

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

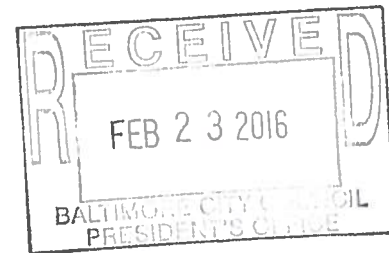


DEPARTMENT OF LAW

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

February 22, 2016

The Honorable President and Members
of the Baltimore City Council
Attn: Natawna Austin, Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202



Re: City Council Bill 15-0574 – Rezoning – 1430-1444 Lawrence Street

Dear President and City Council Members:

The Law Department has been asked to review City Council Bill 15-0574 for form and legal sufficiency. The bill changes the zoning from the R-8 Zoning District to the B-2-4 Zoning District.

The Law Department notes that the Department of Planning has issued a report concerning this bill (“Report”). It states that the Planning Department wishes to amend the bill to rezone the property to the B-2-2 Zoning District instead of the B-2-4 Zoning District. Whether the bill is amended or remains as drafted, the City Council is permitted to rezone the property 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, Land Use Article, §10-304(b)(2). 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, Land Use Article, §10-304(b)(1). 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.

The Law Department notes that the Planning Commission’s Report establishes sufficient facts for granting the proposed rezoning to the B-2-2 Zoning District. The Report does not provide sufficient facts for rezoning to B-2-4 Zoning District – that is, to zone the property as drafted.

If the City Council (1) adopts Planning’s proposed amendment and (2) adopts the Report’s facts, or facts similar to those contained in the Report, the legal requirements for granting the rezoning to the B-2-2 Zoning District would be met. If the Council rejects the

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proposed amendment and adopts the bill as drafted, it would need to find facts to support rezoning to the B-2-4 Zoning District.

Assuming the City Council approves Planning's proposed amendment, the following amendments to the bill are required:

Page 1, line 4 and line 14. Strike "B-2-4" and substitute "B-2-2".

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. 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 will approve the bill for form and legal sufficiency.

Sincerely yours,



Victor K. Tervala
Chief Solicitor

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