

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

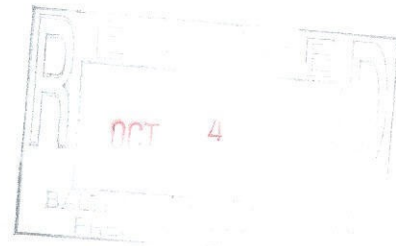


DEPARTMENT OF LAW

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

October 4, 2011

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 11-0739 – Rezoning – 1202 South East Avenue

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 11-0739 for form and legal sufficiency. The bill would change the zoning for the property known as 1202 South East Avenue from the M-2-2 Zoning District to the R-8 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 required recommendations of the Planning Commission and the Board of Municipal Zoning Appeal, as noted above, must be based on certain considerations outlined in the City Code. *See* Baltimore City Zoning Code, §16-305. Moreover, certain procedural requirements must be satisfied before the Council may act to rezone the property, including public notice and hearing requirements. *See* Baltimore City Zoning Code, §§16-401 & 16-402.

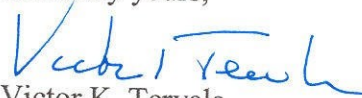
Since this bill rezones a single property, it is appropriate to advise the City Council concerning the matter of spot zoning. “[S]pot zoning occurs when a small area in a District is placed in a different zoning classification than the surrounding property ...” *Mayor & Council of Rockville v. Rylyns Enters.*, 372 Md. 514, 546 (Md. 2002). “[S]pot zoning is illegal if it is inconsistent with an established comprehensive plan and is made solely for the benefit of a private interest...[I]t is a valid exercise of the police power where the zoning is in harmony with the comprehensive plan and there is a substantial relationship to the public health, safety and general welfare.” *Id.*

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Thus, the Law Department advises the City Council to ensure itself that the facts show that proposed rezoning is consistent with the comprehensive plan, is not solely for the benefit of a private interest, that it bears a substantial relationship to the public health, safety and general welfare.

As the bill is the appropriate method for the City Council to review the facts and make the determination as to whether the legal standard for rezoning has been met, and assuming the legal standard is met and all other procedural requirements are satisfied, the Law Department approves 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