

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

October 6, 2015

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

Re: City Council Bill 12-0062 – Planned Unit Development – Designation –
Holabird Manor Condominiums

SUPPLEMENTAL REPORT

Dear Mr. President and City Council Members:

The Law Department has reviewed City Council Bill 12-0062 for form and legal sufficiency. The bill repeals the existing Planned Unit Development for the Holabird Manor Senior Retirement Community and approves a new Development Plan for the Holabird Manor Condominiums Planned Unit Development.

The criteria examined for approval of a Planned Unit Development (“PUD”) are “compatibility with a Master Plan, conformance to regulatory criteria, and an examination of potential deleterious effects vis-a-vis adjacent property and uses.” *Maryland Overpak Corp. v. Mayor and City Council of Baltimore*, 395 Md. 16, 31 (2006). A PUD “allows for additional uses on a property not provided for by the permitted or conditional uses designated in that underlying district, but which are adjudged, on a case-by-case basis, not to be incompatible or deleterious at a given location and within the contemplation generally of the applicable Master Plan (or other planning document) and the general purposes of the underlying zone, much like a conditional use.” *Id.* The Zoning Code of Baltimore City (“ZC”), in Section 9-112, sets forth governing standards which reflect the above cited case law. The Staff Report from the Planning Department (“Report”) supplies findings regarding these factors, which must be demonstrated before this bill can be approved. *See* ZC 9-110 (“The City Council may authorize the Planned Unit Development and approve the Development Plan in accordance with the procedures, guides, and standards of this title and of Title 14 {Conditional Uses} and Title 16 {Legislative Authorizations} of this article.”).

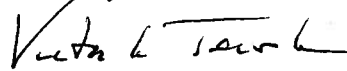


Further, the Planning Commission recommends that Council Bill 15-0553 be amended as outlined in the Report. The Law Department has no concerns with the proposal and will approve the proposed amendments, if adopted, as legally sufficient.

Certain procedural requirements apply to this bill because the designation of a Planned Unit Development is deemed a "legislative authorization." ZC §§16-101(c)(3), 16-101(d). Specifically, special notice requirements apply to the bill's introduction and the bill must be referred to certain City agencies, which are obligated to review it in a specified manner. *See* ZC §§16-203, 16-301, 16-303. 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.

Assuming the above procedures are met, the Law Department approves this bill for form and legal sufficiency as drafted and is prepared to approve the bill if amended in accordance with amendments contained the Planning Commission's Report.

Sincerely,



Victor K. Tervala
Chief Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief, General Counsel Division
Hilary Ruley, Chief Solicitor
Jennifer Landis, Assistant Solicitor