

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



DEPARTMENT OF LAW

ANDRE M. DAVIS, CITY SOLICITOR
100 N. Holliday Street
Suite 101, City Hall
Baltimore, Maryland 21202

May 31, 2018

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 18-0210 – Zoning – Conditional Use – Amending
Ordinance 16-469

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 18-0210 for form and legal sufficiency. The bill amends Ordinance 16-469 to reauthorize and continue the permission for the establishment, maintenance, and operation of a parking lot for the parking of 4 or more automobiles on the property known as 4001 Roland Avenue. It also provides for the automatic termination of this Ordinance and for a special effective date.

Ordinance 14-206 was enacted on March 19, 2014, and became effective on April 19, 2014. It authorized the establishment of an open-off street parking area at 4001 Roland Avenue, with an automatic termination of this use on April 19, 2016, two years after it became effective. It was then reauthorized until April 19, 2018. This bill would extend that permission until April 19, 2020.

The report of the Planning Commission prepared for Ordinance 14-206 provided findings of fact to support the authorization of this conditional use.

The intent of the City Council is to make the effective date retroactive, to cure an inadvertent lapse between the date of 16-469 and this amendment. Maryland courts uphold retroactive effect of a statute when the legislature intends to cure an inadvertent defect, had the authority to enact the law at the time of the defect, and when retroactive application does not interfere with vested rights. *Waters v. Montgomery Co.*, 337 Md. 15, 28-29 (1994). CCB 18-210 satisfies this test and can be applied retroactively.

Pursuant to the City Zoning Code, a bill concerning a conditional use is classified as a “legislative authorization.” ZC § 5-501(2)(ii). Legislative authorizations require that certain procedures be followed in the bill’s passage. Specifically, certain notice requirements apply to the introduction of the bill and it must be referred to certain City agencies, which are obligated to



review the bill in a specified manner. *See* ZC §§ 5-504, 5-506, 5-602. Finally, certain limitations on the City Council's ability to amend the bill apply. *See* ZC § 5-507. Assuming all the procedural requirements are met, the Law Department approves the bill for form and legal sufficiency.

Sincerely,



Ashlea Brown
Assistant Solicitor

cc: Andre M. Davis, 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
Victor Tervalá, Chief Solicitor