

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

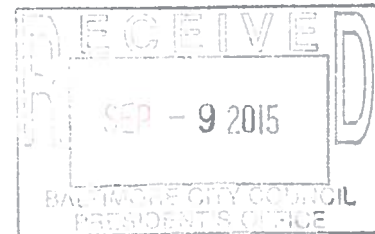


DEPARTMENT OF LAW

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

September 8, 2015

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



Re: City Council Bill 15-0559 – Rezoning – 139 West Ostend Street

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 15-0559 for form and legal sufficiency. The bill would change the zoning for 139 West Ostend Street from the M-3 Zoning District to the B-2-4 Zoning District.

The City Council has no power to rezone this property if the Council has denied an application for the rezoning this property within the last twelve months from the date of the application. Md. Code, Land Use, §10-304(b)(3). Assuming this is not the case, the City Council may permit the rezoning if it finds facts that are sufficient to show that either a mistake in the existing zoning classification or a substantial change in the character of the neighborhood. Md. Code, Land Use, §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, §10-304(b)(1). 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 ("ZC"), §16-305.

The Law Department notes that the Report of the Planning Commission ("Report") provides findings of fact that would support this rezoning. If the City Council, after its investigation of the facts, agrees with the Report or finds other facts to support the rezoning, the legal requirements for granting the rezoning would be met.

Certain procedural requirements apply to this bill beyond those listed above because a change in the zoning classification of a property is deemed a "legislative authorization." ZC

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§§16-101(c)(1); 16-101(d). Specifically, special notice requirements apply to the bill's introduction, including posting of the property for 30 days within one week of the notice of introduction. *See* ZC §16-203. The bill must be referred to certain City agencies, which are obligated to review the bill in a specified manner. *See* ZC §§16-301, 16-302 & 16-305. Additional public notice and hearing requirements apply to the bill, including advertising the time, place and subject of the hearing in a paper of general circulation at least 15 days before the hearing and posting each property conspicuously with this same information. *See* Md. Code, Land Use, §10-303; ZC § 16-402. Finally, certain limitations on the City Council's ability to amend the bill apply, including a Third Reading hold-over before final passage by the Council. *See* ZC §§16-403, 16-404.

If the City Council agrees with the facts contained in the Report or finds similar supporting facts during its investigation, 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,



Hilary Ruley  
Chief Solicitor

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