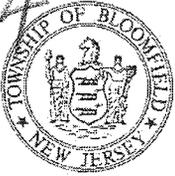


12-04



Township Council
1 Municipal Plaza
Bloomfield, NJ 07003

Louise M. Palagano
Municipal Clerk

<http://www.bloomfieldtnj.com>

Meeting: 01/17/12 07:00 PM

2012 ORDINANCE AMENDMENT

MAYOR AND COUNCIL OF THE TOWNSHIP OF BLOOMFIELD, IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY, APPROVING AMENDMENT TO THE REDEVELOPMENT PLAN FOR BLOCK 228 AND BLOCK 220, LOT 40

WHEREAS, by resolution duly adopted on September 8, 2000, the Mayor and Council (“Mayor and Council”) of the Township of Bloomfield (the “Township”) authorized and directed the Planning Board of the Township (the “Planning Board”) to undertake an investigation and determine whether the properties identified as Block 220, Lots 26, 27, 30, 35, 40 and 80, Block 225, Lots 1 and 9, Block 227, Lots 1, 3, 5, 6, 8, 9, 10, 11, 12, 13, 15, 16, 17, 19, 20, 22, 24, 26, 30, 31, 32 and 35, Block 228, Lots 1, 4, 5, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, 19, 21, 24, 27, 28, 29, 30, 31, 33 and 35, and Block 243, Lots 1, 3, 4, 5, 6, 7, 8, 10, 11, 13, 15, 17, 18 and 20 on the Township’s tax map (collectively, the “2000 Study Area”), met the statutory criteria for designation as an area in need of redevelopment pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (the “Redevelopment Law”); and

WHEREAS, at the direction of the Planning Board, Heyer Gruel Associates, P.A. (“Heyer Gruel”) conducted the investigation and prepared a report, dated November 3, 2000 (the “2000 Study”) regarding whether the 2000 Study Area met the statutory criteria set forth in the Redevelopment Law for designation as an area in need of redevelopment; and

WHEREAS, the Planning Board considered the 2000 Study during a public hearing and, by resolution adopted on December 5, 2000, recommended that the 2000 Study Area be designated as an area in need of redevelopment; and

WHEREAS, by resolution duly adopted on December 18, 2000, the Mayor and Council ON BASIS OF FACTS SET FORTH

Director of Law - Township Attorney

agreed with the Planning Board's recommendation and designated the 2000 Study Area as an area in need of redevelopment (the 2000 Study Area shall hereinafter be referred to as the "Redevelopment Area"); and

WHEREAS, Heyer Gruel prepared a supplemental report, dated July 2006 (the "Supplemental Study"), in which it again concluded that the Redevelopment Area, as of the dates of the 2000 Study and the Supplemental Study, met the statutory criteria for designation as an area in need of redevelopment, and in which it set forth, in greater detail, the basis for such conclusions; and

WHEREAS, on July 20, 2006, the Planning Board considered the Supplemental Study during a public hearing and, by resolution duly adopted on August 1, 2006, it concluded that the 2000 designation of the Redevelopment Area was supported by substantial evidence and it recommended to the governing body of the Township that the Supplemental Study validates the conclusion reached in 2000 that the Redevelopment Area met the statutory criteria for designation as an area in need of redevelopment; and

WHEREAS, by resolution duly adopted on August 7, 2006, the Mayor and Council accepted the recommendation made by the Planning Board and agreed with the Planning Board's conclusion that the Supplemental Study validated the conclusion reached in 2000 that the Redevelopment Area met the statutory criteria for designation as an area in need of redevelopment; and

WHEREAS, by ordinance finally adopted on December 15, 2008, the Mayor and Council approved and adopted a redevelopment plan for the redevelopment of the portion of the Redevelopment Area, along with other parcels which had previously been designated as an Area

in Need of Rehabilitation, consisting of certain parcels located in Blocks 220, 225, 227, 228, 242, 243 and 255; and

WHEREAS, the Haberman Building Corporation (“HBC”), through other entities with the same ownership structure as, or otherwise controlled by, HBC, is the former owner of the portions of the Redevelopment Area formerly known as Block 228, Lots 4, 19 and 21 (collectively, the “Block 228 Properties”) and is the current owner of the property located at Block 220, Lot 40 (the “Train Station Property”); and

WHEREAS, on September 15, 2009, the Township and HBC entered into a Memorandum of Understanding (the “MOU”), setting forth each party’s expectations with respect to the redevelopment of the Block 228 Properties and the Train Station Property; and

WHEREAS, at the time the MOU was executed, HBC was interested in maintaining an ownership interest in the project to be constructed on Block 228 and in redeveloping the Train Station Property; and

WHEREAS, toward those ends, the MOU provided, among other things, that HBC was to convey the Block 228 Properties to the Township for a nominal sum and that upon the completion of the redevelopment of Block 228, the redeveloper thereof would convey a portion of the completed improvements to HBC for a nominal sum; and

WHEREAS, the MOU also provided that the Township was to designate HBC or its designated successor or assign as the redeveloper of the Train Station Property and then negotiate with HBC, in good faith, the terms of a redevelopment agreement; and

WHEREAS, by resolution duly adopted on October 22, 2009, the Mayor and Council designated HBC as the conditional redeveloper of the Train Station Property; and

WHEREAS, by resolution duly adopted on November 16, 2009, the Mayor and Council again directed the Planning Board to undertake an investigation and determine whether the properties located in the Redevelopment Area are in need of redevelopment and should be determined or not determined to be areas in need of redevelopment; and

WHEREAS, at the direction of the Planning Board, the firm Phillips Preiss Shapiro Associates, Inc. (“Phillips”) conducted the investigation and, at the Planning Board’s direction, Phillips initially limited its investigation to the properties identified as Block 220, Lot 40, and Block 228, Lots 1, 4, 5, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, 19, 21, 24, 27, 28, 29, 30, 31, 33 and 35 on the Township’s tax map (collectively, “Area 3”); and

WHEREAS, Phillips prepared a report, dated May 2010 (the “Phillips Study”), regarding whether the properties in Area 3, or any portion thereof, met the statutory criteria set forth in the Redevelopment Law for designation as an area in need of redevelopment; and

WHEREAS, the Planning Board considered the Phillips Study during a public hearing on June 22, 2010 and September 23, 2010 and, by resolution duly adopted on September 23, 2010, the Planning Board concluded that the properties in Area 3 met the statutory criteria for designation as an area in need of redevelopment and recommended that the Township so designate such properties; and

WHEREAS, by resolution duly adopted on October 18, 2010, the Mayor and Council accepted the Planning Board’s recommendation and designated the properties included in Area 3 as an area in need of redevelopment (Area 3 shall hereinafter be referred to as the “Block 228 and Block 220, Lot 40 Redevelopment Area”); and

WHEREAS, by Ordinance No. 11-2, adopted on February 7, 2011, the Mayor and

Council approved and adopted a redevelopment plan for the redevelopment of the Block 228 and Block 220, Lot 40 Redevelopment Area, entitled Redevelopment Plan for Block 228 and Block 220, Lot 40” (the “Redevelopment Plan”); and

WHEREAS, in the meantime, in early 2010, HBC determined that it no longer desired to redevelop the Block 228 Properties and that, instead, it desired to sell same to the Parking Authority of the Township of Bloomfield (the “Parking Authority”); and

WHEREAS, on April 27, 2010, an affiliate of HBC and the Parking Authority entered into a purchase and sale agreement in connection with the Block 228 Properties; and

WHEREAS, on September 15, 2010, the Parking Authority closed on the acquisition of the Block 228 Properties and the Parking Authority is now the owner thereof; and

WHEREAS, after the execution of the MOU and the designation of HBC as the conditional redeveloper of the Train Station Property in late 2009, the Township and HBC representatives discussed, in good faith, the redevelopment of the Train Station Property, including terms regarding (i) the renovation of the existing train station facility, (ii) the provision of public access to the train station platform and (iii) the construction of new retail space, and the Township engaged several consultants, at substantial expense, to help identify ways to redevelop the Train Station Property and to identify potential funding sources for the redevelopment thereof; and

WHEREAS, a representative of HBC subsequently advised the Township, however, that it no longer desired to redevelop the Train Station Property and that, instead, it would like to sell same; and

WHEREAS, toward that end, the Township commissioned and paid for a real estate

appraisal for the Train Station Property and forwarded same to HBC for review; and

WHEREAS, the Township then determined that the MOU was moot, and by resolution adopted on September 19, 2011, the Mayor and Council terminated the MOU and the designation of HBC as the conditional redeveloper of the Train Station Property; and

WHEREAS, the Township offered to purchase the Train Station Property from HBC based on the appraised value thereof, subject to the approval of the Mayor and Council; and

WHEREAS, by letter to the Township dated December 14, 2011, HBC rejected the Township's offer and advised the Township that it still desires to own and develop the Train Station Property, including with a restaurant on the track level of the station and a multi-story retail office building on the property adjacent to the station; and

WHEREAS, notwithstanding HBC's stated desire to develop the Train Station Property, it appears that the relatively small size of the parcel, the limitation on the ability to demolish the train station due to its historic designation status and the engineering limitations on the ability to develop the property due to its configuration and topographic condition, all make the prospect of HBC's development extraordinarily costly and, therefore, unlikely if not impossible; and

WHEREAS, the Parking Authority owns all of the lots on Block 228, along with portions of surrounding rights-of-way vacated by the Township; and

WHEREAS, pursuant to that certain Redevelopment Agreement by and between Bloomfield Center Urban Renewal, L.L.C. (the "Redeveloper") and the Township, dated March 8, 2011, the Redeveloper will redevelop the portion of Area 3 consisting of all of the lots on Block 228 and vacated portions of the Lackawanna Place and Washington Street rights-of-way (collectively, the "Project Site") by constructing thereon a project consisting of: (i) (A)

approximately 60,000 square feet of retail space, including approximately 10,000 square feet of restaurant space, and (B) approximately 224 residential units (together, the “BCUR Project”) on a portion of the Project Site that it will own; and (ii) an approximately 439 space parking garage (the “Parking Garage” and, together with the BCUR Project, the “Block 228 Redevelopment Project”) on a portion of the Project Site that the Parking Authority will own; and

WHEREAS, the Parking Authority has completed the demolition of the last remaining buildings on Block 228 to make way for the construction of the Block 228 Redevelopment Project; and

WHEREAS, since HBC has owned the Train Station Property, the property has fallen into a state of disrepair, contains a structure that is now uninhabitable and is an eyesore, and is in such a condition that commuters utilizing the train station platform are endangered and inconvenienced while traversing the Train Station Property to access said train station platform; and

WHEREAS, the Township believes that it is in the best interest of the Township to make every effort to ensure that the Train Station Property is renovated, to the extent financially feasible, physically possible and maximally productive, to allow for safer and easier public access to the train station platform, and to make the property’s condition compatible with the adjacent property once the Block 228 Redevelopment Project is complete and enhance the value of the Parking Garage to the entire community; and

WHEREAS, the Township now desires to amend the Redevelopment Plan to provide that the Train Station Property - Block 220, Lot 40 - be identified as a property to be acquired as necessary to effectuate the purposes of the Redevelopment Plan, including by eminent domain, if

necessary; and

WHEREAS, the public purpose of such an acquisition by the power of eminent domain pursuant to N.J.S.A. 40A:12A-8c of the Redevelopment Law would be to effectuate the redevelopment of the Block 228 and Block 220, Lot 40 Redevelopment Area, although the Township wishes to clarify that it also possesses the power to acquire property through the power of eminent domain to accomplish other public purposes pursuant to the process set forth in N.J.S.A. 20:3-1 *et seq.*; and

WHEREAS, the Township finds that it is not necessary to identify the other properties in the Block 228 and Block 220, Lot 40 Redevelopment Area because such properties are owned by a public body and/or are already the subject of a redevelopment agreement; and

WHEREAS, the Township also desires to clarify that the area subject to the Redevelopment Plan includes the area to the centerline of the Lackawanna Place right-of-way, which was included in the designated Block 228 and Block 220, Lot 40 Redevelopment Area, and the area to the centerline of the Washington Street and Glenwood Avenue rights-of-way surrounding Block 228, which areas were included in the originally designated Redevelopment Area.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of Township of Bloomfield, New Jersey, as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. Section 6B of the Redevelopment Plan, entitled "Properties to be Acquired", is hereby deleted in its entirety and replaced with the following:

"The property located at Block 220, Lot 40 is subject to acquisition, as necessary to

effectuate the purposes of this Redevelopment Plan, including by eminent domain, if necessary. The remaining properties in the Redevelopment Area are publicly-owned and are not subject to acquisition.”

Section 3. The first paragraph of Section 1C of the Redevelopment Plan on page 2, entitled “Redevelopment Area Boundaries and Locational Context”, is hereby deleted and replaced with the following:

“The boundaries of the Redevelopment Area are shown in Figure 1 and the individual lots comprising the area are listed in Appendix A. In addition to the particular lots cited, portions of the abutting public rights-of-way extending to the centerline of the Lackawanna Place right-of-way, which was included in the designated Redevelopment Area, and to the centerline of the Washington Street and Glenwood Avenue rights-of-way surrounding Block 228, which areas were included in a prior redevelopment area designation, are included in the area subject to the Redevelopment Plan. Hereinafter, any reference to the ‘Redevelopment Area’ shall include the boundaries shown in Figure 1, along with the portions of the aforementioned abutting public rights-of-way.”

Section 4. Figure 1 on page 3 of the Redevelopment Plan is hereby deleted and replaced with Figure 1 attached hereto.

Section 5. If any part(s) of this ordinance shall be deemed invalid, such part(s) shall be severed and the invalidity thereof shall not affect the remaining parts of this ordinance.

Section 6. All ordinances and resolutions or parts thereof inconsistent with this ordinance are hereby rescinded.

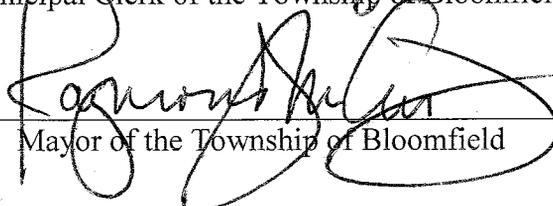
Section 7. This ordinance shall take effect in accordance with applicable law.

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I hereby certify that the above resolution was duly adopted by the Mayor and Council of the Township of Bloomfield at a meeting of said Township Council held on 2/21/12



Municipal Clerk of the Township of Bloomfield



Mayor of the Township of Bloomfield

✓ Vote Record - Ordinance 1383		Yes/Aye	No/Nay	Abstain	Absent
<input type="checkbox"/> Adopt	Elias Chalet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Deny	Nicholas Joanow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Withdrawn	Carlos Bernard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Table	Michael Venezia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Not Discussed	Peggy O'Boyle Dunigan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> First Reading	Bernard Hamilton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Table with no Vote	Raymond McCarthy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Approve					

✓ Vote Record - Ordinance 1383		Yes/Aye	No/Nay	Abstain	Absent
<input checked="" type="checkbox"/> Adopt	Elias Chalet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Deny	Nicholas Joanow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Withdrawn	Carlos Bernard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Table	Michael Venezia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<input type="checkbox"/> Approve					