

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

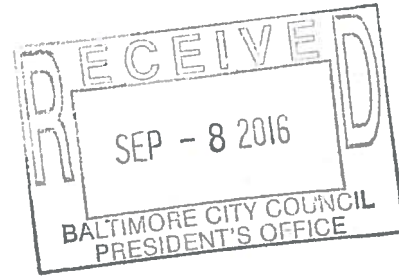


DEPARTMENT OF LAW

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

September 8, 2016

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 16-0714 – Rezoning – 5501 Pulaski Highway

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 16-0714 for form and legal sufficiency. The bill would change the zoning for 5501 Pulaski Highway from the M-2-1 Zoning District to the B-3 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 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”) does not provide findings of fact that would support this rezoning. This is because the staff report recommended not approving the bill, and Planning Commission voted to accept that report and disapprove the bill. However, if the City Council, after its investigation of the facts is able to make a finding of facts to support the rezoning, the legal requirements for granting the rezoning would be met.

Fav w/ (comment)

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 §§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 finds facts during its investigation to support the rezoning, 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, *ecm*

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Hilary Ruley
Chief Solicitor

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