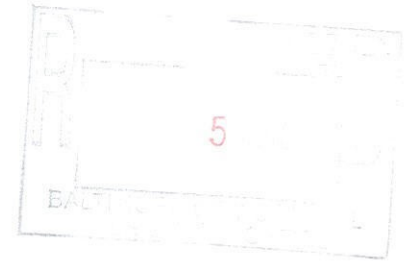


The Honorable President and
Members of the Baltimore
City Council
c/o Karen Randle, Executive Secretary
409 City Hall
Baltimore, MD 21202

November 15, 2010



Re: City Council Bill 10-0493 – Rezoning – Certain Properties in
Westport Area

You have requested the advice of the Law Department regarding City Council Bill 10-0493. City Council Bill 493 proposes to change the zoning for certain properties in the Westport area. The bill is the result of a need to provide for more redevelopment opportunities in an area that was formerly a thriving industrial area but has suffered from the loss of industrial activity in the area. The area is now characterized by many vacant and deteriorated properties and some residences and active businesses.

Baltimore City is granted its authority to enact zoning regulation from the State through Article 66B of the Maryland Annotated Code. Article 66B also places some specific requirements on the City Council with regard to certain zoning actions. Section 2.05(a) provides that if the purpose of a proposed amendment to regulations, restrictions or boundaries is to change the zoning classification of particular property, the City Council shall make findings of fact. Section 2.05(a) (2)(ii) provides a list of what must be included in the City Council's findings that includes facts regarding:

1. population change,
2. availability of public facilities,
3. present and future transportation patterns,
4. compatibility with existing and proposed development for the area,
5. Planning Commission and Board of Municipal and Zoning Appeals recommendations,
6. relation of the proposed amendment to the City's plan.

In addition to the findings of fact, Article 66B, Sec 2.05(a)(3) provides that the City Council may grant an amendment based on a finding that there was a substantial change in the character of the neighborhood where the property is located or there was a mistake in the existing zoning classification. If the City Council makes findings of fact as required by Section

F/A

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2.05(a)(2)(ii) and makes a finding that there is either a substantial change in the character of the neighborhood where the property is located or there is a mistake in the existing zoning classification, it may approve the amendment to the Zoning Code proposed in City Council Bill 10-0493.

The Law Department has provided a form for the City Council to track its findings on the statutory fact finding requirements. This should be used to record the details of the findings as presented at the hearing. The Land Use Committee should then provide a statement of its findings with regard to the change or mistake requirement that is specific with respect to the basis for that finding.

Subject to the foregoing requirements of Article 66B, Sec. 2-05 regarding making findings of fact and making a finding of a change or mistake, the Law Department approves City Council Bill 10-0493 for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro
Chief Solicitor

cc: The Honorable Bernard Young
Angela Gibson, City Council Liaison
George A. Nilson, City Solicitor
Ashlea Brown, Assistant Solicitor
Hilary Ruley, Assistant Solicitor