

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



**BOARD OF MUNICIPAL AND
ZONING APPEALS**

DAVID C. TANNER, Executive Director
417 E. Fayette Street, Room 1432
Baltimore, Maryland 21202

February 20, 2018

The Honorable President and
Members of the City Council
City Hall
100 N. Holliday Street
Baltimore, MD 21202

RE: CC Bill #17-0150: Zoning – Prohibiting Crude Oil Terminals

Ladies and Gentlemen:

City Council Bill No. 17-0150 has been referred by your Honorable Body to the Board of Municipal and Zoning Appeals for study and report.

The purpose of City Council Bill No. 17-0150 is to amend Article 32 of the Baltimore City Code to prohibit new or expanded crude oil terminals throughout Baltimore City; defining certain terms relating to crude oil terminals; and generally relating to crude oil terminals.

Upon review, the BMZA is unable to report favorably on this bill as currently drafted for several reasons. First, the bill file lacks any evidence as to the purpose, necessity, feasibility, or impact of said prohibition from a land use perspective. Second, the outright prohibition of certain uses of land irrespective of zoning district requires extensive consideration of both direct and indirect consequences of legislative action. There is no record before the BMZA as to the consideration of these potential consequences. Third, local zoning regulation in matters impacting federal jurisdiction (e.g. telecommunications operations regulated under the Federal Communication Commission, rail operations regulated by the Federal Railroad Administration, etc.) are often restricted and preempted by federal law. There is no record before the BMZA as to the potential conflict of law between federal, state, and local law with respect to the local land use regulation impacted by Bill No. 17-0150. BMZA agrees with and defers to the Law Department on this issue as outlined in their report and recommendation. Lastly, the impact of citywide land use prohibitions attach to land in perpetuity and remove the ability for pinpoint regulation of specific uses in specific areas. Regulation – not prohibition – is often a better tool for local government to address specific risk and potential harm(s) of specific uses in neighborhoods and to communities citywide.

For these reasons BMZA is unable to provide a favorable report on Bill No. 17-0150 at this time as the record before it lacks the details necessary to provide a comprehensive review.

Sincerely,



Derek J. Baumgardner
Acting Executive Director

CC: Mayors Office of Council Relations
Office of the City Council President
Legislative Reference