

FROM	<table border="1"> <tr> <td>NAME &amp; TITLE</td><td>THOMAS J. STOSUR, DIRECTOR <i>Shole/for T.J.</i></td><td>CITY of BALTIMORE</td></tr> <tr> <td>AGENCY NAME &amp; ADDRESS</td><td>DEPARTMENT OF PLANNING 8<sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET</td><td rowspan="3"><b>MEMO</b></td></tr> <tr> <td>SUBJECT</td><td>CITY COUNCIL BILL #11-0762 / AMENDING KEY HIGHWAY URBAN RENEWAL PLAN</td></tr> </table>	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR <i>Shole/for T.J.</i>	CITY of BALTIMORE	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 <sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET	<b>MEMO</b>	SUBJECT	CITY COUNCIL BILL #11-0762 / AMENDING KEY HIGHWAY URBAN RENEWAL PLAN	
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SUBJECT	CITY COUNCIL BILL #11-0762 / AMENDING KEY HIGHWAY URBAN RENEWAL PLAN									
TO	<p>The Honorable President and Members of the City Council City Hall, Room 400 100 North Holliday Street</p>									

DATE:

October 7, 2011

At its regular meeting of October 6, 2011, the Planning Commission considered City Council Bill #11-0762, for the purpose of amending the Urban Renewal Plan for Key Highway to revise Exhibits C and D to reflect the change in zoning, upon approval by separate ordinance, for 1302 Key Highway; waiving certain content and procedural requirements; making the provisions of this Ordinance severable; providing for the application of this Ordinance in conjunction with certain other ordinances; and providing for a special effective date.

In its consideration of this bill, the Planning Commission reviewed the attached staff report which recommended disapproval of City Council Bill #11-0762. The Planning Commission did not accept the staff's recommendation. Instead, the Planning Commission recommended that CCB #11-0762 be amended and passed. The Commission's amendment was that a height limit of 50 feet be placed on the 1302 Key Highway property. The Commission adopted the following resolution; nine members present, seven in favor, one against, and one abstention.

**RESOLVED**, That the Planning Commission does not concur with the recommendation of its departmental staff, and instead recommends that City Council Bill #11-0762 be amended and passed by the City Council.

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

TJS/WA

Attachment

cc: Ms. Kaliope Parthemos, Deputy Mayor  
Mr. Peter O'Malley, 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. Elena DiPietro, Law Dept.  
Ms. Karen Randle, Council Services  
Mr. Joseph Woolman, Atty. for the applicant



Stephanie Rawlings-Blake  
Mayor

## PLANNING COMMISSION



Wilbur E. "Bill" Cunningham, Chairman

## STAFF REPORT

Thomas J. Stosur  
Director

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October 6, 2011

### REQUESTS:

- City Council Bill #11-0738/Rezoning – 1302 Key Highway  
For the purpose of changing the zoning for the property known as 1302 Key Highway, as outlined in red on the accompanying plat, from the M-2-2 Zoning District to the B-2-4 Zoning District. (Tenth District)
- City Council Bill #11-0762/Urban Renewal – Key Highway – Amendment  
For the purpose of amending the Urban Renewal Plan for Key Highway to revise Exhibits C and D to reflect the change in zoning, upon approval by separate ordinance, for 1302 Key Highway; waiving certain content and procedural requirements; making the provisions of this Ordinance severable; providing for the application of this Ordinance in conjunction with certain other ordinances; and providing for a special effective date.

### RECOMMENDATIONS:

- City Council Bill #11-0738/Rezoning – 1302 Key Highway: Amend and Approve
- City Council Bill #11-0762/Urban Renewal – Key Highway – Amendment: Disapprove

STAFF: Anthony Cataldo

PETITIONER: Mr. Joseph Woolman

OWNER: Mr. Robert Countess

### SITE/GENERAL AREA

Site Conditions: The subject property is a roughly 14,230 square feet and is located at the intersection of Key Highway and Jackson Street. It is currently zoned M-2-2 and is improved with an operating one-story automobile service station.

General Area: This area of the Riverside Community is the transition zone between the denser Inner Harbor Development along the waterside of Key Highway and the existing rowhouse community fabric of the neighborhood. The properties are currently industrial, residential, and commercially zoned parcels with a mix of uses. This parcel is located within the 2008 Approved Waterfront Study Master Plan area and the Key Highway Urban Renewal Plan. Both plans provide the recommendation for the rezoning of this site from M-2-2 to OR-2 with a 50 foot height restriction.

## HISTORY

- Ordinance #622 was approved by the Mayor and City Council on March 12, 1986 to establish the Key Highway Urban Renewal Plan.
- On November 28, 2004, Amendment No. 1, approved by the Planning Commission on August 12, 2004, was signed into law as Ordinance No. 04-0829 by the Mayor and City Council of Baltimore.
- On May 1, 2008 the Planning Commission approved and adopted the Key Highway Waterfront Study master plan.

## CONFORMITY TO PLANS

The requested rezoning does not meet the goals and objectives of the 2008 Key Highway Waterfront Study master plan, nor does it meet the required standards for a rezoning found in the Annotated Code of Maryland and the Baltimore City Zoning Code.

## ANALYSIS

### Rezoning Request

City Council Bill #11-0738 seeks to rezone the property known as 1302 Key Highway (Lot 034A of Block 1927A) from its current M-2-2 zoning designation to the B-2-4 category. This represents a change from industrial to high density mixed use zoning. The requested B-2-4 zoning category is intended for dense development typically found on the Harbor waterfront and transit nodes, such as Harbor East and State Center. The waterside of Key Highway contains this zoning for mixed use development, as do two specific locations on the landside of Key Highway. The first location being at the intersection of Lawrence St. and Key Highway as a gateway and connection feature to the existing shopping center PUD with numerous bulk and massing controls to mitigate the density against the existing rowhouse fabric. The second location on the land side is along Key Highway adjacent to Digital Harbor High School as part of the expanded Harborview development area and located downhill from the school site. The properties adjacent to 1302 Key Highway are currently zoned R-8, M-2-2, and OR-2. The applicant represents a contract purchaser for the property and intends to potentially pursue commercial use on the site. The potential purchaser decided to move forward with this new zoning category despite the existing approved plans (2008 Key Highway Waterfront Study master plan and the Key Highway Urban Renewal Plan) that specifically recommend OR-2 zoning for this parcel. For density comparison, OR-2 has a Floor Area Ratio (F.A.R) of 3.0 whereas the proposed legislation has B-2-4 with an F.A.R. of 7.0, a density much too high for the adjacent rowhomes with no additionally proposed bulk and massing restrictions.

Staff has determined this request to be an impermissible spot rezoning, given that the request for a zoning change does not meet the standards of Article 66B of the Maryland Annotated Code, is not compatible with zoning of adjacent properties, and is for the benefit of an individual property owner, rather than in the public interest. As such, staff does not support the change. Detailed analysis is as follows:

## ***Article 66B***

The Mayor and City Council may periodically amend or reclassify the zoning of a particular property after making specific findings of fact; determining that there has either been a change in the character of the neighborhood where the property is located or a mistake in the existing zoning classification; and studying the proposed changes in relation to the plan, the needs of Baltimore City, and the needs of the particular neighborhood in the vicinity of the proposed changes.

### ***Detailed Findings of Fact are as follows:***

#### **1. Population changes:**

During the last two decades, Riverside's population has increased from 2,013 in 2000 to 2,564 in 2010, owing in large part from gentrifying neighborhoods that border Baltimore's Inner Harbor and an infusion of private development within the community and along the water. The number of housing units increased by 423 to 1,608 while the percent of owner occupied units decreased slightly from 69.8% to 67.1%. The increase in development was also reflected in the increase of median household income rising \$15,560 to \$92,900.

#### **2. The availability of public facilities:**

Adequate public facilities are available for a variety of uses.

#### **3. Present and future transportation patterns:**

This property is situated along Key Highway which acts as a connector route for automobiles and trucks from I-95 to downtown and I-83. Traffic is heavy at times and is expected to increase as development increases along the Key Highway corridor in the Key Highway South area. The area is not directly served by public transit and future transportation improvements are planned to favor pedestrian and cyclist movement along the corridor.

#### **4. Compatibility with existing and proposed development for the area:**

The subject site is zoned M-2-2, while the adjacent properties are a mix of industrial (M-2-2), Office/residential (OR-2), and residential (R-8) zoning. From a historical standpoint, it was at one time much more common to find industrial uses within neighborhoods, so that workers could walk to and from their jobs. However, this is not the case today, and M-2-2 zoning is a relatively intense industrial use in a predominantly residential area along the Key Highway corridor. Adopted plans recommend this site be rezoned for future development to the OR-2 zoning category. Throughout the planning process, this site was not intended as a retail location and the existing residential development adjacent to, and across Key Highway, make this portion of the corridor a key connection point to the community at large. As such, OR-2 is most appropriate in terms of ultimate land use, bulk, and massing to transition to the existing neighborhood fabric.

#### **5. The recommendations of the Planning Commission and the Board of Municipal and Zoning Appeals:**

To be determined, though Department of Planning staff recommends amendment of the rezoning request to OR-2 which is in conformance with the approved plans.

#### **6. The relation of the proposed amendment to the City's plan:**

There are no elements of Baltimore City's Comprehensive Master Plan that speak to the specific question of a rezoning of the subject property. This property is, however,

specifically noted in the 2008 Waterfront Study master plan and the Key Highway Urban Renewal plan and recommended to be rezoned to OR-2.

### ***Change/Mistake***

Informed by the findings of fact, the City Council may grant a rezoning based on the finding that there has been a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the original classification. Certainly market conditions favor larger size industrial lots with highway or rail access, which this site is not, however with the approved plans recommending a specific rezoning to OR-2 in anticipation of the future development within the broader area, there has not been a mistake or substantial change in the area that has not already been envisioned and accounted for within the approved plans.

### ***Other Considerations***

#### **1. The Plan:**

As stated previously, both the 2008 Waterfront Study master plan and the Key Highway Urban Renewal Plan recommend this parcel to be rezoned from M-2-2 to OR-2 with a 50 foot maximum height limitation.

#### **2. The needs of Baltimore City:**

The City needs large, contiguous industrial parcels in order to be competitive for industrial development. This is an isolated pocket of industrial zoning, left to accommodate an existing service station, which is actively in use. The small size and location within the community fabric lends the site to be appropriate for residential or small office infill which has a massing and scale that fits well with the context.

#### **3. The needs of the particular neighborhood:**

The neighborhood has seen tremendous growth in the last decade and will continue to see change in the years to come with the redevelopment of the Key Highway corridor. There may be needs for additional retail that can be accommodated within the higher density zones established and proposed within the immediate vicinity. Rezoning to OR-2 allows for accessory retail within a residential or office development.

Additionally, rezoning to OR-2 would make the current service garage a non-conforming use in the new zone. The owner would have the option to pursue BMZA for approval of any permitted B-1 use because the BMZA may approve a change in a non-conforming use to another non-conforming use within the B-1 category so long as the active use on the property does not cease for more than twelve consecutive months. This allows the applicant to pursue retail uses in the short term, ensures a continued community process, but preserves the appropriate long term uses and density for the site.

### ***Section 16-305 of the Baltimore City Zoning Code***

The Planning Commission must first find the change to be in the public interest and not solely for the interest of the applicant. In this case, Planning Staff finds the request to be solely for the benefit of one property owner, and not the broader public interest.

Additionally, the Commission must consider:

1. Existing uses of property within the general area of the property in question:  
Residential row homes surround the site on all sides with the exception of a small surface parking lot to the southeast.
2. The zoning classification of other property within the general area of the property in question:  
The zoning adjacent to the site is R-8 and OR-2 which have residential rowhouses currently developed and proposed. There is a small parking lot southeast of the site which is currently zoned M-2-2 but proposed to be rezoned to OR-2 in the approved plans. Across Key Highway, which acts as a reasonable and proper zoning boundary, the waterside is zoned B-2-4 but is developed as townhomes as part of the Harborview development.
3. The suitability of the property in question for the uses permitted under its existing zoning classification:  
While the property is a single-story garage structure suited for industrial use, it has no unique features necessitating its retention.
4. The trend of development, if any, in the general area of the property in question, including changes, if any, that have taken place since the property in question was placed in its present zoning classification:  
Since enactment of the 1971 zoning code, the adaptive reuse of formerly industrial sites has become common. One of the adjacent industrially zoned land parcels was rezoned to OR-2 and is being developed as new townhouses. The general area has seen and will continue to see change and growth following the many approved master plans and urban renewal plans that are in place and awaiting implementation.

#### ***Staff Recommended Amendment***

In order to meet the requirements of an acceptable rezoning under Article 66B of the Maryland Annotated Code and meet the requirements of Section 16-305 of the Baltimore City Zoning Code, the Department of Planning proposes to amend the City Council Bill to rezone 1302 Key Highway from M-2-2 to OR-2 in conformance with the approved 2008 Waterfront Master plan and the existing Key Highway Urban Renewal Plan.

#### **Urban Renewal Plan Amendment**

City Council Bill #11-0762 proposes two changes to the Key Highway Urban Renewal Plan:

1. Upon approval of rezoning by separate ordinance, for the property known as 1302 Key Highway, revise Exhibit C, "Land Use", to reflect the change in zoning from Industrial to Community Business.
2. Upon approval of rezoning by separate ordinance, revise Exhibit D, "Existing Zoning", to reflect the change in zoning for the property known as 1302 Key Highway, from the M-2-2 Zoning District to the B-2-4 Zoning District.

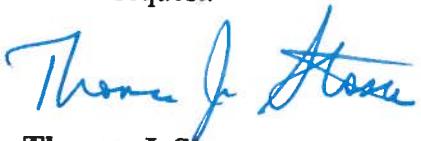
The URP is the enabling legislation for rezoning within the area and, as written, the amendments in CCB #11-0762 do not provide the adequate language for a complete rezoning process to B-2-4. The current amendment proposes to rezone the property to a Land Use category not listed in

the existing URP nor does it provide the additional text needed for the creation of the new Land Use and modification of the Development Area. As introduced, the parcel, regardless of zoning, would still be governed by the Development Area "General Use" controls in the Key Highway Urban Renewal Plan that mandate Office/Residential use on site. Moreover, there is no amendment proposed to Exhibit F "Proposed Zoning" to therefore be consistent with the high density zoning requested for the site.

There is clear direction within the Urban Renewal Plan for rezoning to OR-2 with the 50' height limit. If B-2-4 is permitted on this parcel, it is Planning Staff's understanding that work with the community would be needed in order to design specific bulk, massing, and use requirements protections in a similar manner to other high density developments along Key Highway. These requirements would require amendments to the approved master plan, the URP text, and would include, but not be limited to, minimum and maximum building heights, building setbacks, massing step-backs, appropriate uses, etc.

The Department of Planning's recommended amendment to CCB #11-0738 is to rezone 1302 Key Highway from M-2-2 to OR-2, therefore making it consistent with the existing Key Highway URP. Thus, Planning's recommendation makes CCB #11-0762 unnecessary for the rezoning action. Therefore, Planning recommends disapproval of CCB #11-0762.

The Riverside Community Association and entire Key Highway Task Force have been notified of this request.



**Thomas J. Stosur**  
Director