

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

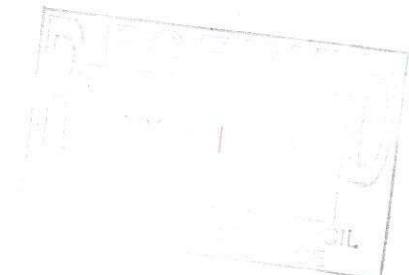


DEPARTMENT OF LAW

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

October 11, 2012

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



Re: City Council Bill 12-0108 – Rezoning – 1101 North Patterson Park
Avenue

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 12-0108 for form and legal sufficiency. The bill would change the zoning for the properties known as 1101 North Patterson Park from the R-8 Zoning District to the B-2-2 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. Code, Art. 66B, §2.05(a)(2)(i). 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. Md. Code, Art. 66B, §2.05(a)(2)(ii). The recommendations of the Planning Commission and the Board of Municipal Zoning Appeal must be based on certain considerations outlined in the City Code. *See* Baltimore City Zoning Code, §16-305.

The Law Department notes that the Report of the Planning Commission ("Report") recommends that Council Bill 12-0108 not be passed. The Report states that there was no mistake in the original zoning applicable to the property nor has there been a significant change in the neighborhood. As described above, at least one of those conditions must be present before the subject property can lawfully be rezoned. Consequently, if this property is to be rezoned, the City Council cannot rely on the facts outlined in the Report. The City Council must conduct its own investigation into the facts surrounding the proposed rezoning. Only if the City Council reaches different conclusions than those provided in the Report may Council Bill 12-0108 be adopted.

Comments

Certain procedural requirements apply to this bill beyond the need for fact-finding. Specifically, special notice requirements apply to the bill's introduction. *See* City Zoning Code ("ZG") § 16-203. The bill must be referred to certain City agencies, which are obligated to review the bill in a specified manner. *See* ZG §§ 16-301, 16-302 & 16-304. Additional public notice and hearing requirements apply. *See* ZG § 16-402. Finally, certain limitations on the City Council's ability to amend the bill apply. *See* ZG § 16-403.

Council Bill 12-0108 provides an appropriate vehicle for the City Council to review the facts and make the determination as to whether the legal standards for rezoning have been met. If the legal standards are met and all other procedural requirements are satisfied, the Law Department will approve the bill for form and legal sufficiency.

Sincerely yours,



Victor K. Tervala
Assistant Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor
Hilary Ruley, Assistant Solicitor
Ashlea Brown, Assistant Solicitor