

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

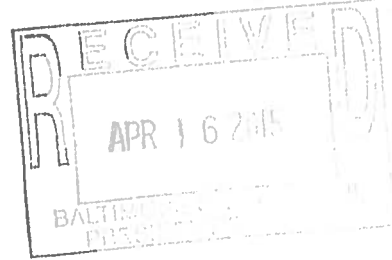


DEPARTMENT OF LAW

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

2nd Report

April 16, 2014



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: **Supplemental Report** - City Council Bill 14-0439 - Planned Unit
Development -- Amendment 1 - Grecktown Redevelopment

Dear Mr. President and City Council Members:

The Law Department has reviewed City Council Bill 14-0439 for form and legal sufficiency. This bill will permit an amendment to the Development Plan of the Grecktown Redevelopment Planned Unit Development to allow for a drive-in restaurant on the properties at 4600-4624 O'Donnell Street.

A companion bill, 15-0477, rezones these properties, along with 4526 O'Donnell Street, to the B-3-1 Zoning District. A drive-in restaurant with a pick-up drive for window service is a conditional use by ordinance in the B-3-1 Zoning District. See Zoning Code of Baltimore City ("ZC"), § 6-409(4). This use is allowable in a Residential PUD to the extent specifically provided in the approved Development Plan. ZC § 9-202(c). Thus, the rezoning of the properties, combined with this amendment to the Development Plan, will allow the owner to develop the property as a drive-thru coffee shop.

With the exception of certain minor modifications, every deviation from a PUD must be processed and approved, under Title 9 of the Zoning Code of Baltimore City (ZC), as a new application. ZC §9-118(a). To be lawful, the proposed changes to the PUD cannot make the PUD incompatible with the surrounding neighborhood or negate the purposes for which the PUD was originally created. See *Maryland Overpak Corp. v. Mayor and City Council of Baltimore*, 396 Md. 16, 30-31 (2006) ("[A] PUD partakes more of the characteristics of a conditional use than any other zoning construct or mechanism recognized in Baltimore City The hallmarks examined for their approval generally are compatibility with a Master Plan, conformance to regulatory criteria, and an examination of potential deleterious effects vis-a-vis adjacent property and uses."). According to the Staff Report from the Planning Department, the proposed amendment is in conformity with the Baltimore City Comprehensive Master Plan. See Report at 2. The Planning Report further states that "[g]iven the site's neighboring character and proximity to I-895 and a residential neighborhood, a drive-in café may be a suitable use and viable addition to the area." *Id.*

Fav w/ comments

Certain procedural requirements also apply to this bill because an amendment to 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 §§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.

This bill is the appropriate method for the City Council to review the facts and make the determination as to whether the legal standard for amending the Development Plan of the Grecktown Redevelopment Planned Unit Development has been met. Assuming the properties are rezoned to the B-3-1 Zoning District and that all procedural requirements are met, the Law Department approves the bill for form and legal sufficiency.

Sincerely,



Jennifer Landis
Assistant Solicitor

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