

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

August 25, 2015

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

Re: City Council Bill 15-0542 – Rezoning – Certain Properties in the
Remington Central Business Area

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 15-0542 for form and legal sufficiency. The bill would change the zoning for several properties in the R-7, R-8 and R-9 Zoning Districts in Remington to the B-1-2 Zoning District.

The City Council has no power to rezone any of these properties if the Council has denied an application for the rezoning of any of these properties within the last twelve months from the date of the application. Md. Code, Land Use, §10-304(b)(3). Assuming this is not the case, the City Council may permit each rezoning if it **finds facts for each of these properties** separately that are sufficient to show that for each one, either a mistake in the existing zoning classification or a substantial change in the character of the neighborhood where located. Md. Code, Land Use, §10-304(b)(2).

In evaluating whether the proposed rezonings meet 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, Land Use, §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 findings of fact of a substantial change in the neighborhood that would support this rezoning. If the City Council, after its investigation of the facts, agrees with the Report or finds additional facts to support the rezoning, the legal requirements for granting the rezoning would be met. The Report does recommend an amendment to remove two of the properties, 2600 and

2602 Huntingdon Avenue, from the rezoning. The City Council may adopt that amendment and remove those two properties from the list of properties for which rezoning is appropriate. However, if the City Council, after its investigation of the facts, disagrees and finds that rezoning of those two properties is appropriate, it must make a separate finding of facts for those two properties that substantiate a substantial change in the character of the neighborhood or mistake in the existing zoning classification for those properties.

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 of each 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 at least 15 days before the hearing and posting each 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.

If the City Council agrees with the facts contained in the Report or finds similar supporting facts during its investigation, the Law Department will approve the bill for form and legal sufficiency, assuming all the procedural requirements, noted above, have been met.

Very truly yours,



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Chief Solicitor

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