

LAND USE BOARD RESOLUTION 2021-21

RESOLUTION OF THE LAND USE BOARD OF THE BOROUGH OF HIGHLANDS, IN THE COUNTY OF MONMOUTH, NEW JERSEY RECOMMENDING THAT THE BOROUGH DESIGNATE CERTAIN PROPERTIES WITHIN THE BOROUGH AS A NON-CONDEMNATION REDEVELOPMENT AREA PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1 ET SEQ.

Approved: August 5, 2021
Memorialized: October 7, 2021

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “**Redevelopment Law**”), authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, on June 2, 2021, by Resolution No. 21-126, and in accordance with the provisions of the Redevelopment Law, the Municipal Council (the “**Borough Council**”) of the Borough of Highlands (the “**Borough**”) authorized and directed the Land Use Board of the Borough (the “**Land Use Board**”) to conduct a preliminary investigation to determine whether all or a portion of certain properties within the Borough, commonly referred to as the Central Business District/ Bay Avenue Corridor and identified as the following blocks and lots on the tax map of the Borough (the “**Study Area**”), meets the criteria in the Redevelopment Law for designation as a non-condemnation redevelopment area, within which the Borough may use all of the powers provided by the Redevelopment Law for use in a redevelopment area except the power of eminent domain (a “**Non-Condemnation Redevelopment Area**”), and to make a recommendation as to whether all or a portion of such Study Area should be designated as a Non-Condemnation Redevelopment Area:

Block 40.01, Lots 21.01, 21.02, 22.01
Block 41, Lots 2.01, 3, 4, 5, 6, 7, 8, 9, 10, 13.01
Block 42, Lots 1, 10, 12.01, 13, 14, 15
Block 45, Lots 4.01, 6.01, 7
Block 46, Lots 1, 2, 3, 4, 5, 6, 7, 8
Block 47, Lots 6, 7, 8, 9, 10, 11, 12
Block 52, Lots 1, 2
Block 53, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9
Block 54, Lots 1, 3.01, 4, 5, 7.01
Block 58, Lots 1, 3.01, 17.01, 18, 19, 20, 23.01, 24, 25, 26
Block 59, Lots 5, 6, 8, 9, 10, 11.01, 11.02, 13.01, 14, 16.01
Block 63, Lots 4, 5, 6, 7, 9.01, 10, 11, 13.01, 14, 15, 16, 17, 19.01
Block 64, Lots 1, 2, 17, 18, 19, 20, 21, 22, 23, 24, 25, 28.01
Block 69, Lots 1, 2, 4.01, 5, 6
Block 70, Lots 1, 2, 3, 15, 16, 17
Block 71, Lots 4, 5, 6
Block 72, Lots 1, 2, 11.01, 12
Block 73, Lot 2
Block 74, Lots 1, 8.01, 9
Block 75, Lots 1, 17, 18
Block 80, Lots 1, 2, 20, 21, 22
Block 81, Lots 1, 2, 10.01, 12
Block 82, Lots 1.01, 6.01
Block 83, Lots 1, 14
Block 88, Lots 1.01, 2, 3, 4.01, 5
Block 89, Lots 1, 2, 13.01
Block 94, Lots 1, 15, 16
Block 95, Lot 1
Block 96 Lots 1, 2.01
Block 96.01, Lots 2.01, 3
Block 114, Lots 1.01, 1.02, 3.02; and

WHEREAS, the Land Use Board subsequently directed Phillips Preiss Grygiel Leheny Hughes LLC (the “**Planning Consultant**”) to conduct a preliminary investigation to determine whether all or a portion of the Study Area should be designated as a Non-Condensation Redevelopment Area; and

WHEREAS, on July 8, 2021, the Land Use Board received a report setting forth the basis for the investigation and a map depicting the Study Area prepared by the Planning Consultant, entitled Area in Need of Redevelopment Study, Central Business District, Borough of Highlands,

New Jersey, dated July 8, 2021 (the “**Report**”), evaluating whether all or a portion of the Study Area met the criteria to be designated as a Non-Condensation Redevelopment Area; and

WHEREAS, the Redevelopment Law requires that the Land Use Board conduct a public hearing prior to making its recommendation as to whether the Study Area should be designated as a Non-Condensation Redevelopment Area, at which hearing the Land Use Board shall hear all persons who are interested in, or would be affected by, a determination that the Study Area is a Non-Condensation Redevelopment Area; and

WHEREAS, pursuant to the Redevelopment Law, the Land Use Board caused a duly noticed public hearing to be held on August 5, 2021 (the “**Hearing**”), at which it reviewed the Report, heard testimony from Paul Grygiel, AICP, PP of the Planning Consultant, and conducted a public hearing during which members of the general public were given an opportunity to present their own evidence, cross-examine the Planning Consultant, and address questions to the Land Use Board and its representatives concerning the potential designation of the Study Area as a Non-Condensation Redevelopment Area, as fully set forth on the record; and

WHEREAS, the Planning Consultant testified to the Land Use Board that to prepare the Report, he performed an analysis of the Study Area’s existing land uses, site layout, and physical characteristics, which are included in the Report. In doing so, the Planning Consultant testified that he reviewed the Borough’s tax records, aerial photographs, Master Plan and other planning documents, existing zoning ordinance and maps, zoning, health, property maintenance and related violations records, development applications and approvals, building and demolition permit activity, police activity logs, deed records, occupancy and ownership status records, and other municipal records and conducted multiple physical inspections of each property within the Study Area; and

WHEREAS, after performing the above analysis, the Planning Consultant concluded in the Report and testified to the Land Use Board at the Hearing that 120 of the 155 lots within the Study Area satisfy the criteria set forth in the Redevelopment Law for an area in need of redevelopment designation, particularly criteria “a”, “b”, “c”, and/or “d” pursuant to *N.J.S.A. 40A:12A-5* (“Section 5”) of the Redevelopment Law or by way of the definition of “redevelopment area” or “area in need of redevelopment” pursuant to *N.J.S.A. 40A:12A-3* (“Section 3”) of the Redevelopment Law; and

WHEREAS, of these 120 lots within the Study Area, the Planning Consultant concluded in the Report and testified to the Land Use Board that the following nine (9) lots satisfy criterion “a” pursuant to Section 5 of the Redevelopment Law for various reasons specific to each lot, including, but not limited to, that the generality of the buildings are substandard, unsafe, unsanitary, dilapidated, obsolescent, or conducive to unwholesome living or working conditions because of outdated or faulty design or arrangement, poor or dilapidated building conditions, insufficient or inoperable windows, various past property maintenance violations and/or police incidents, or a combination thereof:

Block 42, Lot 13

Block 46, Lots 1, 6, & 7

Block 53, Lots 3 & 4

Block 59, Lots 8 & 16.01

Block 64, Lot 1; and

WHEREAS, of these 120 lots within the Study Area, the Planning Consultant concluded in the Report and testified to the Land Use Board that the following three (3) lots satisfy criterion “b” pursuant to Section 5 of the Redevelopment Law for various reasons specific to each lot, including, but not limited to, that the buildings were once used for commercial, retail, shopping, office space, manufacturing, or industrial purpose and are now in a great state of disrepair or

neglect to make them untenable and/or have been significantly vacant for the last two (2) or more years:

Block 46, Lot 3
Block 47, Lot 6
Block 88, Lot 5; and

WHEREAS, of these 120 lots within the Study Area, the Planning Consultant concluded in the Report and testified to the Land Use Board that the following sixteen (16) lots satisfy criterion "c" pursuant to Section 5 of the Redevelopment Law for various reasons specific to each lot, including, but not limited to, that such lots are either owned by the Borough or are unimproved vacant lots that have remained as such for the last ten (10) or more years, and/or are not likely to be developed through private capital due to topographical challenges, poor site access, historical lack of development with no known future plans for same, or a combination thereof:

Block 40.01, Lots 21.01 & 22.01
Block 42, Lot 14
Block 45, Lots 6.01 & 7
Block 47, Lot 10
Block 53, Lots 6 & 7 (studied together)
Block 63, Lots 4, 6, & 14
Block 64, Lot 21
Block 72, Lot 2
Block 88, Lot 2
Block 94, Lot 1
Block 96, Lot 2.01; and

WHEREAS, of these 120 lots within the Study Area, the Planning Consultant concluded in the Report and testified to the Land Use Board that the following eighty-seven (87) lots satisfy criterion "d" pursuant to Section 5 of the Redevelopment Law for various reasons specific to each lot, including, but not limited to, that because of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, the buildings

or improvements are detrimental to the safety, health, morals, or welfare of the community. This includes that as many of these lots are located in a high-risk flood zone and as the Borough itself is particularly vulnerable to flooding, many of these lots do not provide proper stormwater management or floodproofing and present risks of physical harm, structural damage, or entrapment because of either excessive land coverage, old age of the structure, lack of elevation above base flood elevation levels, or a combination thereof. This also includes that many lots suffer from faulty site arrangement, prior police incidents, dilapidated and/or poor site conditions leading to a general sense of neglect, unpermitted uses, lack of proper parking, or a combination thereof that all detract from and/or are incompatible with developing and maintaining a vibrant and walkable downtown commercial corridor:

Block 40.01, Lots 21.01, 21.02, & 22.01

Block 41, Lots 2.01, 5, 6, 7, 8, & 10

Block 42, Lots 1, 10, 12.01, 13, 14, & 15

Block 45, Lot 4.01

Block 46, Lots 1, 2, 3, 6, 7, & 8

Block 47, Lots 6, 7, 8, 9, & 11

Block 52, Lot 2

Block 53, Lots 3, 4, 5, 8, & 9

Block 54, Lots 1 & 4

Block 58, Lots 17.01 & 18 (studied together), 19 & 20 (studied together), 24, & 25

Block 59, Lots 8, 9, 11.01, 13.01, & 16.01

Block 63, Lots 9.01, 11, 15, & 19.01

Block 64, Lots 1, 2 & 28.01 (studied together), 17, 20, & 24

Block 69, Lots 2 & 6.01 (Lot 6.01 was formerly known as Lots 5 & 6)

Block 70, Lots 1, 2, 3, & 15

Block 71, Lots 4 & 5 (studied together), & 6

Block 72, Lots 1 & 12

Block 74, Lots 1, 8.01, & 9

Block 75, Lot 1

Block 80, Lots 1, 20, 21, & 22

Block 81, Lots 1 & 10.01

Block 83, Lot 1 (Lot 1 was formerly known as Lots 1 & 14)

Block 88, Lots 1.01, 4.01, & 5

Block 89, Lots 2 & 13.01

Block 96, Lots 1 & 3 (Block 96, Lot 3 was formerly known as Block 96.01, Lot 3); and

WHEREAS, of these 120 lots within the Study Area, the Planning Consultant concluded in the Report and testified to the Land Use Board that the following twenty (20) lots did not meet any of the criteria pursuant to Section 5 of the Redevelopment Law, but did satisfy the definition of “redevelopment area” or “area in need of redevelopment” pursuant to Section 3 of the Redevelopment Law for various reasons specific to each lot, including, but not limited to, that such lots abut other lots that satisfy criteria “a”, “b”, “c”, and/or “d” pursuant to Section 5 of the Redevelopment Law and that it would be an impediment to the redevelopment of the abutting lots and the commercial corridor as a whole if same were not included in the Non-Condensation Redevelopment Area by creating redevelopment gaps along the commercial corridor:

Block 41, Lots 3, 4, & 9

Block 54, Lot 3.01

Block 58, Lot 23.01

Block 59, Lots 5, 6 & 10 (all studied together), & 14

Block 63, Lots 5, 7, 10, & 13.01

Block 64, Lot 25

Block 69, Lot 4.01

Block 80, Lot 2

Block 81, Lots 2 & 12

Block 88, Lot 3

Block 89, Lot 1; and

WHEREAS, in concluding the Report, the Planning Consultant did not recommend that any of the following thirty-five (35) lots be designated as a Non-Condensation Redevelopment

Area:

Block 41, Lot 13.01

Block 46, Lots 4 & 5

Block 47, Lot 12

Block 52, Lot 1

Block 53, Lots 1 & 2

Block 54, Lots 5 & 7.01

Block 58, Lots 1, 3.01, & 26

Block 59, Lot 11.02

Block 63, Lots 16 & 17

Block 64, Lots 18, 19, 22, & 23

Block 69, Lot 1
Block 70, Lots 16 & 17
Block 72, Lot 11.01
Block 73, Lot 2
Block 75, Lots 17 & 18 (studied together)
Block 82, Lots 1.01 & 6.01
Block 94, Lots 15.02 & 15.03 (studied together and were formerly known as Lot 15 jointly), & 16
Block 95, Lot 1
Block 96.01, Lot 2.01
Block 114, Lots 1.01, 1.02, & 3.02 (all studied together); and

WHEREAS, the Land Use Board asked the Planning Consultant during the Hearing if the above-referenced 35 lots within the Study Area satisfy criterion “h” pursuant to Section 5 of the Redevelopment Law; and

WHEREAS, in response to the Land Use Board’s question, the Planning Consultant testified to the Land Use Board at the Hearing that these 35 lots did satisfy criterion “h” pursuant to Section 5 of the Redevelopment Law because: (1) the entire Study Area is within Smart Growth Metropolitan Planning Area 1 of the New Jersey State Planning Commission’s State Development and Redevelopment Plan, which is an area in which development or redevelopment is to be encouraged; (2) the Borough made a prior policy decision to apply to the New Jersey State Planning Commission for such designation; and (3) various Borough planning and zoning documents referred to in the Report make reference to smart growth planning principles within the Study Area; and

WHEREAS, during the Hearing, the Land Use Board heard an objection from the owner of Block 53, Lot 3 as to the application of the “a” criterion of Section 5 of the Redevelopment Law to their property; and

WHEREAS, at the conclusion of the Hearing, after reviewing the Report and hearing all of the evidence, testimony from the public, and expert testimony, based on the reasons set forth in

the Report and on the record as further described herein, including the testimony of the Planning Consultant as to criterion "h" of Section 5 of the Redevelopment Law, the Land Use Board: (1) voted to recommend that all of the lots within the Study Area be designated as a Non-Condensation Redevelopment Area; and (2) as set forth in the record, in response to the objection above, voted to not accept the Planning Consultant's recommendation that Block 53, Lot 3 also satisfies criterion "a" pursuant to Section 5 of the Redevelopment Law, but in doing so the Land Use Board erroneously identified such property as Block 59, Lot 8; and

WHEREAS, after careful consideration of all evidence presented and all testimony offered,

NOW THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Highlands that all lots within the Study Area satisfy the criteria pursuant to the Redevelopment Law to be designated as a Non-Condensation Redevelopment Area.

BE IT FURTHER RESOLVED, that the aforementioned recitals are incorporated herein as though fully set forth at length.

BE IT FURTHER RESOLVED, that the Report, including the findings of fact and conclusions contained therein, is hereby incorporated herein by reference in its entirety. The Land Use Board Secretary is hereby directed to transmit a copy of the Report and this Resolution to the Borough Council.

BE IT FURTHER RESOLVED, that the Land Use Board finds that the testimony and evidence placed on the record supports a finding that the Study Area meets the statutory criteria to support its designation as a Non-Condensation Redevelopment Area, with the exception that it does not find that the testimony and evidence placed on the record supports a finding that Block 53, Lot 3 also satisfies criterion "a" pursuant to Section 5 of the Redevelopment Law.

BE IT FURTHER RESOLVED, that the Land Use Board hereby recommends that the Borough Council designate the entire Study Area as a Non-Condensation Redevelopment Area pursuant to the Redevelopment Law for the reasons set forth in the Report, on the record, and herein.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be forwarded to the Acting Borough Clerk, Chief Financial Officer, Land Use Board and Land Use Board Secretary.



Bruce Kutosh, Acting Chairman
Borough of Highlands Land Use Board

ON MOTION OF: Mr. Kutosh

SECONDED BY: Mr. Lee

ROLL CALL:

YES: Councilmember Martin, Mr. Kutosh, Mr. Lee, Ms. Nash

NO:

RECUSED: Mayor Broullon, Chief Burton, Chair Knox, Mr. Montecalvo, Ms. Walsh

INELIGIBLE: Vice Chair Tierney, Ms. Chang, Ms. Pendleton

ABSENT: Ms. LaRussa

DATED: October 7, 2021

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Borough of Highlands Land Use Board, Monmouth County, New Jersey, at a public meeting held on October 7, 2021.



Michelle Hutchison, Secretary
Borough of Highlands Land Use Board