

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

December 24, 2015

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: City Council Bill 15-0576 – Planning Commission – Site Specific Matters
– Notice and Hearing Applications for Final Administrative Decisions

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 15-0576 for form and legal sufficiency. The bill requires a public hearing by the Planning Commission, with posted notice, for all site-specific matters over which the Planning Commission has the final administrative authority. It specifies the size, contents, construction, and number of the signs to be posted and the manner and timing of their posting. The bill qualifies the Planning Commission's authority to determine what constitutes a "minor modification" to a Planned Unit Development and modifies certain provisions requiring advance delivery of Commission meeting agendas.

The Law Department has several concerns with this bill.

First, it does not provide a comprehensive list of items which are considered to be "site-specific" matters (*See* page 2, lines 10 through 14). Instead, it merely gives examples of them. A comprehensive list of site-specific matters, however, is necessary because when one of them is scheduled for review, the scheduling triggers the bill's notice and hearing requirements. Without a comprehensive list, it would be left to interpretation as to which matters are site-specific and which are not. The bill therefore needs amendment to provide a definitive list of items affected by hearing and notice requirements.

We also point out that among the matters listed as site-specific are urban renewal plans. The Law Department has no objection to their being subject to the bill's notice and hearing requirements, but we would have the City Council avoid calling them site-specific in a City ordinance. A hearing on a site-specific matter triggers a quasi-judicial hearing, which requires a fact-finding process, aimed at making a specific and unique determination for an individual piece of property. *See Maryland Overpak Corporation v. Mayor and City Council of Baltimore*, 395 Md. 16, 53 (2006). In contrast, an urban renewal plan is an area-wide plan. Area wide plans are

Comments/Concerns

reviewed in a quasi-legislative proceeding, where findings on a site-specific property are not required. The Law Department therefore urges the City Council to refrain from declaring urban renewal plans site-specific.

Finally, the Law Department advises that it is not the proper authority to determine what constitutes a "minor modification" of a planned unit development, as provided on page 5, lines 14 through 17. Although it is not illegal to delegate the responsibility to the Law Department, we point out that its members are not trained or skilled in reading detailed land use and site plan documents. Perhaps not all reviews of proposed "minor modifications" are too complicated or difficult for even Law Department personnel to perform; however, we anticipate that some reviews will require a level of expertise with the subject matter. For these reasons, the Law Department urges the City Council to substitute some other, better qualified agent to determine what constitutes a "minor modification."

Sincerely,

A handwritten signature in black ink, appearing to read "Victor K. Tervala". The signature is written in a cursive style with a long horizontal stroke at the end.

Victor K. Tervala
Chief Solicitor

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