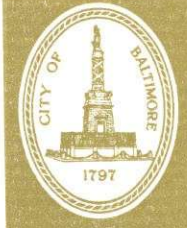


CITY OF BALTIMORE
STEPHANIE RAWLINGS-BLAKE, Mayor



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

May 6, 2014

Honorable President and Members
of the City Council of Baltimore
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Attn: Karen Randle
Executive Secretary

Re: City Council Bill 14-0318 – Rezoning – 101 North Warwick Avenue

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 14-0318 for form and legal sufficiency. The bill as proposed would change the zoning for 101 North Warwick Avenue from the M-1-2 Zoning District to the B-2 Zoning District.

The City Council may permit such a rezoning if it finds facts sufficient to show either a mistake in the existing zoning classification or a substantial change in the character of the neighborhood. Md. Land Use Code Ann., §10-304(b)(2). In evaluating whether the proposed rezoning meets this standard, the City Council is required to make findings of fact on the following matters: (1) population changes; (2) the availability of public facilities; (3) the present and future transportation patterns; (4) the compatibility with existing and proposed development; (5) the recommendations of the Planning Commission and the Board of Municipal Zoning Appeal; and (6) the relation of the proposed amendment to the City's plan. §10-304(b)(1). The recommendations of the Planning Commission and the Board of Municipal Zoning Appeals must be based on certain considerations outlined in the City Code. *See* Baltimore City Zoning Code ("ZC"), §16-305.

The Law Department notes that the Department of Planning has issued a report ("Report") concerning this bill which provides findings of fact that would support rezoning. The Report, however, recommends an amendment to the bill to change the rezoning to the R-8 District instead of the B-2 District. The Planning Commission concurred with the recommendation and amendment in the Report. If the City Council wishes to pass the bill with the recommended amendment, it may, after its hearing in which appropriate findings of fact are presented, adopt the Report as its findings of fact to support a determination that a substantial change in the character of the neighborhood has

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occurred, and that R-8 is the appropriate zoning for the property. The Council may then lawfully approve Council Bill 14-0318 as amended.


If the City Council does not agree with the proposed Planning Commission amendment it may not rely on the Planning Department's testimony and Report for its findings of fact. During the hearing, appropriate testimony must be presented to establish separate findings of fact that support a substantial change in the neighborhood to justify the change to B-2 zoning for the subject property.

Certain procedural requirements apply to this bill beyond those listed above because a change in the zoning classification of a property is deemed a "legislative authorization." ZC §§16-101(c)(1); 16-101(d). Specifically, special notice requirements apply to the bill's introduction, including posting the property for 30 days within one week of the notice of introduction. See ZC §16-203. The bill must be referred to certain City agencies, which are obligated to review the bill in a specified manner. See ZC §§16-301, 16-302 & 16-305. 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. Land Use Code Ann., §10-303; ZC §16-402. Finally, certain limitations on the City Council's ability to amend the bill after the public hearing apply, including a Third Reading hold-over before final passage by the Council. See ZC §§16-403, 16-404.

The bill is the appropriate method for the City Council to review the facts and

make the legal determination as to whether the legal standard for rezoning has been met. Assuming the legal standard is met and the City Council makes appropriate findings of fact for the version of the bill that it wishes to adopt, and all the other procedural requirements are satisfied, the Law Department approves the bill for form and legal sufficiency.

Sincerely,



Jennifer Landis
Special Assistant Solicitor

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