

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



DEPARTMENT OF LAW

ANDRE M. DAVIS, CITY SOLICITOR
100 N. Holliday Street
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Baltimore, Maryland 21202

December 6, 2017

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 17-0143 – Repeal of Ordinance 14-314 – Remington
Row PUD

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 17-0143 for form and legal sufficiency. The bill would repeal the prior Ordinance 14-314 that established the Planned Unit Development for Remington Row. There are no legal impediments to this repeal. The Land Use Art. of the Md. Ann.Code, §10-304(a) provides that the “Mayor and City Council of Baltimore City may amend or repeal zoning regulations and boundaries.” Pursuant to this authority, the Mayor and City Council enacted §13-403 of the City’s Zoning law regarding changes to planned unit developments. That provision states (b) A major change requires:

- (1) the repeal of the ordinance that approved the planned unit development; and
- (2) introduction and enactment of an ordinance to approve a new planned unit development and PUD master plan.

“Major change” includes “a change in the boundaries of the planned unit development. See §13-403(a)(4). Termination of a PUD is the ultimate change in the boundaries of a PUD as those boundaries are completely removed.

In addition, with respect to floating zones, such as a PUD, Maryland Courts have said that the legislative body must have “a little more than a scintilla of evidence” to support its decision and that decision must not be “arbitrary, capricious or illegal.” *Rockville Crushed Stone, Inc. v. Montgomery County*, 78 Md. App. 176, 190 (1989)(citations omitted); *accord Richmarr Holly Hills v. Am. PCS, L.P.*, 117 Md. App. 607, 639 (1997); *see also MLC Auto., LLC v. Town of S. Pines*, 532 F.3d 269, 281 (4th Cir. 2008)(citing *Nectow v. City of Cambridge*, 277 U.S. 183, 187-88 (1928)); *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 543 (2005)).



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This bill is an appropriate exercise of the City Council's authority. The Law Department, therefore, approves the bill for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro
Chief Solicitor

cc: Andre M. Davis, City Solicitor
Karen Stokes, Director, Mayor's Office of Government Relations
Kyron Banks, Mayor's Legislative Liaison
Hilary Ruley, Chief Solicitor
Victor Tervalo, Chief Solicitor
Jennifer Landis, Assistant Solicitor