

FROM

NAME & TITLE	THOMAS J. STOSUR, DIRECTOR
AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 <sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET
SUBJECT	CITY COUNCIL BILL #18-0187/ ZONING – USE REGULATION – LIVE ENTERTAINMENT

CITY of  
BALTIMORE  
**MEMO**



TO

DATE:

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

April 20, 2018

At its regular meeting of April 19, 2018, the Planning Commission considered City Council Bill #18-0187, for the purpose of clarifying that, in a certain circumstance, the Mayor and City Council may approve a conditional use for live entertainment; and providing that live entertainment in the C-4 Zoning District requires conditional use approval by Ordinance of the Mayor and City Council.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended approval of City Council Bill #18-0187, and adopted the following resolution, nine members being present (seven in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its Departmental staff, and recommends that City Council Bill #18-0187 be passed by the City Council.

If you have any questions, please contact Mr. Martin French in the Land Use and Urban Design Division at 410-396-1354.

TJS/ewt

Attachment

- cc: Mr. Pete Hammen, Chief Operating Officer  
Mr. Jim Smith, Chief of Strategic Alliances  
Ms. Karen Stokes, Mayor's Office  
Mr. Colin Tarbert, Mayor's Office  
Mr. Kyron Banks, Mayor's Office  
The Honorable Edward Reisinger, Council Rep. to Planning Commission  
Mr. Derek Baumgardner, BMZA  
Mr. Geoffrey Veale, Zoning Administration  
Ms. Sharon Daboin, DHCD  
Ms. Elena DiPietro, Law Dept.  
Mr. Francis Burnszynski, PABC  
Ms. Katelyn McCauley, DOT  
Ms. Natawna Austin, Council Services



*Catherine E. Pugh  
Mayor*

**PLANNING COMMISSION**

*Sean D. Davis, Chairman*

**STAFF REPORT**



*Thomas J. Stosur  
Director*

**April 19, 2018**

**REQUEST: City Council Bill #18-0187/ Zoning – Use Regulation – Live Entertainment:**

For the purpose of clarifying that, in a certain circumstance, the Mayor and City Council may approve a conditional use for live entertainment; and providing that live entertainment in the C-4 Zoning District requires conditional use approval by Ordinance of the Mayor and City Council.

**RECOMMENDATION:** Approval

**STAFF:** Martin French

**PETITIONERS:** Councilmembers Reisinger, Henry, Costello, Burnett, Scott, Pinkett, Bullock, Cohen, Stokes, Sneed, Dorsey, Clarke, and Middleton

**OWNERS:** Various, within C-4 Zoning Districts in Baltimore City

**SITE/GENERAL AREA**

**Site Conditions:** This proposed ordinance would be applicable to multiple sites.

**General Area:** There are approximately fifteen widely scattered geographic areas of Baltimore City that are now zoned C-4.

**HISTORY**

The C-4 Zoning District, and its mapping, became effective on June 5, 2017 as part of Article 32 of the Baltimore City Code. This Article, also known as the Baltimore City Zoning Code, was enacted by Ordinances 16-581 and 17-015.

**CONFORMITY TO PLANS**

The proposed action would be consistent with LIVE EARN PLAY LEARN, the Comprehensive Master Plan for Baltimore City, Play Goal 2: Improve Nightlife, Entertainment, and Recreation Experiences for Residents and Visitors.

**ANALYSIS**

**Background:** Under the previous Zoning Code, live entertainment was approvable only in connection with another use, such as a restaurant, a tavern, or a stadium. In low-intensity Business Zoning Districts, live entertainment connected to a restaurant or tavern required conditional use approval by the Board of Municipal and Zoning Appeals (BMZA), while live entertainment that occurred in auditoriums, concert halls, or banquet halls first required approval of a principal use by ordinance, there being no mention of what would occur in the auditorium or

concert hall; a banquet hall could include live entertainment of a limited variety. In higher-intensity Business Zoning Districts (B-4 and B-5) live entertainment was permitted in connection with restaurants, taverns, auditoriums, concert halls, and banquet halls either by explicit reference ("restaurants – including live entertainment and dancing" for example) or as understood in connection with a principal use such as a concert hall.

The previous Zoning Code also restricted live entertainment in Manufacturing Zoning Districts, making auditoriums only a permitted use in all M-zones, and prohibiting live entertainment in connection with restaurants or taverns in M-1 zones while making it conditional to the BMZA in M-2 and M-3 Zoning Districts. Banquet halls and concert halls were prohibited in M-zones. Live entertainment in a tavern in a M-2 Zoning District could be approved by the BMZA as a conditional use only if the property was located at least 500 feet from a Residence District.

Its replacement, the current Zoning Code, established five major types of Commercial Districts, with two of those (C-1 and C-5) each having a set of subdistricts intended to tailor the more general use and bulk regulations for those zoning districts to specific needs and geographic realities found within them. Intensity of land uses was graduated from least intense in C-1 Districts to most intense in C-5 Districts. The C-4 Heavy Commercial District was created for areas of more intense commercial use generally not appropriate for lower intensity commercial districts, including uses relating to motor vehicles and their outdoor storage. Because of potential impacts from the more intensive uses allowed in C-4 Districts, certain controls were created expressly for the purpose of mitigating negative impacts on neighboring uses (§10-206). Contrastingly, the C-3 District is a General Commercial District intended for shopping centers and larger retail establishments, while the C-5 Districts are Downtown Districts intended to accommodate a wide range of uses associated with an urban center.

When the current Zoning Code was adopted, a new zoning map for Baltimore City was also adopted. This map, using the newly-defined Zoning Districts, established C-4 Zoning Districts in some areas previously zoned B-3, M-2, and M-3. One consequence of this was to open a limited number of properties to possible permitted use for live entertainment purposes. Some of the areas newly zoned C-4 adjoin Residential Zoning Districts such as R-3, R-5, R-6, R-7, and R-8, while others are less than 500 feet from such Residential Zoning Districts.

More significant is the small number of properties, relative to all properties in Baltimore, that are now included in C-4 Zoning Districts. There are 228 properties with buildings on them in C-4 Zoning Districts, and an additional 40 properties shown as vacant or unimproved in C-4 Zoning Districts, according to information available to Planning staff. A C-4 zone is where gas stations are permitted by right, whereas in C-2 and C-3 zones, and I-1 and I-2 zones, they must receive BMZA approval as a conditional use. (C-5 Zoning Districts, being established for the downtown urban center, do not allow gas stations.) Similarly, C-4 zones are the only zones that permit motor vehicle dealerships with outdoor vehicle display, motor vehicle rental establishments with outdoor vehicle display, motor vehicle service and repair: major, and recreational vehicle dealerships, by right. These permitted uses generally are related to a steady stream of customers who often have their off-street parking demand accommodated on site. While live entertainment performances can range from a single musician at a neighborhood restaurant or tavern to a 200-seat play to a 30,000 seat rock concert in a stadium, what sets them apart from these other uses that are now permitted by right is whether the producer or promoter of live entertainment is able to provide both off-street parking and traffic and security management adequate to prevent

reductions of quality of life for nearby residents and businesses, and of sufficient quality and quantity to reinforce the value of nearby communities and neighborhoods, without impairing functioning businesses.

The proposed legislation would require a public process, now in place for certain other uses, to determine that a proposed live entertainment authorization would meet Zoning Code standards for approval, superseding the current lack of explicit case-by-case determination that a property's use for live entertainment would meet these standards:

**Conditional Use:** Per §5-406 {"Approval standards"} of Article 32 – *Zoning*:

**(a) *Limited criteria for denying.***

Neither the Board of Municipal and Zoning Appeals, nor the City Council, as the case may be, may approve a conditional use unless, after public notice and hearing and on consideration of the standards required by this subtitle, it finds that:

- (1) the establishment, location, construction, maintenance, or operation of the conditional use would not be detrimental to or endanger the public health, safety, or welfare;
- (2) the use would not be precluded by any other law, including an applicable Urban Renewal Plan;
- (3) the authorization would not be contrary to the public interest; and
- (4) the authorization would be in harmony with the purpose and intent of this Code.

Additional standards contained in §5-406(b) {"Required considerations"} of Article 32 – *Zoning* could also become points of reference for determining approvability of live entertainment at a particular location:

**(b) *Required considerations.***

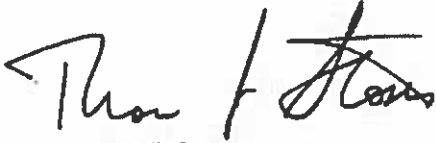
As a further guide to its decision on the facts of each case, the Board of Municipal and Zoning Appeals must consider the following, where appropriate:

- (1) the nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures;
- (2) the resulting traffic patterns and adequacy of proposed off-street parking and loading;
- (3) the nature of the surrounding area and the extent to which the proposed use might impair its present and future development;
- (4) the proximity of dwellings, churches, schools, public structures, and other places of public gathering;
- (5) accessibility of the premises for emergency vehicles;
- (6) accessibility of light and air to the premises and to the property in the vicinity;
- (7) the type and location of adequate utilities, access roads, drainage, and other necessary facilities that have been or will be provided;
- (8) the preservation of cultural and historic landmarks and structures;
- (9) the character of the neighborhood;
- (10) the provisions of the City's Comprehensive Master Plan;
- (11) the provisions of any applicable Urban Renewal Plan;
- (12) all applicable standards and requirements of this Code;
- (13) the intent and purpose of this Code; and
- (14) any other matters considered to be in the interest of the general welfare.

The limited number of properties zoned C-4 makes them a valuable resource for which a number of important commercial uses compete. While standards for a conditional use relate a proposed use's effect to that of a similar use elsewhere in the same zoning district, another concern is

impact on surrounding properties zoned for less intense commercial, or even residential, uses. As all potential effects of live entertainment venues on nearby properties could be hard to predict generally, given the wide range and scale of entertainment covered in the Zoning Code, and are related to a small proportion of all properties, it would be prudent to have more detailed review occur on a case-by-case basis.

Notification of this action was sent to 10,048 subscribers using the Compass mailing list and the Planning Commission Agenda mailing list.

A handwritten signature in black ink, appearing to read "Thomas J. Stosur". The signature is fluid and cursive, with a large initial "T" and "S".

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