

MICHAEL S. D'AMATO  
ALDERMAN, 3RD DISTRICT



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August 8, 2006

Grant Langley, City Attorney  
City Hall, Rm. 800

Dear Mr. Langley:

I am writing to request that your office prepare a legal opinion related to Common Council File 050633, an ordinance creating the Brewers Hill/Harambee Neighborhood Conservation Overlay Zone and approving the neighborhood conservation plan and development and design standards for this area, in the 6<sup>th</sup> Aldermanic District. I have attached the text of the file, a copy of Exhibit C, which details the development and design standards, and a copy of a proposed motion by Ald. McGee.

This file was discussed at the Zoning, Neighborhoods and Development Committee on July 25<sup>th</sup> and a number of legal questions were raised. Specifically, the Committee would like to know the following:

1. Is limiting residential use of RT4-zoned properties in a neighborhood conservation overlay zone to single-family and 2-family structures permissible? Section 295-1003-3-b would seem to say that it is. Should this be accomplished through a straight zoning change rather than an overlay zone?
2. This change only applies to new construction in the Harambee neighborhood and new construction, expansion and exterior renovation in the Brewers Hill neighborhood. Are there any legal concerns with the large number of legal, non-conforming dwellings there will be in these areas? Should this be accomplished through a straight zoning change rather than an overlay zone? Can overlay districts be specifically applied only to new construction, rather than existing dwellings?
3. If existing properties are sold, is it correct that these properties do not need to conform with the standards? Is this legal? If existing properties are razed or destroyed by fire, would they then be considered "new construction" if rebuilt?

Thank you very much for your assistance in this matter.

Sincerely,

Michael S. D'Amato, Chair  
Zoning, Neighborhoods and Development Committee

Cc: 050633

ZND Members

Ald. Michael McGee

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