



Stephanie Rawlings-Blake  
Mayor

## PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

### STAFF REPORT



Thomas J. Stosur  
Director

December 10, 2015

**REQUEST:** City Council Bill #15-0576/ Planning Commission – Site-Specific Matters – Notice and Hearing on Applications for Final Administrative Decisions:

For the purpose of requiring a public hearing by the Planning Commission, with posted notice, for all site-specific matters over which the Planning Commission has the final administrative authority; specifying the size, contents, construction, and number of the signs to be posted and the manner and timing of their posting; qualifying the Planning Commission's authority to determine what constitutes a "minor modification" to a Planned Unit Development; modifying certain provisions requiring advance delivery to Councilmembers of Commission meeting agendas; and correcting, clarifying, and conforming related language.

**RECOMMENDATION:** Disapproval, with comments

- Delete Page 2, Line 12, as well as the words "OR CONSOLIDATION" in Line 13, and renumbering as needed.
- The requirement for reading of all staff reports would functionally remove the Consent Agenda, which will increase time required for review, and will reduce staff efficiency.
- The requirements for posting may have some unintended consequences and increase costs to the applicant, such as:
  - Requiring excessive signs for some projects (e.g. properties touching multiple streets, especially smaller lots),
  - Requiring signs that will not functionally add to the visibility of the notice given (e.g. signs on alley streets).
  - Requiring weatherproof signs that are posted inside windows
  - The increase in posting time from seven to fifteen days will add a minimum of a week, but potentially even more time required to go from proposal submittal to a hearing. This delay does not seem to improve the process in any meaningful way.
- Requiring Law Department review of the decision of major vs. minor amendment in PUD review will add more time to the review process, and does not appear to improve the process in any meaningful way.

**STAFF:** Eric Tiso

**INTRODUCED BY:** Councilmember Clarke, President Young, Councilmembers Middleton, Henry, Stokes, Kraft, Welch, Holton, Reisinger, Mosby, Curran, Scott, Branch

## **ANALYSIS**

The Department of Planning is generally opposed to this bill as being premature, and for having negative consequences that may not have been intended. This bill focuses on notice for Planning Commission hearings, including requiring signs of certain types, sizes and locations, and the handling of minor changes in a planned unit development. All of the topics covered in this bill are handled in some aspect in the new zoning code, TransForm Baltimore. As the Council is in the middle of debating that bill, it is premature and potentially confusing to change pieces of the existing code ahead of the completion of the entire comprehensive replacement zoning code.

Notwithstanding these objections, portions of the bill could be workable, with certain amendments.

**Bill Effects:** This bill adds new sections to the City Code under Article 1, and modifies a portion of the Zoning Code in the Title that addresses Planned Unit Developments (PUDs). These amendments apply to a number of items that the Planning Commission reviews, requires staff reports to be read, requires posting, and requires delivery of the Commission's agenda to Council members in advance of hearings.

### **Amendments to City Code, Article 1:**

#### **§16-1**

The new §16-1 is intended to apply to "...all site-specific matters over which the Planning Commission has the final administrative authority to approve or disapprove." It then illustrates that those matters include:

- Final Development Plans;
- The establishment or modification of Urban Renewal Plans (URPs);
- Plans for the subdivision or consolidation of land parcels; and
- Minor modifications to Planned Unit Developments (PUDs).

This section appears to be unclear in its intent, since the establishment or modification of URPs are achieved through Ordinances where the Planning Commission has an advisory role, and does not have any final administrative authority to approve or disapprove of the bill. Further, consolidations of land parcels are not reviewed by the Planning Commission at all.

Consolidations are done as a routine application through the Department of Transportation's Right of Way Services Division (formerly under DGS). Staff would recommend the deletion of Page 2, Line 12, as well as the words "OR CONSOLIDATION" in Line 13 and renumbering as needed.

§16-1 (B) specifies that these requirements will apply to matters placed on the Planning Commission's Consent Agenda. This section is functionally redundant, given the proposed §16-2, below:

#### **§16-2**

This section requires that the Planning Commission's review of any item described in §16-1 above will be conducted "...at a public hearing at which the parties in interest and the general public will have an opportunity to be heard; and all staff reports and recommendations will be read."

The Planning Commission's Consent Agenda was developed in part as a means to move items the Commission has already thoroughly heard and vetted and are returning for approval of a minor element. Such items typically include plan-related street closing, minor signage or building adjustments in a PUD. The intent is to move such minor items quickly through the public hearing process, and in doing so assist the public by not consuming more time in hearings than needed, and utilize the staff's time most efficiently. The benefits include not needing to prepare a formal staff report, and dispensing with a detailed staff presentation and slideshow. Public notice of items scheduled for the Consent Agenda is still done. Should the scope of this bill remain largely as it appears, it would have the effect of removing most, if not all, of the potential items the Planning Commission might review on its Consent Agenda.

Staff opposes this section in its entirety, since it will undo the efficiencies realized for the vast majority of the consent agenda items. This will mean more time and money spent in hearings for applicants and more time required for staff to generate staff reports and presentations.

#### §16-3 through §16-6

These sections create a requirement for posting. Currently, site-specific items are posted as a policy requirement by the Planning Commission. In §16-5, one notice sign is required per street frontage. This may have unintended consequences, as there are situations where such posting would be counterintuitive. An example includes potentially requiring four signs for a corner church property that happens to have driveway connections to other streets bordering that block. There are also instances where properties have frontage on alley streets where a sign would not be visible to very many people. The staff understands that signs can cost around \$150 each, which can grow to \$200-\$250 per sign if someone is hired to post the sign for an applicant.

When signs are to be mounted in windows, they are required to be posted inside the window. Staff assumes that this would provide the required weatherproofing, and that the other requirements requiring a durable sign would not be necessary. Staff recommends that an exception to the materials requirements be added for signs posted inside of windows.

§16-6 requires that these notice signs must be posted for fifteen calendar days prior to the hearing, which is an increase in time from the seven days now required by Planning Commission policy. This will have the effect of adding at least eight days to the existing timeline needed to schedule something before the Planning Commission. This additional delay will have an impact to scheduling, and will slow the Commission's ability to review projects.

#### Amendments to the Zoning Code:

This bill also modifies a portion of Title 9 of the Zoning Code, which addresses Planned Unit Developments (PUDs). Specifically, §9-118(c):

The Planning Commission may determine what constitutes a "minor modification" for purposes of this subsection, BUT ONLY IF THE LAW DEPARTMENT HAS REVIEWED THE DETERMINATION AND HAS APPROVED IT IN WRITING FOR COMPLIANCE WITH THE STANDARDS IN PARAGRAPH (1) OF THIS SUBSECTION AND OTHERWISE FOR LEGAL SUFFICIENCY.

This in effect leaves the decision with the Law Department, and expects that its staff will evaluate the proposal, related plans, and make a determination. Planning staff opposes this section in its entirety, since it will only add more delay to the process, and is not likely to result in any improvements in process quality or consistency. The department agrees that the current zoning code is not as clear as it could be in delineating minor versus major amendments. In drafting the new zoning code (TransForm Baltimore) we address this issue by creating very specific thresholds and standards.

Community Notification: Notice of this action was published via GovDelivery to all Planning Commission action subscribers.



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