

CITY OF BALTIMORE

SHEILA DIXON, Mayor



DEPARTMENT OF LAW

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

February 6, 2009

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

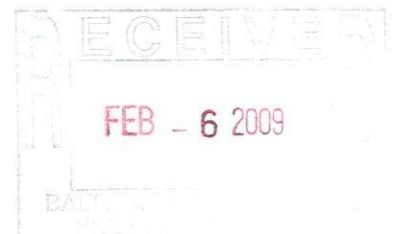
REVISED

RE: City Council Bill 08-0018 – Maritime Industrial Overlay District-Extending
“Sunset”-Owner Opt-Out

Dear President and Members

The Law Department has been asked to reconsider City Council Bill 08-0018 in light of a recent change in the legal analysis concerning Maritime Industrial Overlay Districts. City Council Bill 18 extends the automatic termination of the Maritime Industrial Overlay District from 2014 to December 31, 2024. The bill also provides for a period of time during which a property owner in a Maritime Industrial Overlay District may apply to the City Council for a map amendment which would remove the property from the overlay district. The City Council would provide for such an action by proposing an ordinance that would be reviewed as a change in zoning classification in accordance with Title 16 of the Zoning Code.

The extension of the sunset and the provision allowing for property owners to apply to remove their properties for the overlay on or after January 1, 2014 are consistent with the authority of the City Council. It should be noted, however, that the removal of a property from an overlay district, although it is being subjected to the procedures that apply to a change in zoning classification, is not a change in zoning classification. Although the City Council can require that the action be reviewed in accordance with Subtitle 16 of the Zoning Code, if the action is not a change in a zoning classification, it need not be reviewed for compliance with Sec 2.05(a)(3) of Article 66B of the Md. Ann. Code. Section 2.05(a)(3) requires that individual reclassifications may not be granted unless the Council finds that there was (i) a substantial change in the character of the neighborhood where the property is located; or (ii) a mistake in the existing zoning classification. An ordinance requesting that a property be removed from the Maritime Industrial Overlay District does not have to satisfy the requirements of Section 2.05(a)(3).



City Council Bill 08-0018

February 6, 2009

Page 2

Accordingly, the Law Department, therefore, approves the City Council Bill 08-0018 for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro

Assistant City Solicitor

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