

CITY OF BALTIMORE

SHEILA DIXON, Mayor

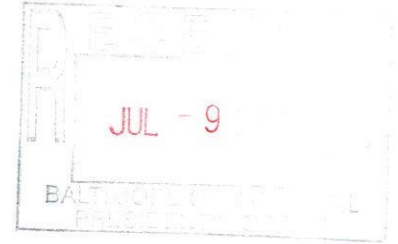


DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor  
101 City Hall  
Baltimore, Maryland 21202

July 9, 2009

The Honorable President and  
Members of the Baltimore  
City Council  
c/o Karen Randle, Executive Secretary  
409 City Hall  
Baltimore, MD 21202



Re: City Council Bill 08-0157 – Rezoning – Properties in Canton

You have requested the advice of the Law Department regarding City Council Bill 08-0157. City Council Bill 157 proposes to change the zoning for certain properties in the Canton area. The bill is the result of a process to match zoning with the existing character of the community which involved significant input from the effected communities.

Baltimore City is granted its authority to enact zoning regulation from the State through Article 66B of the Maryland Annotated Code. Article 66B also places some specific requirements on the City Council with regard to certain zoning actions. Section 2.05(a) provides that if the purpose of a proposed amendment to regulations, restrictions or boundaries is to change the zoning classification of particular property, the City Council shall makes findings of fact. Section 2.05(a) (2)(ii) provides a list of what must be included in the City Council's findings that includes facts regarding:

1. population change,
2. availability of public facilities,
3. present and future transportation patterns,
4. compatibility with existing and proposed development for the area,
5. Planning Commission and Board of Municipal and Zoning Appeals recommendations,
6. relation of the proposed amendment to the City's plan.

In addition to the findings of fact, Article 66B, Sec 2.05(a)(3) provides that the City Council may grant an amendment based on a finding that there was a substantial change in the character of the neighborhood where the property is located or there was a mistake in the existing zoning classification. If the City Council makes findings of fact as required by Section 2.05(a)(2)(ii) and makes a finding that there is either a substantial change in the character of the neighborhood where the property is located or there is a mistake in the existing zoning



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classification, it may approve the amendment to the Zoning Code proposed in City Council Bill 08-0157.

The Law Department has provided a form for the City Council to track its findings on the statutory fact finding requirements. This should be used to record the details of the findings as presented at the hearing. The Land Use Committee should then provide a statement of its findings with regard to the change or mistake requirement that is specific with respect to the basis for that finding.

Subject to the foregoing requirements of Article 66B, Sec. 2-05 regarding making findings of fact and making a finding of a change or mistake, the Law Department approves City Council Bill 08-0157 for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro  
Assistant Solicitor

cc: The Honorable Stephanie Rawlings-Blake  
Angela Gibson, City Council Liaison  
George A. Nilson, City Solicitor  
Ashlea Brown, Assistant Solicitor  
Hilary Ruley, Assistant Solicitor