board.

Conditional Use: Per §5-406 {"Approval standards"} of Article 32 – Zoning:

(a) *Limited criteria for denying.*

Neither the Board of Municipal and Zoning Appeals, nor the City Council, as the case may be, may approve a conditional use unless, after public notice and hearing and on consideration of the standards required by this subtitle, it finds 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.

Below is a list of the required considerations under §5-406(b) of Article 32 – Zoning:

(b) *Required considerations.*

As a further guide to its decision on the facts of each case, the Board of Municipal and Zoning Appeals must consider the following, where appropriate:

- (1) the nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures;
- (2) the resulting traffic patterns and adequacy of proposed off-street parking and loading;
- (3) the nature of the surrounding area and the extent to which the proposed use might impair its present and future development;
- (4) the proximity of dwellings, churches, schools, public structures, and other places of public gathering;
- (5) accessibility of the premises for emergency vehicles;
- (6) accessibility of light and air to the premises and to the property in the vicinity;
- (7) the type and location of adequate utilities, access roads, drainage, and other necessary facilities that have been or will be provided;
- (8) the preservation of cultural and historic landmarks and structures;
- (9) the character of the neighborhood;
- (10) the provisions of the City's Comprehensive Master Plan;
- (11) the provisions of any applicable Urban Renewal Plan;
- (12) all applicable standards and requirements of this Code;
- (13) the intent and purpose of this Code; and
- (14) any other matters considered to be in the interest of the general welfare.

Problems:

Time, cost, and intent to restrict: Historically, the requirement for approval by conditional use requiring a Mayor and City Council by Ordinance (CO) has been reserved for those land uses that are most controversial in neighborhoods, or those that have the potential for large impacts on the surrounding area. To our knowledge, this split method of conditional use approval (BMZA and Ordinance) appears to be either unique to Baltimore, or at the least is vanishingly rare. The usual effect of the Ordinance requirement has been to make the approval process more challenging. As a by-product of the differences in the processes, significantly more time is required for the legislative process, as well as increased costs in the form of posting, advertising, application and legal preparation fees. Staff believes that passage of this bill would create a disincentive to locate healthcare facilities in those districts. Staff does not believe that the provision of health care warrants increases in cost and time, nor do we believe that health care should be discouraged from locating in the C-1, C-1-VC, C-1-E, C-2, or C-3 zones.

Equitable access to health care: Should this bill pass, and health-care clinics are discouraged from locating in those affected districts, then the remaining districts eligible for health-care clinics should be considered (*i.e.* what's left). Health-care clinics are permitted in the C-4 and C-5 commercial districts, which are either located at a few heavy commercial nodes in the case of C-4, or downtown for C-5. Health-care clinics are permitted in certain industrial districts, including the Office-Industrial Campus District (OIC), Bio-Science Campus District (BSC), and the Industrial Mixed-Use District (I-MU) districts. They are likewise also permitted in some of the special purpose districts, including Hospital Districts (H), in all four of the Transit-Oriented Development Districts (TOD-1 through TOD-4), and in most of the Port Covington districts (PC-2, PC-3, and PC-4). These special purpose districts are not prevalent around the City and were intended to serve specialized functions or for a certain building type. None of these special purpose districts are prevalent around the City, and unlike the neighborhood commercial zones, they are generally not located conveniently near residential communities. This reduces the convenience of access for residents generally, but more specifically for those that do not have their own vehicles and must rely on public transportation options.

Impacts to a critical service: Staff does not believe that a critical service such as Health-Care Clinics should be further restricted, or at the least to be discouraged, in where they may locate. Careful consideration should be given to what aspect of this land use category might warrant such scrutiny, and if other options for controlling those perceived problems might exist. Examples of alternative options could be in limiting the sizes of the use, changing bulk or parking requirements, or the like, that could mitigate potential problems.

Notification: Notice of this action was sent to 2,532 subscribers via GovDelivery.



Thomas J. Stosur
Director