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<b>FROM</b>	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 E. FAYETTE STREET, 8 <sup>th</sup> FLOOR		
	SUBJECT	CITY COUNCIL BILL #11-0645 / URBAN RENEWAL JOHNSTON SQUARE – AMENDMENT		

**TO**

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

DATE: April 8, 2011

At its regular meeting of April 7, 2011 the Planning Commission considered City Council Bill #11-0645, which is for the purpose of amending the Urban Renewal Plan for Johnston Square to reauthorize the acquisition of properties within the Project Area and to correct and clarify certain language; 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 amendments to and approval of City Council Bill #11-0645 and adopted the following resolution, seven 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 #11-0645 be amended and passed by the City Council.

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

TJS/WYA/ewt

Attachment

- cc: Ms. Kaliopé Parthemos, Deputy Mayor
- Ms. Thomasina Hiers, Deputy 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. Julie Day, DHCD
- Ms. Barbara Zektick, DOT
- Ms. Elena DiPietro, Law Dept.
- Ms. Karen Randle, Council Services



Stephanie Rawlings-Blake  
Mayor

## PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

### STAFF REPORT



Thomas J. Stosur  
Director

April 7, 2011

**REQUEST:** City Council Bill #11-0645 / Urban Renewal – Johnston Square – Amendment #10:  
For the purpose of amending the Urban Renewal Plan for Johnston Square to reauthorize the acquisition of properties within the Project Area and to correct and clarify certain language; 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.

**RECOMMENDATION:** Amendment and Approval, with the following amendments:

- That in the Plan, the first paragraph of Appendix A, under the heading of "Properties for Acquisition and Disposition for Rehabilitation," is amended to add the following underlined text, to read as follows: "In addition to those groups of properties to be acquired and disposed of for rehabilitation (designated with disposition lot numbers on Exhibit 3), the following properties are being acquired and disposed of for rehabilitation. Certain properties listed below may be used, in whole or in part, as rear or side yard space for adjacent property, AS SHOWN LYING WITHIN THE PERIMETER OF THE PROPERTY DISPOSITION MAP. The acquisition properties adjacent to or abutting streets and alleys being closed will also include all rights, title and interest, or any private rights of use in and to the adjacent streets, rights-of-way, or alleys as shown lying within the perimeter of the land disposition map."
- That in the Plan, the first paragraph of Appendix B, under the heading of "Properties for Acquisition and Disposition for Rehabilitation," is amended to add the following underlined text, to read as follows: "In addition to those groups of properties to be acquired and disposed of for redevelopment (designated with Disposition Lot numbers on Exhibit 3, in Appendix A and in Appendix C), the following properties are also being acquired and disposed of for rehabilitation or redevelopment. Certain properties listed below may be used in whole or in part, as rear or side yard space for adjacent property, AS SHOWN LYING WITHIN THE PERIMETER OF THE PROPERTY DISPOSITION MAP. The acquisition properties adjacent to or abutting streets and alleys being closed will also include all rights, title and interest, or any private rights of use in and to the adjacent streets, rights-of-way, or alleys as shown lying within the perimeter of the land disposition map."
- That in Appendix B, under the property list titled "*Properties for Acquisition and Disposition for Rehabilitation*," the following property is deleted from the list:
  - 1016 North Eden Street

**STAFF:** Eric Tiso

**PETITIONER(S):** The Administration (Department of Housing and Community Development)

### **HISTORY**

- The Johnston Square Urban Renewal Plan (URP) was established by Ord. #77-357, dated June 28, 1977.
- Amendment No. 9, dated December 5th, 2002, approved by the Mayor and City Council of Baltimore by Ord. #02-456, dated December 19, 2002.

### **CONFORMITY TO PLANS**

This action is compatible with the City's Comprehensive Master Plan, LIVE section, Goal 1: Build Human and Social Capital by Strengthening Neighborhoods, Objective 2: Strategically Redevelop Vacant Properties Throughout the City.

### **ANALYSIS**

Maryland Law Amendment: In July of 2007, an amendment to the Maryland Annotated Code, Real Estate, Title 12 was made that requires an action for condemnation to be filed within four years of an authorization for acquisition. If that cannot be accomplished, then the authorization must be renewed:

- § 12-105.1. Condemnation action to acquire private property.
- (a) Time limitation.- Notwithstanding any other provision of law, the State or any of its instrumentalities or political subdivisions shall file an action to acquire private property for public use by condemnation within 4 years of the date of the specific administrative or legislative authorization to acquire the property.
  - (b) New authorization.- If an action for condemnation is not filed within 4 years of the date described in subsection (a) of this section, the State or any of its instrumentalities or political subdivisions may not proceed with condemnation until it first obtains a new authorization to acquire the property. [2007, ch. 305]

Therefore, since four years have nearly elapsed since the date of the Maryland law change, an amendment to several Urban Renewal Plans (URPs) are necessary in order to reauthorize the each URP's powers of acquisition and condemnation. With each reauthorization, those actions may legally continue beyond July 2011. The basic effect is that all of our Urban Renewal Plans that have designated properties for acquisition and disposition that have not yet been acted upon now need to be expressly confirmed and reauthorized for an additional four year period. Each URP will then require reauthorization every four years thereafter, for the life of the URP. While these URPs are being amended, there are also technical amendments that are needed to align the text for each, to ensure better, more consistent, administration and operation of each plan. To that end, the Department of Housing and Community Development (HCD) has introduced a group of bills with the goal of adoption before the July acquisition authority expiration, to ensure that the City's acquisition authority is seamless. The group includes the following bills:

- CCB #11-0643 - Urban Renewal - Coldstream Homestead Montebello (aka CHM)
- CCB #11-0644 - Urban Renewal - Druid Heights
- CCB #11-0645 - Urban Renewal - Johnston Square
- CCB #11-0646 - Urban Renewal - Oliver
- CCB #11-0647 - Urban Renewal - Park Heights
- CCB #11-0648 - Urban Renewal - Poppleton
- CCB #11-0649 - Urban Renewal - Reservoir Hill
- CCB #11-0652 - Urban Renewal - Middle East
- CCB #11-0653 - Urban Renewal - Broadway East

Effects of the Bill: The four changes proposed to this URP are technical in nature. They are summarized as follows:

- In Section C. *Techniques Used To Achieve Plan Objectives*, in the first paragraph, under *Acquisition*, the text is clarified to specify that properties may be acquired BY PURCHASE OR BY CONDEMNATION. This change is necessary to clarify the specific means by which the City can acquire property under this authority.
- In the same section, a new C.1.c is added to read: “C. THE AUTHORITY TO ACQUIRE THE PROPERTIES WITHIN THE PROJECT AREA IS EXPRESSLY CONFIRMED AND REAUTHORIZED THROUGH AND INCLUDING DECEMBER 31, 2014.” This is the express reauthorization of the acquisition authority for the next four year period. This does not materially affect the purposes of the URP, and is required to comply with the requirements of the State of Maryland under the Maryland Annotated Code, as outlined above.
- In the Plan, the first paragraph of Appendix A, under the heading of “Properties for Acquisition and Disposition for Rehabilitation,” is amended to read as follows: “In addition to those groups of properties to be acquired and disposed of for rehabilitation (designated with disposition lot numbers on Exhibit 3), the following properties are being acquired and disposed of for rehabilitation. Certain properties listed below may be used, in whole or in part, as rear or side yard space for adjacent property, AS SHOWN LYING WITHIN THE PERIMETER OF THE PROPERTY DISPOSITION MAP. The acquisition properties adjacent to or abutting streets and alleys being closed will also include all rights, title and interest, or any private rights of use in and to the adjacent streets, rights-of-way, or alleys as shown lying within the perimeter of the land disposition map.” This amendment clarifies that these acquisitions are all located within the area bounded by the property disposition map. Staff recommends that the underlined text is added, as in the other URP bills, to provide for the same clarification of how property acquired for redevelopment may be used. This addition specifies that all rights and interest in various rights-of-way within the plan boundary are included with acquired properties.

- In the Plan, the first paragraph of Appendix B, under the heading of “Properties for Acquisition and Disposition for Rehabilitation,” is amended to read as follows: “In addition to those groups of properties to be acquired and disposed of for redevelopment (designated with Disposition Lot numbers on Exhibit 3, in Appendix A and in Appendix C), the following properties are also being acquired and disposed of for rehabilitation or redevelopment. Certain properties listed below may be used in whole or in part, as rear or side yard space for adjacent property, AS SHOWN LYING WITHIN THE PERIMETER OF THE PROPERTY DISPOSITION MAP. The acquisition properties adjacent to or abutting streets and alleys being closed will also include all rights, title and interest, or any private rights of use in and to the adjacent streets, rights-of-way, or alleys as shown lying within the perimeter of the land disposition map.” This amendment is similar to the amendment above, with the exception of some added text was inadvertently left out of the bill in error. Staff recommends these three text additions are added to align the bill to the existing URP text.

Community Notice: Article 13, *Housing and Urban Renewal*, is the section of the City Code that outlines the processes for establishment of and amendments to URPs. For new URPs, or major changes, § 2-6(d) outlines the notice procedures, and include postings within the neighborhood, and two newspaper notices (one per week for two weeks) prior to the first public hearing.

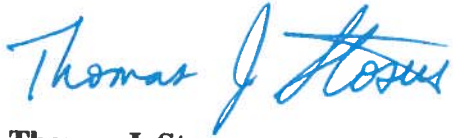
For amendments to URPs, under § 2-6(g)(3) the amending bills are required to go through the same procedure as for adoption, that is, a City Council ordinance process. However, “If the Planning Commission determines that the proposed amendment is a technical correction or a minor modification that would not substantially affect the Plan or the size, use, or disposition of any property subject to the Plan, the proposed amendment need not be posted or advertised as otherwise required by subsection (d) of this section.”

Minor Modification: Several technical amendments are proposed in order to conform language across several URPs. These changes will make administration of the plans simpler, and more consistent across the City. In addition, technical amendments are required in some cases to clarify the purpose and intent of certain portions of the text that were not as clearly written in some of the plans, compared to others. These technical amendments will improve the text, and avoid potential future legal challenges based on these minor flaws.

Staff recommends that the Planning Commission make and adopt the following finding:

- That the amendments to the URP as proposed in this bill are technical in nature, and they do not substantially affect the Plan, its size, or the use or disposition of any property subject to the Plan.

Staff Notification: Staff notified 72 community organizations of today's hearing.



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