


TJS

FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 E. FAYETTE STREET, 8 <sup>th</sup> FLOOR		
	SUBJECT	CITY COUNCIL BILL #11-0658/TRAFFIC MITIGATION - ESTABLISHING TRAFFIC-MITIGATION ZONES		

TO

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

DATE: April 29, 2011

At its regular meeting of April 21, 2011 the Planning Commission considered City Council Bill #11-0658, for the purpose of modifying the requirements for certain development projects to mitigate their impacts on City traffic; requiring the Department of Transportation to review certain development projects; defining certain terms; designating certain areas to be Traffic-Mitigation Zones; providing for payments in lieu of Traffic-Mitigation studies; establishing how these payments are to be calculated; creating certain exceptions; authorizing certain traffic-mitigation projects; and generally relating to the requirements and procedures for building and zoning code permits and authorizations.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended amending and the approving City Council Bill #11-0658. In total, there were ten amendments and they were proffered by the Baltimore City Department of Transportation and the Planning Department staff concurred with these ten amendments. However, the Planning Commission accepted Amendments No. 1, 2, 3, 4, 5, 7, 8, 9, and a modified version of No. 10. The Planning Commission did not accept Amendment No. 6. This was because of the Commission's concerns about the reference to a temporary limitation on fee rate increases. The Commission asks that the parties involved continue to meet and work towards a resolution prior to City Council review. The modified version of Amendment No. 10 that the Planning Commission accepted reads as follows:

“Section 3. AND BE IT FURTHER ORDAINED, That the requirements of this Ordinance do not apply to applications that the Director of Transportation, in consultation with the Director of Planning, determines are made pursuant to:

1. an agreement approved by the Board of Estimates before the effective date of this Ordinance,
2. a Planned Unit Development entered into before the effective date of this Ordinance, or
3. written confirmation from the Department of Transportation that a project does not require mitigation or stipulated limited mitigation.”;

Additionally, the Planning Commission recommended that on Page 7, in Line 29; insert “AT LEAST” between the words “PLAN” and “EVERY”.

Thus, the Planning Commission accepted the amendments cited above and recommended amendments to and the approval of CCB # 11-0658 and adopted the following resolution, eight members present, (eight in favor).

RESOLVE, That the Planning Commission accepted the amendments cited above and recommends the CCB # 11-0658 be amended and passed by the City Council.

If you have questions, please contact Mr. Wolde Ararsa, Division Chief of Land Use and Urban Design, at 410-396-4488.

TJS/WYA/ewt

Attachment

cc: Ms. Kaliopé Parthemos, Deputy Mayor  
Ms. Thomasina Hiers, Deputy Chief of Staff  
Ms. Angela Gibson, Mayor's Office  
The Honorable Bill Henry, Council Rep. to Planning Commission  
Mr. David Tanner, BMZA  
Mr. Geoffrey Veale, Zoning Administration  
Ms. Nikol Nabors-Jackson, DHCD  
Ms. Barbara Zektick, DOT  
Ms. Elena DiPietro, Law Dept.  
Ms. Karen Randle, Council Services  
Mr. Larry Greene, Council Services



*Stephanie Rawlings-Blake  
Mayor*

## PLANNING COMMISSION

*Wilbur E. "Bill" Cunningham, Chairman*

### STAFF REPORT



*Thomas J. Stosur  
Director*

**April 21, 2011**

**REQUEST:** City Council Bill #11-0658 / Traffic Mitigation – Establishing Traffic-Mitigation Zones:

For the purpose of modifying the requirements for certain development projects to mitigate their impacts on City traffic; requiring the Department of Transportation to review certain development projects; defining certain terms; designating certain areas to be Traffic-Mitigation Zones; providing for payments in lieu of Traffic-Mitigation studies; establishing how these payments are to be calculated; creating certain exceptions; authorizing certain traffic-mitigation projects; and generally relating to the requirements and procedures for building and zoning code permits and authorizations.

**RECOMMENDATION:** Amendment and Approval, with the following amendment:

- That the Planning Commission adopts the attached amendments proposed by the Department of Transportation (Department of Legislative Reference draft 20 April 2011)

**STAFF:** Eric Tiso

**PETITIONER:** The Administration (Department of Transportation)

#### **HISTORY**

- Ordinance #06-345 (CCB# 06-0360) was enacted November 8, 2006 modified the Building, Fire, and Related Codes and the Zoning Code to create the requirements for a Traffic Impact Study (TIS) for certain projects City-wide.

#### **CONFORMITY TO PLANS**

This action is compatible with the City's Comprehensive Master Plan, LIVE section, Goal 3: Improve Transportation Access, Accessibility and Choice for City Residents, Objective 2: Facilitate Movement throughout the Region – specifically the strategy "Establish a development mitigation program to reduce congestion effects of new development" that helped create the TIS program.

## **ANALYSIS**

**Purpose:** This bill, at the request of the Department of Transportation (DOT), creates a new section in Chapter 38 of the Building Code that creates Traffic-Mitigation zones (note: sub-zones will be created later by DOT regulations). It amends existing provisions in the Zoning Code concerning traffic mitigation to reference these Traffic Mitigation zones, and generally to establish procedures for administering the Traffic Mitigation program.

### **Effects of the Bill:**

- Amends and clarifies text within §105 of the Building Code concerning permit referral procedures.
- A new Chapter 38 is created in the Building, Fire and Related Codes, that:
  - Outlines definitions within the chapter;
  - Sets the scope of the program (i.e. the triggers);
  - Authorizes the Department of Transportation (DOT) to establish rules and regulations (outlining how trips are calculated, how/when the impact area may be increased to a 1 mile radius, creation of a schedule of fees, usage categories, and the designation of sub-zones, etc.);
  - Outlines how Traffic-Impact Studies are conducted and their payment;
  - Creates Traffic-Mitigation zones, and requires approval of a 10-year plan for each zone to be approved by the Planning Commission every five years.
  - Creates a fee for each trip generated by the project, in a schedule of fees to be set by the Board of Estimates (BoE), in consultation with the Director of DOT. These estimated trip numbers are calculated based on ITE guidelines (an industry standard).
  - Outlines Trip-Generation credits, their use, limits and cancellation. As a part of these credits, the bill creates a process for the City and property owners (and binding their successors) to create an agreement to maintain the conditions that enabled credits to be granted.
  - Allows for installment payments, spread over five years, for fees over \$50,000.
  - Specifies how the fees collected should be used. It allows up to 33% of the improvements to be used “for minor site access improvements including turning lanes, acceleration/deceleration lanes, traffic signals, or similar improvements.” It also requires an annual report detailing the program revenues and expenditures for each zone.
  - Creates an enforcement process for violations of this program.
- Relevant sections of the Zoning Code (Titles 2, 13, 14, 16) are amended to point to the new Chapter 38, and to revise the triggers for traffic mitigation to match the new procedures.
- The City Charter, Article II, Subtitle 40 *Environmental Control Board* is amended to create a fine for traffic-mitigation violations of \$500.

DOT Amendments: Since the introduction of the bill, the Department of Transportation has been further refining their needs, and has found several modifications that will improve the effectiveness of this bill. In the attachment drafted by the Department Legislative Reference dated April 20, 2011, these amendments are outlined, and DOT is requesting Planning Commission consideration of these amendments. The ten amendments are summarized below:

Amendment No. 1: Technical amendment for clarity. § 105.3.1.2 is modified to clarify the referrals for in-zone and out-of-zone projects.

Amendment No. 2: This amendment adds text concerning accounting of individual fees, providing for a process that an applicant can question whether or not fees have been obligated within six years of collection, and requiring the Director of Transportation to report on the disposition of the fees. If the Director finds that some or all of the fees collected have not been obligated for a specific project in the traffic mitigation plan, any unobligated portion must be returned, upon appropriation of the funds by the Board of Estimates (BoE). To accompany this procedure, a standardized method of accounting for these fees will be created by the Director of Transportation, along with the Department of Finance, and will be included in the rules and regulations adopted by DOT.

Amendment No. 3: Technical amendment to include the Director of Planning. This is needed, as the Department supports the Planning Commission that approved the various ten-year plans. Additionally, this information is needed for practical review of development.

Amendment No. 4: This amendment modifies the boundaries of the Downtown/Midtown Zone, in the northwest edge, adjacent to the State Center PUD area.

Amendment No. 5: Technical amendment for clarity, concerning adjustment factors that modify the basic number of trips associated with any given project. Further, that these adjustment factors, and any negotiated agreements cannot reduce the formula-generated trip count by more than 50%. At the same time, mandatory credits (such as for affordable housing) are able to exceed this 50% limit.

Amendment No. 6: This amendment imposes a temporary limitation on fee increases. After the first set of fees is approved by the Board of Estimates, they will not be increased for five years, and then by no more than 3% at a time. The temporary limitation is set to expire on December 31, 2021. This temporary limitation is desirable to ensure predictability for applicants while the program is being established. Following this initial period, the practical needs for the fees can be assessed with actual experience, and then adjusted as needed.

Amendment No. 7: Technical amendment for clarity.

Amendment No. 8: This amendment inserts a new §3806.5 that allows an applicant to dedicate private property to the City, in order to provide traffic mitigation or public rights-of-way. This dedication will then reduce the assessed traffic mitigation fee dollar-for-dollar based on the appraised value of the property. This provides for a form of “in-kind” payment of the required traffic mitigation fees. The following sections are then renumbered as appropriate.

Amendment No. 9: Technical amendment for accuracy.

Amendment No. 10: A new Section 3 of the uncodified provisions is added to clarify that the requirements of this Ordinance do not apply to applications that the Director of Transportation in consultation with the Director of Planning determines were covered by a previous traffic mitigation agreement (either approved by the BoE or through a Planned Unit Development). This is important, as there are several phased projects that have already made agreements for traffic mitigation ahead of the associated permit applications. Without this clarification, upon application for a permit, the project would be assessed a second time under the new Traffic Mitigation program, which amounts to unfairly double-charging that project. The following sections are then renumbered, as appropriate.

Staff Notification: Staff notified 408 community organizations of today's hearing.



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