
CITY OF BALTIMORE

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Mayor



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November 21, 2018

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 18-0289 – Planned Unit Development – Designation – Mt.
Vernon Mill

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 18-0289 for form and legal sufficiency. The bill would repeal the existing Development Plan for the Mt. Vernon Mill Planned Unit Development and approve a new Development Plan for the Mt. Vernon Mill Planned Unit Development. The bill provides for an immediate effective date.

The repeal of an existing Development Plan for a PUD is considered a major amendment that requires the repeal and reestablishment of the PUD by ordinance. Baltimore City Code, Art. 32, § 13-403. CB 18-0289 is intended to accomplish this objective. Furthermore, the properties are located in the I-MU district. A PUD is permitted in the I-MU district. *See* BCC, Art. 32, § 13-403. Additionally, for this PUD to be lawful, it must consist of at least two acres. BCC, Art. 32, §13-202(b). The proposed PUD will contain 9.78 acres.

Findings of Fact and Factors to Consider

The City Council may approve the PUD in accordance with Subtitle 2 of Article 13 of the City's Zoning Code, which requires that the City Council find facts to establish:

- (1) the use is compatible with the surrounding neighborhood;
- (2) the use furthers the purpose of the proposed classification; and
- (3) the PUD master plan developed under § 13-304 {"PUD master plan"} of this title ensures that there will be no discordance with existing uses.

Baltimore City Code, Art. 32, §13-203(b). In addition, the PUD is subject to the conditional use standards in Section 5-406, which means that the City Council may not approve the PUD unless it finds:

- (1) the establishment, location, construction, maintenance, or operation of the PUD would not be detrimental to or endanger the public health, safety, or welfare;
- (2) the use would not be precluded by any other law, including an applicable Urban Renewal Plan;
- (3) the authorization would not be contrary to the public interest; and
- (4) the authorization would be in harmony with the purpose and intent of this Code.

Baltimore City Code, Art. 32, §§5-406, 13-203(a)(1). The following additional factors must also be considered:

- (i) whether the planned unit development is in general conformance with all elements of the Comprehensive Master Plan, and the character and nature of existing and contemplated development in the vicinity of the proposed planned unit development;
- (ii) whether the planned unit development will preserve unusual topographic or natural features of the land, and the design of the planned unit development will best utilize and be compatible with the topography of the land;
- (iii) whether the physical characteristics of the planned unit development will not adversely affect future development or the value of undeveloped neighboring areas, or the use, maintenance, or value of neighboring areas already developed;
- (iv) whether the planned unit development will provide the same protection as the basic district regulations in regard to fire, health hazards, and other dangers;
- (v) whether the planned unit development will encourage innovative design features or adaptive reuse of structures that would not be possible by application of the basic district regulations; and
- (vi) whether the planned unit development is compatible with any nearby industrial district.

Baltimore City Code, Art. 32, §13-203(a)(2).

The Planning Commission Report (Report) finds all the facts necessary to support this Planned Unit Development. Therefore, the City Council may reply on the Report to make the above required findings of fact.

Approval of the Master Plan

The Mayor and City Council's enactment of the ordinance is a legislative approval of the PUD Master Plan, which must include thirteen separate components. Baltimore City Code, Art. 32, §13-304(a), (b). There are no required findings or reviews for this Master Plan by the City Council, but the Planning Commission must include in its bill report to the City Council its final determination on the proposed PUD Master Plan. Baltimore City Code, Art. 32, §13-304(d). **Thus, it is imperative that in Section 3, the Planning Commission and City Council are satisfied that they have received the correct Exhibits that make up this Master Plan.**

Conditions Imposed


Conditions may be imposed on the PUD in accordance with Section 5-405(a). Baltimore City Code, Art. 32, §13-203(a)(1). These can only be conditions that protect the public interest and are "reasonably related and roughly proportional to the expected impact" of the PUD. Baltimore City Code, Art. 32, §5-405(a). Such conditions are proposed in Section 4 of the Bill. Specifically Section 4(b)(1) allows for live entertainment "provided no admission, donation or use charge is required; and the live entertainment is limited to indoor non-amplified music." Section 4(b)(2) lists four conditions involving the operation of banquet halls. Furthermore, Section 4(d) allows for certain alcoholic beverage licenses to be permitted, "provided that each restaurant must have at least 50% of its sales in food." **The Planning Report does not address the required findings for these conditions. Therefore, the City Council must take care to make these findings for these two conditions.**

Procedural Requirements

Certain procedural requirements apply to this bill beyond those discussed above because the enactment of a Planned Unit Development is deemed a "legislative authorization." BCC, Art. 32, §5-501(2)(iii). This includes referral to certain agencies, including the Planning Commission. Baltimore City Code, Art. 32, §§5-504, 5-506. Specifically, notice of the City Council hearing must be given by publication in a newspaper of general circulation in the City, by posting in a conspicuous place on the property and by first-class mail, on forms provided by the Zoning Administrator, to each person who appears on the tax records of the City as an owner of the property. Baltimore City Code, Art. 32, §5-601(b). The notice of the City Council hearing must include the date, time, place and purpose of the hearing, as well as the address of the property and the name of the applicant. Baltimore City Code, Art. 32, §5-601(c). The posted notices must be at least 3 feet by 4 feet in size, placed at a prominent location that is visible to passing pedestrians, and at least one sign must be visible from each of the property's street frontages. City Code, Art., §5-601(d). The published and mailed notices must be given at least 15 days before the hearing; the posted notice must be at least 30 days before the public hearing. Baltimore City Code, Art. 32, §5-601(e), (f).

The bill is the appropriate method to review the facts and make the determination as to whether the legal standards for PUD have been met. The Law Department can approve the amended bill for form and legal sufficiency if the required findings are made at the hearing, and all procedural requirements are satisfied.

Sincerely,



Victor K. Terval
Chief 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
Ashlea Brown, Assistant Solicitor