

TJA

<b>FROM</b>	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 <sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET
	SUBJECT	CITY COUNCIL BILL #11-0699 / PLANNED UNIT DEVELOPMENT – VARIANCES

CITY of  
BALTIMORE  
**MEMO**



TO

DATE:

The Honorable President and  
Members of the City Council  
City Hall, Room 400  
100 North Holliday Street

June 3, 2011

At its regular meeting of June 2, 2011, the Planning Commission considered City Council Bill #11-0699, for the purpose of authorizing the Mayor and City Council to grant variances as part of an ordinance authorizing or amending a conditional use or authorizing or amending a Planned Unit Development; and generally relating to zoning variances, conditional uses, and Planned Unit Developments.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended approval of City Council Bill #11-0699 and adopted the following resolution; seven members being present (seven in favor).

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #11-0699 be passed by the City Council.

If you have any questions, please contact Mr. Wolde Ararsa, Division Chief, Land Use and Urban Design Division at 410-396-4488.

TJS/WA/ewt

Attachment

- cc: Ms. Kaliopé Parthemos, Deputy Mayor
- Mr. Peter O'Malley, Chief of Staff
- Ms. Angela Gibson, Mayor's Office
- The Honorable Bill Henry, Council Rep. to Planning Commission
- Mr. David Tanner, BMZA
- Mr. Geoffrey Veale, Zoning Administration
- Ms. Nikol Nabors-Jackson, DHCD
- Ms. Barbara Zektick, DOT
- Ms. Elena DiPietro, Law Dept.
- Ms. Karen Randle, Council Services



Stephanie Rawlings-Blake  
Mayor

## PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman



Thomas J. Stosur  
Director

## STAFF REPORT

June 2, 2011

**REQUEST:** City Council Bill #11-0699 / Planned Unit Developments – Variances:

For the purpose of authorizing the Mayor and City Council to grant variances as part of an ordinance authorizing or amending a conditional use or authorizing or amending a Planned Unit Development; and generally relating to zoning variances, conditional uses, and Planned Unit Developments.

**RECOMMENDATION:** Approval

**STAFF:** Eric Tiso

**INTRODUCED BY:** Councilmembers Henry, Middleton, Branch, Holton, Kraft, Stokes, Welch, Conaway, Clarke, Curran, and Reisinger.

### HISTORY

- Ordinance #03-676, enacted on December 22, 2003, authorized the Mayor and City Council to grant certain variances as part of the grant of a conditional use.

### CONFORMITY TO PLANS

This action is consistent with the Comprehensive Master Plan's LIVE section, Goal 2: Elevate the Design and Quality of the City's Built Environment, Objective 2: Streamline and Strengthen the Development Process, by modernizing the zoning code to meet current needs.

### ANALYSIS

History: In 2003, Ord. #03-676 was enacted, amending Title 15 *Variances* of the Zoning Code, to clarify that variances may be granted either by the Board of Municipal and Zoning Appeals (BMZA), or "as part of an ordinance authorizing a conditional use, by the Mayor and City Council." This change was sensible since the City Council enacts the Zoning Code by Ordinance that in turn delegates the authority to grant variances to the BMZA. As a result, the Council should not need to defer approval of variances to the BMZA. Additionally, without such a correction to the Zoning Code, an applicant requiring a conditional use Ordinance that also needed a variance of some form would be obligated to hearings before the Council as well as the BMZA, which could be viewed as a form of "double-jeopardy."

Effect of Bill: Following the adoption of Ord. #03-676, variances have also been granted through Ordinances establishing Planned Unit Developments (PUDs) from time to time. Recently, the Law Department called to our attention that while PUD ordinance shares many traits with a conditional use ordinance, they are not exactly the same thing, and that a literal reading of the Zoning Code could call the practice into question. For that reason, this bill is a technical correction to the Zoning Code, to conform the text to the common practice of the past eight years. The amendments clarify that the Mayor and City Council can authorize variances through either a conditional use ordinance, or a PUD ordinance, or amendments to either. Staff recommends approval of this bill to conform the Zoning Code to common practice, as this was the initial intent of staff at the time of the 2003 correction, though the wording was not complete.

Notification: For this action, staff notified 218 City-wide organizations of this hearing.



**Thomas J. Stosur**  
**Director**