

**CITY OF BALTIMORE
COUNCIL BILL 11-0691
(First Reader)**

Introduced by: Councilmembers Branch, Stokes, Welch

Introduced and read first time: May 2, 2011

Assigned to: Urban Affairs and Aging Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Board of Municipal and Zoning Appeals, Planning Commission, Department of Housing and Community Development, Department of Public Works, Baltimore Development Corporation, Baltimore City Parking Authority Board, Department of Transportation

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Urban Renewal –Broadway East –**
3 **Amendment _**

4 FOR the purpose of amending the Urban Renewal Plan for Broadway East to amend and clarify
5 certain land uses, to correct, clarify, and conform certain language and references, and to
6 correct and clarify certain provisions concerning nonconforming uses and noncomplying
7 structures; waiving certain content and procedural requirements; making the provisions of
8 this Ordinance severable; providing for the application of this Ordinance in conjunction with
9 certain other ordinances; and providing for a special effective date.

10 BY authority of
11 Article 13 - Housing and Urban Renewal
12 Section 2-6
13 Baltimore City Code
14 (Edition 2000)

15 **Recitals**

16 The Urban Renewal Plan for Broadway East was originally approved by the Mayor and City
17 Council of Baltimore by Ordinance 88-156 and last amended by Ordinance 02-457.

18 An amendment to the Urban Renewal Plan for Broadway East is necessary to amend and
19 clarify certain permitted land uses, to correct, clarify, and conform certain language and
20 references, and to correct and clarify certain provisions concerning nonconforming uses and
21 noncomplying structures.

22 Under Article 13, § 2-6 of the Baltimore City Code, no substantial change may be made in
23 any approved renewal plan unless the change is approved in the same manner as that required for
24 the approval of a renewal plan.

25 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
26 following changes in the Urban Renewal Plan for Broadway East are approved:

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 (1) In the Plan, amend B.1.a. to read as follows:

2 B. Land Use Plan

3 1. Permitted Land Uses

4 Only the use categories shown on the Land Use Plan Map, Exhibit 1, shall be
5 permitted within the [project area] PROJECT AREA. These are Residential,
6 Neighborhood Business, Community Commercial, Industrial, and Public.
7 Accessory uses, including landscaping, off-street parking and loading, will be
8 permitted. In addition, certain uses THAT ARE for the most part mixed uses,
9 will be permitted to continue, subject to the provisions governing [non-
10 conforming] NONCONFORMING USES and [non-complying uses]
11 NONCOMPLYING STRUCTURES set forth in Section B.1.f. and B.1.g. [below] OF
12 THIS PLAN.

13 a. Residential

14 In the area designated AS Residential on the Land Use Plan Map, the
15 permitted uses [shall be] ARE as follows:

16 dwellings; private schools, and other educational facilities; libraries;
17 religious facilities of any denomination, sect or rite; clubs and lodges; and
18 public utility facilities. Subject to the regulations of the Zoning
19 [Ordinance] CODE of Baltimore City: convalescent homes; homes for the
20 care of the aged; day nurseries and nursery schools; other public service
21 uses; professional offices for not more than four physicians or dentists in a
22 structure designed for residential use; [and] housing for the elderly; AND
23 NONCONFORMING USES AUTHORIZED BY THE BOARD OF MUNICIPAL AND
24 ZONING APPEALS ARE ONLY ALLOWED IN STRUCTURES LOCATED ON A
25 CORNER.

26 (2) In the Plan, amend B.1.f. and g. to read as follows:

27 B. Land Use Plan

28 1. Permitted Land Uses

29 f. [Non-Conforming] NONCONFORMING USE

30 [A non-conforming use is any lawfully existing use of a building or other
31 structure, or of land which does not conform to the applicable use
32 regulations of the district in which it is located according to Article 30 of
33 the Baltimore City Code (1983 Replacement Volume, as amended), titled
34 "Zoning." Non-conforming uses shall be permitted to continue subject to
35 the provisions of Chapter 8 of said Article 30, titled "Non-Conformance."]

36 A NONCONFORMING USE IS ANY LAWFULLY EXISTING USE OF A BUILDING
37 OR OTHER STRUCTURE OR OF LAND THAT DOES NOT CONFORM TO THE
38 APPLICABLE USE REGULATIONS OF THE DISTRICT IN WHICH IT IS LOCATED,
39 ACCORDING TO THE ZONING CODE OF BALTIMORE CITY.

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NONCONFORMING USES SHALL BE PERMITTED TO CONTINUE SUBJECT TO THE PROVISIONS OF TITLE 13, TITLED "NONCONFORMANCE".

g. [Non-Complying] NONCOMPLYING STRUCTURE

[A non-complying structure, as set forth in Chapter 8 of Article 30 of the Baltimore City Code (1983 Replacement Volume, as amended), titled "Zoning," is any lawfully existing structure which does not comply with the bulk regulations of the zoning district in which it is located. These non-complying structures shall be permitted to continue subject to the provisions of said Chapter 8.]

[In addition, a non-complying use - when such term is used herein - is any lawfully existing use of a building or other structure, or of land, which does not comply with the land use regulations of this Plan. These non-complying uses shall be permitted to continue for an indefinite period of time, except that:]

[(1) Any non-complying land use which is discontinued for a period exceeding 12 months shall not be reestablished;]

[(2) No change in the permanent physical members of a structure, such as bearing walls, columns, beams, or girders, or no substantial change in the roof or in the exterior walls shall be made in or to a building or structure except those required by law or except to make the building and use thereof conform to the regulations of this Plan; and]

[(3) No non-complying land use shall be changed to any other non-complying land use.]

A NONCOMPLYING STRUCTURE, AS SET FORTH IN TITLE 13 OF THE ZONING CODE, IS ANY LAWFULLY EXISTING STRUCTURE THAT DOES NOT COMPLY WITH THE BULK REGULATIONS OF THE ZONING DISTRICT IN WHICH IT IS LOCATED. THESE NONCOMPLYING STRUCTURES SHALL BE PERMITTED TO CONTINUE SUBJECT TO THE PROVISIONS OF TITLE 13.

(3) In the Plan, amend B.2.a.(1)(f) to read as follows:

B. Land Use Plan

2. Regulations, Controls and Restrictions

a. Provisions applicable to All Land and Property to be Acquired

(1) General Provisions

....

(f) Parking spaces and effective screening from public streets and adjacent properties shall be provided according to the requirements [as] established by the Zoning [Ordinance] CODE of Baltimore City, or in such lesser amount as may be approved by the

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Commissioner of the Department of Housing and Community Development and authorized by the Board of Municipal and Zoning Appeals as a Special Exception or Variance.

(4) In the Plan, amend C.6. to read as follows:

C. Techniques Used to Achieve Plan Objectives

....

6. Zoning

All appropriate provisions of the Zoning [Ordinance] CODE of Baltimore City shall apply to properties in the Broadway East Project Area. Any change in the Zoning [Ordinance] CODE embodied in this Urban Renewal Plan and designated on Exhibit 4, Zoning Districts, shall be approved by ordinance in accordance with the procedural requirements of the Zoning [Ordinance] CODE and Article 66-B of the Annotated Code of Maryland [(1957 Edition, as amended)].

SECTION 2. AND BE IT FURTHER ORDAINED, That the Urban Renewal Plan for Broadway East, as amended by this Ordinance and identified as “Urban Renewal Plan, Broadway East, revised to include Amendment __, dated May 2, 2011”, is approved. The Department of Planning shall file a copy of the amended Urban Renewal Plan with the Department of Legislative Reference as a permanent public record, available for public inspection and information.

SECTION 3. AND BE IT FURTHER ORDAINED, That if the amended Urban Renewal Plan approved by this Ordinance in any way fails to meet the statutory requirements for the content of a renewal plan or for the procedures for the preparation, adoption, and approval of a renewal plan, those requirements are waived and the amended Urban Renewal Plan approved by this Ordinance is exempted from them.

SECTION 4. AND BE IT FURTHER ORDAINED, That if any provision of this Ordinance or the application of this Ordinance to any person or circumstance is held invalid for any reason, the invalidity does not affect any other provision or any other application of this Ordinance, and for this purpose the provisions of this Ordinance are declared severable.

SECTION 5. AND BE IT FURTHER ORDAINED, That if a provision of this Ordinance concerns the same subject as a provision of any zoning, building, electrical, plumbing, health, fire, or safety law or regulation, the applicable provisions shall be construed to give effect to each. However, if the provisions are found to be in irreconcilable conflict, the one that establishes the higher standard for the protection of the public health and safety prevails. If a provision of this Ordinance is found to be in conflict with an existing provision of any other law or regulation that establishes a lower standard for the protection of the public health and safety, the provision of this Ordinance prevails and the other conflicting provision is repealed to the extent of the conflict.

SECTION 6. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the date it is enacted.