

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

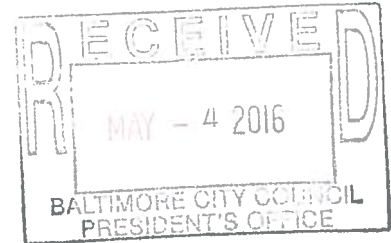


DEPARTMENT OF LAW

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

May 4, 2016

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 16-0633 – Planned Unit Development – Designation –
Canton Crossing #109

Dear Mr. President and City Council Members:

The Law Department has reviewed City Council Bill 16-0633 for form and legal sufficiency. The bill repeals the existing Planned Unit Development for the Canton Crossing Planned Unit Development and approves a new Development Plan for the Canton Crossing 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.

Section 9-112, however, requires certain considerations to be made about a proposed PUD before it may be approved. The Planning Department’s Staff Report on this bill does not indicate that those considerations have been made. Thus, further written or oral testimony before the City Council on the considerations discussed in Section 9-112 is needed before the bill can lawfully be adopted.

Other procedural requirements apply as well 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

Fav w/ comments

§§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 and provided that testimony is given that shows that the considerations in Sec. 9-122 were taken into account, 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