

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

November 14, 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 12-0080 – Rezoning – 3224-3226 Washington
Boulevard

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 12-0080 for form and legal sufficiency. The bill would change the zoning for 3224-3226 Washington Boulevard from the M-2-1 Zoning District to the B-2-4 Zoning District. The Planning Commission has proposed an amendment to rezone the property to the B-2-1 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 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, §16-305.

The Law Department notes that the Report of the Planning Commission ("Report") provides findings of fact, including a justification for mistake of the zoning classification. If the City Council, after its investigation of the facts, agrees that a mistake in zoning has occurred and that facts identical or similar to those described in the Report apply, the Council may lawfully approve Council Bill 12-0080.

The Law Department further notes that the Report recommends an amendment to the property to the B-2-1 Zoning District. There are no legal impediments to this amendment.

Certain procedural requirements apply to this bill beyond those listed above. Specifically, special notice requirements apply to the bill's introduction. *See* City Zoning Code

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("ZG") § 16-203. The bill must be referred to certain City agencies, which are obligated to review the bill in a specified manner. *See* ZG §§ 16-301, 16-302 & 16-305. Additional public notice and hearing requirements apply. *See* ZG § 16-402. Finally, certain limitations on the City Council's ability to amend the bill apply. *See* ZG §§ 16-403, 16-404.

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. To this end, the Law Department notes that the Report on the bill describes facts that would support the proposed rezoning by the City Council. If the City Council agrees with the facts contained in the Report or finds similar supporting facts during its investigation of the bill, 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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Assistant Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor
Ashlea Brown, Assistant Solicitor
Victor Tervalá, Assistant Solicitor