

FROM	NAME & TITLE	CHRIS RYER, DIRECTOR
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET
	SUBJECT	CITY COUNCIL BILL #19-0321 / ZONING MODIFICATIONS TO APPROVED FINAL DEVELOPMENT PLANS

CITY of
BALTIMORE
MEMO



DATE: February 25, 2019

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

At its regular meeting of February 21, 2019, the Planning Commission considered City Council Bill #19-0321, for the purpose of modifying the procedure by which a major change may be made to an approved planned unit development.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended amendment and approval of City Council Bill #19-0321 and adopted the following resolution nine members being present (nine in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #19-0321 be amended and passed by the City Council.

If you have any questions, please contact Mr. Eric Tiso, Division Chief, Land Use and Urban Design Division at 410-396-8358.

CR/ewt
attachment

- cc: Mr. Pete Hammen, Chief Operating Officer
Mr. Jim Smith, Chief of Strategic Alliances
Ms. Karen Stokes, Mayor's Office
Mr. Colin Tarbert, Mayor's Office
Mr. Jeff Amoros, Mayor's Office
The Honorable Edward Reisinger, Council Rep. to Planning Commission
Mr. William H. Cole IV, BDC
Mr. Derek Baumgardner, BMZA
Mr. Geoffrey Veale, Zoning Administration
Ms. Sharon Daboin, DHCD
Mr. Tyrell Dixon, DCHD
Ms. Elena DiPietro, Law Dept.
Mr. Francis Burnszynski, PABC
Mr. Michael Castagnola, DOT
Ms. Natawna Austin, Council Services
Mr. Ervin Bishop, Council Services



Catherine E. Pugh
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Chris Ryer
Director

February 21, 2019

REQUEST: City Council Bill #19-0321/ Zoning -Modifications to Approved Final Development Plans

RECOMMENDATION: Amend and Approve with the following amendments:

1. Amend § 5-601 (a) to add “, repeal” after the words “or the creation”.
2. Amend § 5-604 (d)(2) to delete the word “minor”.
3. Insert new § 5-604(g) as follows:
 - (g) *Written Notice to Property Owners Within A Planned Unit Development*
At the time of application, repeal, or major change, the applicant must provide written notification to all other property owners or authorized agents within the existing or proposed planned unit development boundaries as the Department of Planning designates.
4. Insert new § 13-201 (d) as follows:
 - (d) *Repeal of PUDs.*
Planned unit developments may be repealed by ordinance of the Mayor and City Council enacted in accordance with the provisions of this title.
5. Amend § 13-202(a)(2) as follows:
 - Add the word “new” after “the application for approval of a”.
 - Delete the words “or for approval of an amendment to an approved planned unit development”.
 - Add to the end “, contract purchaser(s), or authorized agent(s)” before the “.”
6. Insert new § 13-202(a)(3) as follows:
 - (3) For application for a major change or repeal to an existing planned unit development, at least one owner, contract purchaser or authorized agent may make application for approval provided that all other property owners or their authorized agent is notified in accordance with Title 5, Subtitle 6 {Notices}, of the Code.
7. Insert new § 13-205 as follows:

§ 13-205. Repeal of PUDs.
In determining whether to repeal a planned unit development, the Planning Commission and City Council must find that:

 - (a) The repeal of the planned unit development is in the public interest;
and

- (b) The approved final development plan of the planned unit development:
- (i) Has been substantially completed;
 - (ii) Is no longer necessary in light of the property's underlying zoning;
 - (iii) Is no longer consistent with the City's Master Plan; or
 - (iv) Has been abandoned by the property owner.

STAFF: Tamara Woods

INTRODUCED BY: City Council Member Mary Pat Clarke, 14th District

OWNER: Citywide Legislation

ANALYSIS:

Background

The rationale for City Council Bill #19-0321 is to remove the requirement that all Planned Unit Developments (PUD) that trigger a Major Change would have to be repealed and replaced. Prior to the enactment of Article 32 in June 2017, the zoning code in place authorized the City Council to do what were called Major Amendments to PUDs through City Council Legislation without having to replace the entirety of the PUD.

The zoning code rewrite that took effect in June 2017 did not include this provision. The previous zoning code had been in place since 1971. Some of the PUDs in the City date back as far as 1972. The provision in §13-403(a) of Article 32 outlines what constitutes a Major Change with a list of triggers such as, but not limited to: a 10% increase or 25% decrease in the approved numbers of dwelling units and maximum building heights, boundary changes, and a change in type, location or arrangement of land uses within the development as shown on the previously approved plan. The following section, §13-403(b), states that a major change automatically triggers a repeal and resubmittal. The rationale behind this provision is two-fold:

1. It would force the evaluation and possible repeal of PUDs that had been inactive for a while, substantially built, or potentially no longer needed and were coming back in with updated or wholesale new development plans; and
2. Require PUDs to become in compliance with the new zoning law and any other laws that may have come into effect since the establishment of the PUD.

With this provision, it left developers without a mechanism to modify aspects of the development plan with regard to building typology or density when the majority of the PUD was remaining in place. In addition, developments that are still active and needed a major change would now fall under the strict legal scrutiny required to establish a new PUD.

Bill Summary:

The purpose of City Council Bill #19-0321 is to modify §13-403(b) of Article 32. As previously stated, this section of Title 13 states that a "[Major] Change requires repeal of plan and resubmittal." The section states that a major change requires:

- (1.) the repeal of the ordinance that approved the planned unit development; and
- (2.) introduction and enactment of an ordinance to approve a new planned unit development and PUD master plan.

The bill seeks to amend this section to delete §13-403(b)(1) completely and modify §13-403(b)(2) to state “A major change required introduction and enactment of an ordinance to approve an amendment to the planned unit development and PUD master plan.” This proposed modification allows for the reestablishment of the ability to do a Major Change by ordinance without a repeal and resubmittal of the PUD.

Proposed Amendments and Rationale

In addition to the amendments proposed to §13-403(b) in the City Council Bill, Planning Staff recommends that City Council Bill #19-0321 make further amendments to modify additional parts of Title 5 and Title 13 of Article 32 that would clarify the rules of submitting applications for new PUDs and modifying and repealing existing PUDs. This is critical as the crux of City Council Bill #19-0321 is to split the process of getting a major change to a PUD from repealing and resubmitting the PUD. This modification changes the structure to something akin to the previous zoning code, therefore making it necessary to better align the rules and processes to accommodate all three distinct actions. The proposed amendments are as follows:

Amendments 1-3

The first three proposed amendments are to Title 5, Subtitle 6 of Article 32. This set of amendments have to do with the notice requirements for zoning matters. The first amendment is to make clear that the notice requirements for a City Council Committee hearing apply to the repeal of PUDs. The second amendment is to clarify in the example that the notice requirements apply to major changes. The third amendment is a companion amendment to proposed changes to Title 13 in that a single entity can make application for a major change or repeal of a PUD. If this is the case, then the single entity must provide written notice to all other property owners within the PUD. The three proposed amendments are as follows:

Amendment 1: Amend § 5-601 (a) as follows:

- (a) *Hearing Required.*
“...zoning text amendment, or the creation, REPEAL, or modification...”

Amendment 2: Amend § 5-604 (d)(2) to delete the word “minor”.

Amendment 3: Insert new § 5-604(g) as follows:

- (g) *Written Notice to Property Owners Within A Planned Unit Development*
At the time of application, repeal, or major change, the applicant must provide written notification to all other property owners or authorized agents within the existing or proposed planned unit development boundaries as the Department of Planning designates.

Amendment 4

The following proposed amendment 4 adds in the expressed authorization that the repeal of PUDs can be done by ordinance of the Mayor and City Council. It is as follows:

Amendment 4: Insert new §13-201 (d) as follows:

(d) *Repeal of PUDs.*

Planned unit developments may be repealed by ordinance of the Mayor and City Council enacted in accordance with the provisions of this title.

Amendments 5 and 6

This next set of amendments are to the common ownership or unified control portion of the General Requirements section of Title 13 (Planned Unit Developments). The proposed amendments seek to provide clearer standards of “ownership” for new PUDs versus Major Changes and Repeals. Amendment 5 clarifies that new PUD applications with 2 or more owners must be jointly filed by the property owners, contract purchasers or authorized agent. This is important as applications are often not filed by the property owner, but the developer or an agent legally acting on behalf of the owner(s). This amendment allows for the flexibility needed to establish new PUDs.

Amendment 6 speaks to major changes or repeals of PUDs. Often with larger developments or repeals, there can be a primary entity making the request for future phases that are under development, or some owners may not no longer be present or in the picture as an active owner. In this scenario, the applicant must show that proper written notice was provided to all the other property owners at the time of application. This is a companion amendment to amendment 3 above. The proposed amendments 4 and 5 are as follows:

Amendment 5: Amend §13-202(a)(2) as follows:

- Add the word “new” after “the application for approval of a”.
- Delete the words “or for approval of an amendment to an approved planned unit development”.
- Add to the end “, contract purchaser(s), or authorized agent(s)” before the “.”

Amendment 6: Insert new § 13-202(a)(3) as follows:

(3) For application for a major change or repeal to an existing planned unit development, at least one owner, contract purchaser or authorized agent may make application for approval provided that all other property owners or their authorized agent is notified in accordance with Title 5, Subtitle 6 {Notices}, of the Code.

Amendment 7

The last proposed amendment is to add a new section of findings for the Planning Commission and City Council to use in determining if an existing PUD can be repealed. This is a companion amendment that complements amendment 4 which gives the Mayor and City Council expressed authorization to repeal PUDs. The proposed amendment is as follows:

Amendment 7: Insert new §13-205 as follows:

§ 13-205. Repeal of PUDs.

In determining whether to repeal a planned unit development, the Planning Commission and City Council must find that:

- (c) The repeal of the planned unit development is in the public interest;
and
- (d) The approved final development plan of the planned unit development:
 - (j) Has been substantially completed;
 - (v) Is no longer necessary in light of the property's underlying zoning;
 - (vi) Is no longer consistent with the City's Master Plan; or
 - (vii) Has been abandoned by the property owner.

After analysis and evaluation, Planning Staff recommends that City Council #19-0321 be approved by Planning Commission with the above amendments.

Community Outreach and Notification: In advance of this hearing the Department of Planning Staff notified interested parties using our Compass distribution list and the Planning Commission Agenda that go to approximately 14,000 recipients. In addition, the City Council President's office and all City Councilmembers have been notified.



Chris Ryer
Director

