


<b>F R O M</b>	NAME & TITLE	Khalil A. Zaied, Director	<b>CITY of BALTIMORE MEMO</b>	
	AGENCY NAME & ADDRESS	Department of Transportation 417 East Fayette Street, Room 527		
	SUBJECT	City Council Bill 11-0658		

TO

The Honorable President and Members  
of the City Council  
c/o Karen Randle  
Room 400 City Hall

May 16, 2011



I am herein reporting on City Council Bill 11-0658, Traffic Mitigation - Establishing Traffic-Mitigation Zones. The Department of Transportation (DOT) requested this bill's introduction to make the current traffic-mitigation process more transparent and predictable. The current process requires developers of large-scale projects to mitigate adverse traffic impacts by commissioning a third-party Traffic Impact Study (TIS) and paying fees to contribute to mitigating those impacts. This bill creates a new section in Chapter 38 of the Building Code that creates Traffic-Mitigation zones. This bill amends existing provisions in the Zoning Code concerning traffic mitigation to reference these Traffic-Mitigation zones, and generally establishes procedures for administering the Traffic-Mitigation program.

Specifically and substantively, this new Chapter 38 sets the scope of the program; outlines how to generally conduct a TIS and authorizes DOT to establish regulations guiding how to manage the technicalities of those studies; creates Traffic-Mitigation zones and requires Planning Commission approval of a 10-year plan every five years; regulates payments for the studies based upon how many trips a project generates and a fee-per-trip schedule to be set by the Board of Estimates in consultation with DOT; outlines how and when to use trip generation credits; describes how to enact an agreement assuring long-term maintenance of the conditions triggering implementation of these credits; allows for installment payments for fees over \$50,000; specifies how the City may use fee revenues, including allowing for up to one third of the revenues to be used "for minor site access improvements including turning lanes, acceleration/deceleration lanes, traffic signals, or similar improvements;" requires DOT to issue an annual report detailing program revenues and expenditures for each zone; and creates an enforcement process for program violations. This bill also amends the City Charter, Article II, Subtitle 40 *Environmental Control Board* to create a \$500 fine for traffic mitigation violations; creates a conflict of interest policy for developers and traffic engineers for studies conducted outside of the mitigation zones; reduces the thresholds triggering mitigation from 100 to 50 dwelling units and from 150,000 warehouse square feet to 100,000 warehouse square feet; requires the City to hold fees in separate revenue accounts and only use them to benefit the zone of origin; exempts public buildings and substantial rehabilitations on buildings vacant for less than one year; and requires public hearings at each stage of the process.

On November 6, 2006, The City Council enacted Ordinance 06-343 (Council Bill 06-0360), which created the requirement that certain projects throughout the City complete a TIS and negotiate traffic mitigation plans and fees with the City to receive building permits. While this ordinance provided a sufficient starting point for the City to better manage congestion and assign responsibility to the developments which create it, the ordinance's implementation has brought a number of issues to DOT's attention which this bill aims to resolve. First, the existing ordinance does not account for circumstances where numerous developments within a compact community create overlapping adverse traffic impacts, making it difficult for the City to assign mitigation responsibilities to any single appropriate development project. Additionally, mitigation within these compact communities often requires major investments beyond the means or responsibility of any one developer. The mitigation zone system attempts to address these issues by pooling the traffic concerns and mitigation responsibilities by general area. Finally, the ordinance in effect only requires negotiation with the City to resolve traffic issues resulting from development. This uncertainty may lead to questions about the



constitutionality of the City requiring mitigation fees from developers not expressly required by law to permit private development, and in all cases, leads to uncertainty in the development process which at best can delay projects and raise their costs, and at worst can stifle it altogether.

DOT has worked extensively with the Department of Planning, Housing Department, Planning Commission, Baltimore Development Corporation, Downtown Partnership, and Baltimore Development Workgroup to draft this bill in a manner which resolves these concerns without creating foreseeable new ones. DOT also hosted a public meeting on April 12, 2011 at the Enoch Pratt Free Library Orleans Street Branch primarily to address concerns related to this bill. DOT concurs with the Planning Commission's amendments, and additionally recommends the amendments below. The first is the result of the continued negotiations pursuant to the recommendation concerning Amendment No. 6 in the Department of Planning's report to the Council dated April 29, 2011. The purpose of the second amendment is to revise the Planning Commission's Amendment No. 10 so that the requirements of this bill still apply to projects within Planned Unit Developments where no traffic mitigation was previously required.

**1. REVISED PLANNING COMMISSION AMENDMENT NO. 6 – RESOLUTION PURSUANT TO PLANNING COMMISSION'S RECOMMENDATION**

**3806.3.2.1 TEMPORARY LIMITATION ON FEE RATE INCREASES. FOR THE PERIOD BEGINNING WHEN A FEE RATE IS INITIALLY SET FOR A ZONE, AND ENDING ON DECEMBER 31, 2021, THE BOARD OF ESTIMATES MAY NOT INCREASE THE FEE RATE FOR THAT ZONE MORE OFTEN THAN ONCE EVERY FIVE YEARS.**

**2. REVISED UNCODIFIED SECTION 3 (PLANNING COMMISSION AMENDMENT NO. 10 – FURTHER REVISION)**

**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 that prior to the effective date of this Ordinance,**

- a. there is a documented decision by the Department of Transportation that no traffic mitigation is required; or,**
- b. traffic mitigation requirements have been satisfied by the adoption of relevant provisions within a Planned Unit Development; or,**
- c. traffic mitigation requirements have been satisfied pursuant to an agreement approved by the Board of Estimates.**

Subject to these amendments, DOT respectfully requests that the City Council grant this bill a favorable report.

Respectfully,

  
Khalil A. Zaied  
Director

KAZ/BZ/

Cc: Ms. Angela C. Gibson  
Mr. Jamie Kendrick  
Mr. Frank Murphy  
Ms. Barbara Zektick