

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2009, Legislative Day No. 7

Bill No. 23-09

Councilmembers Kamenetz, McIntire and Oliver

By the County Council, April 6, 2009

A BILL
ENTITLED

AN ACT concerning

Planned Unit Developments

FOR the purpose of defining the type of community benefit that is required to be included in a Planned Unit Development application; clarifying the authority of the County Council to amend a PUD application; clarifying the Planning Board's authority to review a PUD proposal; clarifying the review authority of the Hearing Officer; and generally relating to Planned Unit Developments.

BY repealing and re-enacting, with amendments

Sections 32-4-242(b)(6) and (c), 32-4-245(c) and 32-4-246
Article 32 - Planning, Zoning and Subdivision Control
Title 4 - Development
Baltimore County Code 2003

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Sections 32-4-242(b)(6) and (c), 32-4-245(c) and 32-4-246 of Article
3 32 Planning, Zoning and Subdivision Control, Title 4 - Development, of the Baltimore County Code

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

1 2003, be and they are hereby repealed and re-enacted, with amendments, to read as follows:

2 32-4-242. Application.

3 (b) *Contents*. The application for a Planned Unit Development shall include:

4 (6) A statement of how the Planned Unit Development will provide a community benefit[,
5 or] THAT MAY INCLUDE

6 (I) an environmental benefit by proposing to achieve at least a silver rating according to the
7 U.S. Green Building Council's LEED for Homes Green Building Rating System;

8 (II) A LAND USE BENEFIT BY PROPOSING A HIGHER QUALITY ARCHITECTURAL
9 DESIGN OR USE OF HIGHER QUALITY BUILDING MATERIALS THAT ENHANCE THE
10 DEVELOPMENT FOR ITS RESIDENTS; OR

11 (III) A COMMUNITY BENEFIT BY PROPOSING A CAPITAL IMPROVEMENT TO A
12 NEARBY COUNTY-OWNED FACILITY FOR USE BY COMMUNITY RESIDENTS, OR TO A
13 VOLUNTEER FIRE COMPANY THAT SERVES THE PLANNED UNIT DEVELOPMENT.

14 (c) *Council action*.

15 (1) If the Council finds that the proposed Planned Unit Development will achieve a development of
16 substantially higher quality than a conventional development would achieve and that the proposed
17 site for the Planned Unit Development is eligible for county review, the Council, by adoption of a
18 resolution, may approve the continued review of the Planned Unit Development in accordance with
19 the procedures of this title and the requirements of the zoning regulations. The Council shall give
20 public notice of the resolution at least 10 business days prior to final vote on the resolution.

21 (2) The Council may: (I) amend or modify the densities or uses in the proposed Planned Unit

1 Development [and shall include such amendments or modifications in the resolution adopted under
2 this subsection. The Council shall also include in the resolution a statement of the community benefit
3 provided by the amendment or modification.];

4 (II) REDUCE OR MODIFY ANY DEVELOPMENT OR ZONING REQUIREMENT OF
5 THE UNDERLYING ZONE OR DISTRICT THAT APPLY IN THE PROPOSED PLANNED UNIT
6 DEVELOPMENT; OR

7 (III) CONDITION OR LIMIT ANY MODIFICATION MADE UNDER THIS
8 PARAGRAPH.

9 (3) THE COUNTY COUNCIL RESOLUTION SHALL INCLUDE:

10 (I) A STATEMENT OF ANY AMENDMENT OR MODIFICATION MADE UNDER
11 PARAGRAPH (2);

12 (II) A STATEMENT OF ANY CONDITION OR LIMITATION IMPOSED UNDER
13 PARAGRAPH (2); AND

14 (III) A STATEMENT OF THE COMMUNITY BENEFIT PROVIDED BY THE PROPOSED
15 PLANNED UNIT DEVELOPMENT.

16 **§ 32-4-245. PLANNING BOARD REVIEW.**

17 (c) *Standards for review.*

18 (1) The Planning Board shall CONDUCT AN ADMINISTRATIVE REVIEW OF THE REPORT
19 AND RECORD SUBMITTED PURSUANT TO SECTION 32-4-244 AND SHALL review the
20 proposed Planned Unit Development for compliance with the requirements of the Baltimore County
21 Zoning Regulations and the development regulations. The Planning Board may adopt rules and
22 regulations for the conduct of its proceedings in accordance with the process of Article 3, Title 7 of
23 the Code.

1 (2) The Directors of the Office of Planning, Economic Development, Permits and Development
2 Management, Community Conservation, Environmental Protection and Resource Management,
3 Public Works and Recreation and Parks shall offer advisory comments to the Planning Board
4 regarding the proposed Planned Unit Development, including comments on the mix and proportion
5 of proposed uses and any affordable residential rental units proposed for a senior housing PUD. The
6 Planning Board may refer any technical issue or other matter to the director of an agency for advice,
7 including the conduct of an administrative hearing to resolve an issue. The director shall promptly
8 report the agency's written findings and recommendations to the Board.

9 (3) The height, area, setback, parking, open space, sign and other development and zoning
10 requirements of the underlying zone or district that apply in that portion of the proposed Planned Unit
11 Development shall provide the base for the Planning Board's review. Unless otherwise shown on
12 the approved PUD plan, the base development and zoning requirements shall apply. The concept plan
13 shall indicate higher standards than the base requirements of the underlying zone.

14 (4) The Planning Board may:

15 (I) condition approval of a PUD plan on higher design standards;

16 (II) [Any reduction or modification in the] REDUCE OR MODIFY ANY OF THE applicable
17 requirements of the underlying zone [shall be predicated] upon [the Planning Board's] A finding that
18 they are necessary to achieve the intent and purpose of this section and provide a community benefit.

19 (III) ALTER ANY AMENDMENT OR MODIFICATION MADE BY THE COUNTY
20 COUNCIL UNDER §32-4-242(C)(2)(I) OR (II) UNLESS THE ALTERATION RESULTS IN A
21 FURTHER INCREASE IN DENSITIES OR USES.

1 (IV) ACCEPT, MODIFY OR REJECT ANY PROPOSED COMMUNITY BENEFIT.

2 [(4)] (5) The Planning board may not alter [the amendments or modifications] ANY CONDITION
3 OR LIMITATION imposed by the County Council under § 32-4-242(c) (2) (III) [if the alteration
4 results in an increase in densities or uses].

5 [(5)] (6) The Planning Board may require compliance of the plan with § 32-4-203 and with any of
6 the general design standards of Article 32, Title 4, Subtitle 4 of the Baltimore County Code.

7 **§32-4-246. HEARING OFFICER REVIEW.**

8 *Authority of the Hearing Officer.* The Hearing Officer, within 20 days after receipt and review of the
9 report of the Planning Board shall:

10 (1) REMAND THE CONCEPT PLAN TO THE PLANNING BOARD; OR

11 [(1)] (2) Deny the concept plan only upon a finding that the decision of the Planning Board under
12 § 32-4-245:

13 (I) constitutes an abuse of the Planning Board's discretion [or are];

14 (II) IS unsupported by [the documentation and evidence presented to the Board; or]
15 COMPETENT, MATERIAL, AND SUBSTANTIAL EVIDENCE IN LIGHT OF THE RECORD
16 SUBMITTED;

17 (III) EXCEEDS THE STATUTORY AUTHORITY OR JURISDICTION OF THE
18 PLANNING BOARD;

19 (IV) RESULTS FROM AN UNLAWFUL PROCEDURE;

20 (V) IS AFFECTED BY ANY OTHER ERROR OF LAW; OR

1 (VI) IS ARBITRARY OR CAPRICIOUS.

2 [(2)] (3) In the absence of a finding under [(1)] (2), approve the concept plan.

3 [(3)] (4) The decision of the Hearing Officer is subject to the appeal provisions of §§ 32-4-281.

4 SECTION 2. AND BE IT FURTHER ENACTED, that this Act, having been passed by the
5 affirmative vote of five members of the County Council, shall take effect on May 18, 2009.

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