

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

May 26, 2015

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

Re: City Council Bill 15-0486 – Rezoning – 901 South Caton Ave.

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 15-0486 for form and legal sufficiency. The bill would change the zoning for 901 South Caton Ave. from the O-R-2 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. Ann. Code, Land Use Art., §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. Md. Ann. Code, Land Use Art., §10-304(b)(1). 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 ("ZC"), §16-305.

The Law Department notes that the Report of the Planning Commission ("Report") provides **does not** contain findings of fact that would support this rezoning due to a substantial change in the character of the neighborhood. If the City Council, after its own investigation of the facts, finds that a substantial change in the character of the neighborhood has occurred, the Council may lawfully approve Council Bill 15-0486. It may not, however, base approval of the rezoning requested in this bill on the findings of the Planning Commission.

Fav w/ comm.

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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. Ann. Code, Land Use Art., §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.

If the City Council makes appropriate findings of fact, the Law Department will approve the bill for form and legal sufficiency, assuming all the procedural requirements, noted above, have been met.

Sincerely,



Elena R. DiPietro
Chief Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Hilary Ruley, Chief Solicitor
Victor Tervalo, Chief Solicitor
Jennifer Landis, Assistant Solicitor