

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

June 27, 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 12-0024 – Rezoning – A Portion of 1201-1207
Dundalk Avenue (to be known as 1201 Dundalk Avenue)

Dear President and City Council Members:

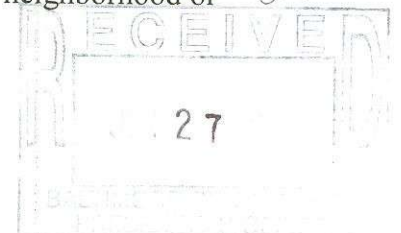
The Law Department has reviewed City Council Bill 12-0024 for form and legal sufficiency. The bill would change the zoning for a portion of 1201 – 1207 Dundalk Avenue, which is to be known as 1201 Dundalk Avenue, from the R-3 Zoning District to the B-2-2 Zoning District.

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). We note that Planning Department in its report to the Planning Commission (“Report”) concluded that the property fails to satisfy either condition. Consequently, in order to adopt this bill lawfully, the City Council must find facts different from those in the Report. Specifically, facts must be found that support a mistake in the existing zoning classification or a substantial change in the character of the neighborhood.

In evaluating whether the above standard is met, the City Council further must find facts concerning the following: (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 Report presents facts the Planning Department found in regard to those six categories.

If the City Council does not agree with the Planning Commission’s findings of fact, it must through testimony at the hearing establish facts on the record to support its determination regarding whether there is a change in the character of the neighborhood or a mistake in the original zoning.

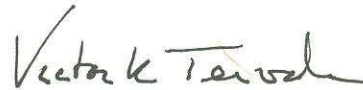
Comments



In addition to the above findings of fact, 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.

If the City Council finds facts that support a conclusion that a mistake in the existing zoning classification or a substantial change in the character of the neighborhood has occurred, and assuming all other procedural requirements are satisfied, the Law Department will approve the bill for form and legal sufficiency.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Victor K. Tervala". The signature is fluid and cursive, with a prominent initial "V".

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