

MEMORANDUM

January 17, 2018

TO: Government Operations and Fiscal Policy Committee

FROM: *JZ* Jeff Zyontz, Senior Legislative Analyst

SUBJECT: **Addendum:** Expedited Bill 36-17, Taxation – Development Impact Tax – Exemptions - Amendments

The January 16 memorandum reported only one project as qualifying for the tax exemption under Bill 36-17 as introduced. There are arguably two project that qualify (Sandy Spring Friends and Century.)

The Century project was misreported in the January 16 memorandum as qualified by virtue of an amended Bill.

The Century project was approved in 2002 without any dwelling units in the I-3 zone with amendments in 2009. It was thereafter rezoned to a CR zone, and dwelling units were added in 2016.¹

The active provision of Bill 36-17 reads as follows:

If an approved development is amended to include additional dwelling units and at least 25% of the additional dwelling units are exempt under paragraph (1), (2), (3), or (4) of

¹Detailed development history provided by DHCA staff:

1. The original preliminary plan (120020950) and the original site plan (820030070) were approved in 2002 and 2003, respectively. At that time, the property was zoned I-3, and the approved use was for office (no residential).
2. The first amendments to the preliminary plan and site plan (12002095A and 82003007A) were approved in 2009. These amendments changed some of the conditions of the original approvals but did not change the use.
3. The 2009 Germantown Employment Area Sector Plan recommended mixed-use development at this location, at which point the property was rezoned to TMX-2, and then to CR-2.0: C-1.25 R1.0 H-145T when the new zoning ordinance was adopted.
4. The second amendments to the preliminary plan and site plan (12002095B and 82003007B) were approved in 2016. These approvals added the following residential uses: 160 townhouses; 28 two-over-two units, and 300 multi-family units, in addition to a hotel and more office uses.
5. Site Plan Amendment No. 82003007C was approved in the fall of 2017, and a fourth site plan amendment (82003007D) is pending. Neither of these change the approved residential uses.

Section 52-54(c), or any combination of them, then Section 52-41(g)(5) and Section 52-54(c)(5), apply to the additional units.

Staff believes that the Bill should be amended as follows:

If ~~[[an approved]]~~ a development approved before October 22, 2015 is amended any time thereafter to include additional dwelling units and at least 25% of the additional dwelling units are exempt under paragraph (1), (2), (3), or (4) of Section 52-54(c), or any combination of them, then Section 52-41(g)(5) and Section 52-54(c)(5), apply to the additional units.

What revision was proposed by the testimony?

One developer representative requested an expansion of Bill 36-17 to allow some (up to 500 units per year) of previously approved projects (before 2008) to take advantage of the exemption for providing at least 25% affordable units. Specifically, the additional exemption would be as follows:

If the relevant preliminary subdivision plan was approved before January 1, 2008, Sections 52-41(g)(5) and 52-54(c) apply to building permit applications, up to a maximum of 500 dwelling units in any 12 month period, for the unbuilt portion of the development.

Council President Riemer supports this amendment.

What would the effect be of expanding Bill 36-17 to allow up to 500 units per year to revise their older plans and being exempt from impact taxes by providing more affordable units?

One project, the Cabin Branch Project of 272 high-rise units with potentially 34 MPDUs is known to want to qualify. The MPDUs would double to a total of 68 affordable units at a tax expenditure of \$4.0 million (approximately \$117,800 for each additional affordable unit).²

² The exemption under the proposed amendment would apply to all market rate units in the project. The new exemption proposed in Bill 36-17 as introduced only applies to the increase number of dwelling units from the original approval.