

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

March 29, 2012

Honorable President and Members
of the City Council of Baltimore
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

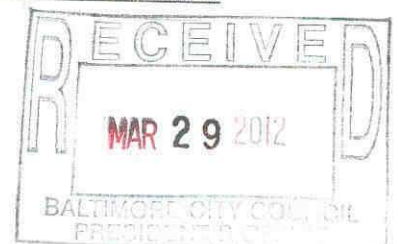
Attn: Karen Randle, Executive Secretary

Re: City Council Bill No. 12-0019 – Comprehensive Rezoning -
Amendments

Dear President and City Council Members:

You have requested the advice of the Law Department regarding City Council Bill 12-0019. City Council Bill 19 amends Article 16 of the Zoning Code to create specific procedures for notice and hearings for comprehensive rezoning legislation. The bill provides that for the purposes of Sec. 16-403 comprehensive rezoning legislation is not considered to be a multi-property rezoning legislation. Comprehensive rezoning legislation is not subject to the requirement that any amendment requires additional notice and another hearing.

Initial notice of the first public hearing is adequate even if comprehensive rezoning legislation is amended at a hearing. See Rathkopf, Law of Zoning and Planning, Sec. 12:16 (2005). Initial notice that indicates that a comprehensive rezoning is taking place and advises when and where the hearing will occur, where the details can be viewed and that changes are likely based on the results of one or several hearing, places the public on notice that they should keep informed as the process moves forward, *Id.* Maryland cases have supported this view. See *Hewitt v. County Comm'rs of Baltimore County*, 220 Md. 48(1959). The Court of Appeals has held that a substantial change may be validly made in a proposed comprehensive zoning map after the public hearing has been held on the originally proposed comprehensive zoning map and no additional notice or hearing was required if statutory language does not require such notice Charter. *Hewitt v. County Comm'rs of Baltimore Co.*, 220 Md. 48(1959). Indeed, in *Ark Read-Mix Concrete Corp. v. Smith*, 251 Md. 1(1968), the Court “sustained a change made by the County Council in that case on a proposed comprehensive zoning map *requested on the same day the ordinance was passed*, where there had been no prior discussion, proposal or a request for the change made at the hearing on the proposed comprehensive zoning map and, of course, no notice or prior hearing in regard to the requested change.” See *Swarthmore Co. v. Kaestner*, 258 Md.



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517(1970). "The requirement of notice and a hearing, therefore, rests entirely upon the Charter provision; and, as we have observed, there is no provision in Sec. 22-21 of the Charter for any required notice of hearings for changes or amendments subsequent to the original notice and hearing. Hence no such notice or hearing is required." Id.

Based on the foregoing analysis, the Law Department approves City Council Bill 12-0019 for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro
Chief Solicitor

cc: George A. Nilson, City Solicitor
Angela Gibson, City Council Liaison, Mayor's Office
Hilary Ruley
Ashlea Brown
Victor Tervalá