

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
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Baltimore, Maryland 21202

September 23, 2013

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

SEP 23

Re: City Council Bill 13-0252 – Rezoning – 3101 East Monument Street

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 13-0252 for form and legal sufficiency. The bill would change the zoning for 3101 East Monument Street from the R-8 Zoning District to the B-1 Zoning District.

The City Council may permit such a rezoning if it finds facts sufficient to show either a mistake in the existing zoning classification or a substantial change in the character of the neighborhood. Md. Code, Land Use, §10-304(b)(2). In evaluating whether the proposed rezoning meets this standard, the City Council is required to make findings of fact on the following matters: (1) population changes; (2) the availability of public facilities; (3) the present and future transportation patterns; (4) the compatibility with existing and proposed development; (5) the recommendations of the Planning Commission and the Board of Municipal Zoning Appeal; and (6) the relation of the proposed amendment to the City's plan. Md. Code, Land Use, §10-304(b)(1). The recommendations of the Planning Commission and the Board of Municipal Zoning Appeal must be based on certain considerations outlined in the City Code. See Baltimore City Zoning Code ("ZC"), §16-305.

The Law Department notes that the Report of the Planning Commission ("Report") recommends disapproval of this rezoning because it appears to be an attempt to revive the previous non-conforming use of a barber/beauty shop that has been discontinued for more than a year. If the City Council, after its investigation of the facts, disagrees and finds that a substantial change in the character of the neighborhood has occurred or that the existing zoning classification is a mistake, the Council may lawfully approve Council Bill 13-0252. This would require that the City Council undertake its *own* investigation of the facts and not merely adopt the Report.

Certain procedural requirements apply to this bill beyond those listed above because a change in the zoning classification of a property is deemed a "legislative authorization." ZC

F/Comments



§§16-101(c)(1); 16-101(d). Specifically, special notice requirements apply to the bill's introduction, including posting the property for 30 days within one week of the notice of introduction. *See* ZC §16-203. The bill must be referred to certain City agencies, which are obligated to review the bill in a specified manner. *See* ZC §§16-301, 16-302 & 16-305. Additional public notice and hearing requirements apply to the bill, including advertising the time, place and subject of the hearing in a paper of general circulation for 15 days and posting the property conspicuously with this same information. *See* Md. Code, Land Use, §10-303; ZC § 16-402. Finally, certain limitations on the City Council's ability to amend the bill apply, including a Third Reading hold-over before final passage by the Council. *See* ZC §§16-403, 16-404.

If the City Council undertakes its own investigation that enables it to find facts to support this rezoning, the Law Department will approve the bill for form and legal sufficiency, assuming all the procedural requirements, noted above, have been met.

Very truly yours,



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Assistant Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor
Victor Tervalá, Assistant Solicitor
Jennifer Landis, Assistant Solicitor