

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



DEPARTMENT OF LAW

101 City Hall  
Baltimore, Maryland 21202

June 2, 2017

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

Re: City Council Bill 17-0049 – Planned Unit Development – Designation –  
Overlook at Roland Park

Dear Mr. President and City Council Members:

The Law Department has reviewed City Council Bill 17-0054 for form and legal sufficiency. The bill approves the application of Blue Ocean Realty, contract purchaser of certain property located at Ward 27, Section 15, Block 4820E, Lot 021, to have that property designated a Residential Planned Unit Development (“PUD”). The bill also approves the Development Plan submitted by the applicant.

Ordinance 16-581, which embodies the City’s newly enacted zoning code (“New Code”), is effective June 5, 2017. As of the date of this report, the property at issue is split-zoned R-6 and R-1. The New Code zones the property R-6 and R-1-A. The multi-family development proposed by the applicant will not affect the property zoned R-1-A, but instead the development will be confined to property zoned R-6.

The applicant proposes to construct buildings that exceed the R-6 height limits established in the New Code. The zoning effective prior to June 5, 2017 (“Old Code”), however, permits the development. The applicant therefore is seeking permission, through the adoption of this bill, to develop the property under the Old Code.

Section § 2-203.of the New Code permits a development to be governed under the Old Code if certain conditions are met. Specifically, if an application is filed – in this case, an application to designate a PUD – prior to the effective date of the New Code, and the application is considered complete, the requirements of the Old Code govern the development. New Code, § 2-203(k).

Sections 9-105 through 9-107 of the Old Code establish the application process and requirements involved in establishing a PUD. Section 9-105 requires a preliminary conference with the Planning Commission or its designated representative. Section 9-106 requires submission of a formal application to the City Council in the form of an ordinance, containing information and

documents required by the City Council. Section 9-107 requires a development plan, which must contain certain specified information, to accompany the application. If an applicant meets all requirements of these sections, the application must be considered complete. The Law Department therefore will conclude the application satisfies the requirements of Section § 2-203 of the New Code if proof exists to that effect.

The general criteria for approval of a PUD are “compatibility with a Master Plan, conformance to regulatory criteria, and an examination of potential deleterious effects *vis-a-vis* adjacent property and uses.” *Maryland Overpak Corp. v. Mayor and City Council of Baltimore*, 395 Md. 16, 31 (2006). A PUD “allows for additional uses on a property not provided for by the permitted or conditional uses designated in that underlying district, but which are adjudged, on a case-by-case basis, not to be incompatible or deleterious at a given location and within the contemplation generally of the applicable Master Plan (or other planning document) and the general purposes of the underlying zone, much like a conditional use.” *Id.*

Section 9-112 of the Old Code sets forth the specific governing standards which reflect the above cited case law. This section requires certain considerations to be made about a proposed PUD before it may be approved. The Planning Department’s Staff Report outlines those considerations. It reports that those considerations informed the bill’s analysis and deliberations.

Other procedural requirements apply. The designation of a PUD is deemed a “legislative authorization.” Old Code §§16-101(c)(3), 16-101(d). Specifically, special notice requirements apply to the bill’s introduction and the bill must be referred to certain City agencies, which are obligated to review it in a specified manner. *See* Old Code §§16-203, 16-301, 16-303. 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 for 15 days and posting the 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* Old Code §§16-403, 16-404.

Assuming the requirements of Section § 2-203(k) of the New Code are satisfied, and all the other procedures and processes outlined above are met, the Law Department will approve this bill for form and legal sufficiency as drafted or as amended, if the amendments are those offered in the Planning Commission’s Report.

Sincerely,



Victor K. Tervala  
Chief Solicitor

cc: David Ralph, Acting City Solicitor  
Karen Stokes, Director, Mayor’s Office of Government Relations  
Kyron Banks, Mayor’s Legislative Liaison  
Elena DiPietro, Chief Solicitor, General Counsel Division  
Hilary Ruley, Chief Solicitor  
Jennifer Landis, Assistant Solicitor