

FROM

NAME & TITLE	GARY W. COLE, ACTING DIRECTOR <i>G Cole</i>
AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 TH FLOOR
SUBJECT	CITY COUNCIL BILL #08-0112/Late-Night Commercial Operations – Licensing

CITY of
BALTIMORE
MEMO



TO

DATE:
January 16, 2009

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

The Department of Planning has received City Council Bill #08-0112 for review. This legislation is for the purpose of requiring certain late-night commercial operations to be licensed; defining certain terms; imposing certain penalties; providing for a special effective date; and generally relating to the licensing and regulation of late-night commercial operations.

This bill will create a new Subtitle 9 within Title 15 *Licensing and Regulation* of the Baltimore City Code. The new Subtitle will require that businesses (with certain limited exceptions) in certain zoning districts obtain a license in order to operate between the hours of midnight and 6 am. It also assigns the Board of Municipal and Zoning Appeals (BMZA) as the responsible agency for handling these licenses and, presumably, for the enforcement of the program. The licensing application and review process will need to be established by the BMZA modifying and adding to their rules. The bill outlines the posting and notice requirement, which are similar to those contemplated in CCB #08-0163 where a new Subtitle 10 is added to the same Title for the licensing of Hospitality Services. The bill creates a hearing process, licensing application and renewal process, fees, and administrative handling of the proposed license class including penalties.

The Department of Planning has two major concerns about the proposed legislation and they include organizational and fiscal impacts.

Organizational Impacts: Planning does not think that this sort of operation should be placed under an appeals Board whose function is to provide decisions on land use and zoning generally. This licensing operation is completely dissimilar to the function and purpose of the BMZA, and should either be created as a separate organization, or should be consolidated under one licensing entity within City government.



Unfav. comment

Presently, the BMZA is not staffed sufficiently to be able to absorb this function without significant augmentation. This staffing impact will be even more critical immediately upon implementation, as there may be a significant influx of applications for existing businesses that are seeking to continue existing operations between midnight and 6 am.

Where there is a licensing system, there should also be a mechanism for enforcement. Existing BMZA staff members work standard office hours, where some of the new staff positions would need to work off-hours and receive training specific to enforcement.

Finally, the Board's rules will need significant modification to add these proposed functions.

Fiscal Impacts: As we do not believe that the BMZA is currently staffed or equipped to support a change of this kind, additional staff positions must be created and equipment acquired in order to support the proposed licensing function. A cost analysis should be done to compare the number of potential licenses versus cost of operations to the City, which will provide an estimated fee appropriate for the program to be self-supporting. The study should also take into account the cost of enforcement of the licensing program and any related cost estimates due to potential litigation. We would defer to the BMZA regarding their specific requirements for staffing and funding.

For all of these reasons, the Planning Department recommends disapproval of CCB #08-0112. Additionally, Planning recommends that further study be done to address the above concerns of organizational and fiscal impacts. Should you have questions this regarding matter, please contact Mr. Eric W. Tiso of my staff at 410-396-8358.

GWC/ewt

cc: Mr. Andrew Frank, Deputy Mayor
Mr. Demaune Millard, Chief of Staff
Ms. Angela Gibson, Mayor's Office
The Honorable Rochelle "Rikki" Spector, Council Rep. for Planning Commission
Ms. Ms. Nikol Nabors-Jackson, DHCD
Ms. Deepa Bhattacharyya, Law Department
Mr. Larry Greene, Councilmanic Services

