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January 30, 2017

HAND DELIVERY

Clerk of Monmouth County
Central Fee Office
Monmouth County Superior Court
71 Monument Park
Freehold, NJ 07728

**Re: Residents for Responsible Development, LLC vs. Borough
Of Red Bank**

Dear Sir/Madam:

This office represents the Plaintiff with regard to the above entitled matter. Accordingly, enclosed herewith please find an original and one copy of the following:

1. Complaint in Lieu of Prerogative Writs
2. Case Information Statement

Kindly file the original and return the copy marked "Filed" in the enclosed self-addressed, stamped envelope. Enclosed herewith please find a check in the amount of \$250.00 for the filing fees.

Very truly yours,

R.S. GASIOROWSKI

RSG:jai
Enclosures

GASIOROWSKI & HOLOBINKO ID#24421968
54 BROAD STREET
RED BANK, NEW JERSEY 07701
(732) 212-9930
Attorney for Plaintiff

RESIDENTS	FOR	RESPONSIBLE:	SUPERIOR COURT OF NEW JERSEY
DEVELOPMENT, LLC,	a	Registered:	LAW DIVISION: MONMOUTH COUNTY
Limited Liability Company of the:			
State of New Jersey,		:	
		:	DOCKET NO.
Plaintiffs		:	
		:	<u>Civil Action</u>
vs.		:	
		:	COMPLAINT IN LIEU OF
BOROUGH OF RED BANK,		:	PREROGATIVE WRITS
		:	
Defendants.		:	
		:	

PLAINTIFF, RESIDENTS FOR RESPONSIBLE DEVELOPMENT, LLC
(hereinafter "RFRD"), is a registered limited liability company of the State of New Jersey made up of taxpayers/residents of Red Bank, by way of Complaint against the Defendant, Borough of Red Bank, says:

IDENTIFICATION OF PARTIES

1. Plaintiff, **RESIDENTS FOR RESPONSIBLE DEVELOPMENT, LLC** (hereinafter "RFRD"), is a registered limited liability company of the State of New Jersey made up of taxpayers/residents of the Borough of Red Bank, all of whom reside or own property or businesses in Red Bank. Plaintiff is an interested party pursuant to the Municipal Land Use Law (MLUL).

2. Defendant, Borough of Red Bank, is a municipal agency organized and governed by the Statutes of the State of New Jersey as well as the MLUL.

ALLEGATIONS COMMON TO ALL COUNTS

1. This Ordinance challenges the Borough's adoption of Ordinance 2016-25. This Ordinance was adopted on December 16, 2016. Publication of same was in the Asbury Park Press on December 17, 2016. This Complaint is filed within the requirements of the Municipal Land Use Law ("MLUL"). Ordinance 2016-25 is attached hereto and incorporated herein as **EXHIBIT A**.

2. Ordinance 2016-25 sought to adopt the Redevelopment Plan attached hereto and incorporated herein as **EXHIBIT B**.

3. The purpose of the Ordinance was to amend the Zoning District Map of the Borough of Red Bank to reflect the re-zoning of the White Street property as purportedly to be recommended by the Redevelopment Plan. Said property is located at 75-79 White Street and identified on the Borough's Official Tax Map as Block 31, Lot 2.01 ("Subject Property").

4. This Ordinance was purportedly adopted in compliance with the Redevelopment Plan; however, the submission of a plan before the Governing Body was not in fact in compliance with neither the Redevelopment Plan nor the Land Use Element of the

Red Bank Master Plan which was passed in 1995. Based on a mistake of fact and law, the Ordinance was adopted in an attempt to create alleged public parking spaces along with private space, commercial use and apartments when in fact the intent of the Master Plan was to create a single municipal parking facility as the primary goal of the intended development of the Subject Property.

5. The property in question is effectively operating as a municipal parking lot servicing not only the needs of business owners on White Street but also those properties located on Monmouth Street as well as the main downtown shopping area on Board Street which in fact is the Central Business Zone for the Borough of Red Bank. The integral goal is to increase the amount of public parking but still maintain the integrity of the neighborhood.

6. This Ordinance was passed by the Governing Body of the Borough of Red Bank without it ever in fact being referred to the parking committee as required for its input and approval despite the fact historically, all such plans have been so referred. The reason being an anticipated negative vote.

FIRST COUNT

1. Plaintiff repeats and reiterates each and every allegation of the previous Paragraphs of the Complaint as if set forth at length herein.

2. Ordinance 2016-25 effects a change in zoning, thus rezoning the property, changing the proposed uses for said property as recommended by the Master Plan.

3. The Summary/Explanation Statement of the content of the Ordinance contained in the public notice does not comply with the requirements of the MLUL and/or N.J.S.A. 40:49-2.1(a); 40:49-2. The notice does not contain sufficient information concerning the nature and scope of the changes to the Borough zoning that would result from the proposed Ordinance.

4. A public hearing was allegedly conducted on the adoption of the Ordinance which was passed on Final Reading on December 16, 2016. The public hearings conducted were lengthy, demonstrating a substantial interest on the part of the residents of said Borough, going on for a significant period of time. While ongoing for at least four hours, the meeting cut short by the proponents of the Ordinance, despite protests from the public and other council members, thus effectively preventing continued public participation.

5. The Borough has a "Borough Form" of Government, there being six (6) Council Members and a Mayor. The Mayor is only able to vote if in fact there is a tie between the six (6) Council members, thus calling for him to cast a vote to break that tie.

6. Despite the historic significance of this Ordinance, there were only five (5) of six (6) Council Members present at the hearing. Those being Council Members Burnham, Zipprich, Schwabenbauer, Taylor and Whelan. Council Member Horgan was not present, but rather left for a vacation out of the country. No attempt was made to record her vote by means other than her presence.

7. Despite the importance of this Ordinance and despite the fact that all parties were aware of the fact that Council Member Horgan had indicated to the Governing Body of her inability to attend the meeting in question, the matter proceeded forward, despite the request of several Council Members that the hearing be continued to a later date.

8. The content of the Ordinance at Second Reading was in fact different from the content of the Ordinance introduced at First Reading; however, despite the fact that attention was called to this inconsistency or difference, the Council

proceeded to conduct the Second Reading of same despite the fact that it should have been treated as simply an introduction at First Reading. The difference resulted in the building being higher than initially contemplated. Counsel was advised this was a de minimus change. In reality an increase in height of the building three (3) stories, those three (3) stories being for a garage which requires higher ceilings than the normal floor of an apartment. Similarly, the first floor commercial requires higher ceilings.

9. Ordinance 2016-25 is in fact inconsistent with the Redevelopment Plan which on Page 3 of said Plan the stated intent was to insure that the aesthetics of the Redevelopment Project were consistent with the character of the neighborhood. The recognized character of the neighborhood was for a majority of two (2) and/or three (3) story buildings. Additionally, the Land Use Element of the Master Plan specifically stated that the development of this proposed garage should not exceed a height of five (5) stories. There were additional inconsistencies with the stated "Redevelopment Plan and Objectives" to Local Objectives.

10. Despite this, the Governing Body approved the plan that specifically provided for a building height of eight (8)

stories. The existing height requirement by the underlying zone is 48 feet. By passing the Ordinance in question, which provides for eight (8) stories, the height could be effectively increased to a height of approximately 100 feet, completely out of character not only with the business commercial buildings located on White Street, but throughout the entire Borough of the downtown shopping area of Red Bank and more specifically on White Street. The entire intent of the Redevelopment Plan was to minimize the visual impact of building area dedicated to parking and other uses and enhance the streetscape; the exact opposite was incorporated into the terms of the approvals of Ordinance 2016-25.

11. The Redevelopment Plan specifically stated that any proposed changes in the uses, specifically including building height would require notice and public hearings in a manner similar in the adoption of the original plan. This was not done.

12. The Ordinance is inconsistent with the Master Plan. The Borough failed to exercise its authority pursuant to N.J.S.A. 40:55D-62 and 65 to promote the general welfare with reasonable consideration to the character of the district in its

particular suitability for particular uses, including failure to comply with N.J.S.A. 40:55D-62(c).

13. The Borough's action is contrary to N.J.S.A. 40:55D-62(a) in that the Borough was required to make an amendment to the Master Plan or indicate the inconsistencies with the Master Plan and explain the reasons in the body of the Ordinance.

14. The adoption of the Ordinance represents determinations made without authority and which are inconsistent with the MLUL, the Master Plan as well as the New Jersey case law it is arbitrary, capricious, unreasonable and otherwise contrary to law.

15. The passage of the Ordinance is improper and not in accordance with the existing statutes of the State of New Jersey, the Ordinances of the Borough of Red Bank, and more particularly as governed by the MLUL and/or the Master Plan of the Borough of Red Bank.

16. As a result of the actions of the Borough, Plaintiff's interest have been damaged and Plaintiff has suffered a manifest injustice.

WHEREFORE, Plaintiff demands judgment against the Defendant invalidating the Ordinance and such other relief as is appropriate.

SECOND COUNT

1. Plaintiff repeats and reiterates each and every allegation of the previous Paragraphs of the Complaint as if set forth at length herein.

2. Defendant failed to give proper notice in accordance with the dictates of the MLUL and other statutes in connection with Ordinance 2016-25.

3. The notice of the Ordinance failed to adequately identify the nature of the Ordinance in accordance with the MLUL and the Ordinance was not adopted in accordance with the MLUL or N.J.S.A. 40:49-2 where the published notice failed to fully identify the property affected by the Ordinance, and/or indicate the nature and scope of the proposed changes such that property owners who may be affected by the proposed Ordinance and property owners throughout the municipality would be aware that the Ordinance will change the boundary lines of the Borough's zoning districts and will rezone the Subject Property.

4. By amending its zoning ordinance without the required notice, the Borough did not have jurisdiction to act and the Ordinance must be invalidated.

5. As a result of the passage of the Ordinance by the Defendants, Plaintiff has been damaged.

WHEREFORE, Plaintiff demands judgment against the Defendant invalidating the Ordinance and such other relief as is appropriate.

THIRD COUNT

1. Plaintiff repeats and reiterates each and every allegation of the previously Paragraphs of the Complaint as if set forth at length herein.

2. Pursuant to N.J.S.A. 40A:12A-7(d), all provisions of the Redevelopment Plan as incorporated in the Ordinance shall be either substantially consistent with the Master Plan or designed to effectuate the Master Plan. The Municipal Governing Body may adopt the Redevelopment Plan Ordinance which is inconsistent with or not designed to effectuate the Master Plan by affirmative vote of a majority of its full authorized membership with the reasons for so acting set forth in the Redevelopment Plan. The vote only contained three (3) not the required four (4) votes. In addition, there was not statement in the Ordinance explaining why it was inconsistent with the Master Plan and the reasons why there was not compliance.

3. Pursuant to N.J.S.A. 40A:12A-7(e), prior to the adoption of a Redevelopment Plan, or revision or amendment thereto, the Planning Board shall transmit to the Governing

Body, within 45 days after referral, a report containing its recommendation concerning the Redevelopment Plan.

4. The report shall include an identification of any provisions in the proposed Redevelopment Plan and/or Amendment which are inconsistent with the Master Plan and recommendations concerning these inconsistencies and any other matters as the Board deemed appropriate. The Governing Body, when considering the adoption of a Redevelopment Plan, or a revision or amendment thereof, shall review the report of the Planning Board and may approve or disapprove or change any recommendation by voting majority or its full authorized membership and shall record in its minutes the reasons for not following the recommendations.

5. Pursuant to N.J.S.A. 40A:12A-7, et seq. a Redevelopment Plan must also include an outline for the planning development, redevelopment, or rehabilitation of project area sufficient to indicate its relationship to definite local objectives as to appropriate land uses, density of population, and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements; proposed land uses and building requirements in the project area; identification of any properties in the Redevelopment Area which is proposed to be

acquired in accordance with the Redevelopment Plan; and any significant relationship of the Redevelopment Plan to the Master Plan of contiguous municipalities, the Master Plan of the County in which the municipality is located and the State Department of Redevelopment Plan adopted pursuant to the State Planning Act.

6. The Borough failed to follow the procedural and substantive provisions relative to the adoption of a Redevelopment Plan or any revision or amendment thereto, including but not limited to the failure of the Committee to follow the referral requirements of N.J.S.A. 40A:12A-7(e) and failure to describe the Redevelopment Plan and/or its amendments relationship to the pertinent Municipal Regulations and to be substantially consistent with the Master Plan.

7. Pursuant to N.J.S.A. 40A:12A-7, the Redevelopment Plan must also describe its relationship to pertinent Municipal Development Regulations as defined in the MLUL and further requires notice for the adoption of ordinances by a municipality.

8. Ordinance #1579 as to the purported amendment to the Redevelopment Plan failed to comply with these and other procedural and substantive provisions of the LRHL.

WHEREFORE, Plaintiff demands judgment against the Defendants, as follows:

- a. An Order setting aside and voiding Ordinance #1579
- b. An Order setting aside and voiding the purported amendment to the Redevelopment Plan adopted by Ordinance #1579;
- c. Attorney fees
- d. Costs of suit and any such other relief as the Court deems equitable and just.

FOURTH COUNT

1. Plaintiff repeats and reiterates each and every allegation of the previous Paragraphs of the Complaint as if set forth at length herein.

2. The passage of the subject Ordinance by the Defendants was arbitrary, capricious, unreasonable, void, *ultra vires*, contrary to the statutory obligations and the lawful rights of Plaintiff and otherwise contrary to law for the following reasons:

- a. The reasons for the adoption are not recorded in the minutes and, the stated reasons on the record for said adoption are contrary to public interest and not substantially consistent with the Master Plan of the municipality.

- b. The Ordinance relieves a burden on a specific piece of property where such action is not created in accordance with a comprehensive plan designed to promote the general welfare.
- c. The decision of the Defendants represents *ad hoc* decision making.
- d. The Ordinance does not have a valid purpose and fails to promote any other purposes of the MLUL as set forth in N.J.S.A. 40:55D-2.
- e. The adoption of the Ordinance is not consistent with the planning objectives of the Master Plan and/or the Land Use Plan Map and does not serve a valid municipal purpose and is not created in accordance with the comprehensive plan designed to promote general welfare.
- f. Defendants failed to comply with the notice provisions of the MLUL and Statutes of the State of New Jersey and as such the Borough had no jurisdiction to act and the Ordinance is invalid and void as a matter of law.
- g. The Borough failed to adhere to N.J.S.A. 40:55D-62 et seq. where the Borough failed to adopt the Ordinance by affirmative vote of a majority of the full

authorized membership of the governing body with the reasons of the governing body for so acting set forth in a resolution recorded in its minutes.

WHEREFORE, Plaintiff demands judgment against the Defendant invalidating the Ordinance and such other relief as is appropriate.

FIFTH COUNT

1. Plaintiff repeats and reiterates each and every allegation of the previous Paragraphs of the Complaint as if set forth at length herein.

2. The summary/explanatory statement of the content of Ordinance contained in the published notice does not comply with the requirements of the Municipal Land Use Law ("MLUL") and/or N.J.S.A. 40:49-2.1(a); 40:49-2 as the notice does not contain sufficient information concerning the nature and scope of the changes to the Borough zoning that would result from the adoption of the proposed Ordinance, nor was notice provided to surrounding property owners and/or municipalities as mandated by N.J.S.A. 40:55D-62.1 where there is a change in classification or boundary lines such as effected by Ordinance and the description of the property affected is misleading.

3. A public hearing was allegedly conducted on the adoption of the Ordinance which was passed on Final Reading on December 16, 2016. At no time was there a presentation of reasons, either historical or planning for the zone change nor did the notice of the hearing inform the public of the property affected, of the changes or adequately advise the nature or scope of the changes or that the proposed ordinance was changing the use of the Property and that the ordinance affects the zoning of the Subject Property.

4. The Ordinance is inconsistent with the Master Plan and the Borough failed to exercise its authority pursuant to N.J.S.A. 40:55D-62 and 65 to promote the general welfare with reasonable consideration to the character of the district and its particular suitability for particular uses, including failure to comply with N.J.S.A. 40:55D-62(c).

WHEREFORE, Plaintiff demands judgment against the Defendant invalidating the Ordinance and such other relief as is appropriate.

GASIOROWSKI & HOLOBINKO
Attorney for Plaintiff

BY: _____
R. S. GASIOROWSKI, ESQ.

DATE: January 30, 2017

CERTIFICATION PURSUANT TO R. 4:5-1

The matter in controversy is not the subject of any other pending or contemplated action; and there are no other parties who should be joined in this action. Also, to the best of my knowledge and belief no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this Complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.

GASIOROWSKI & HOLOBINKO
Attorney for Plaintiff

BY: R. S. GASIOROWSKI, ESQ.

DATE: January 30, 2017

CERTIFICATION PURSUANT TO R. 1:38-7 (b)

I certify that confidential personal identifiers have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, R. S. Gasiorowski, Esq. is designated as trial counsel on behalf of Plaintiff.

GASIOROWSKI & HOLOBINKO
Attorney for Plaintiff

BY: _____
R. S. GASIOROWSKI, ESQ.

DATE: January 30, 2017

CERTIFICATION PURSUANT TO R.4:69-4

R.S. Gasiorowski, an attorney-at-law of the State of New Jersey, hereby certifies:

1. I am counsel for the plaintiff herein.
2. I have caused to be ordered all necessary transcripts of local agency proceedings relative to the above matter.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

GASIOROWSKI & HOLOBINKO
Attorney for Plaintiff

BY: _____
R. S. GASIOROWSKI, ESQ.

Dated: January 30, 2017

EXHIBIT A

ORDINANCE NO. 2016-25

AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY ADOPTING A REDEVELOPMENT PLAN FOR THE PROPERTY COMMONLY KNOWN AS THE WHITE STREET PARKING LOT LOCATED AT 75-79 WHITE STREET AND IDENTIFIED ON THE BOROUGH'S OFFICIAL TAX MAP AS BLOCK 31, LOT 2.01

Councilman Whelan offered the following ordinance and moved its adoption:

WHEREAS, on January 27, 2016, the Borough Council adopted Resolution 16-32 directing the Planning Board to undertake a preliminary investigation to determine the real property commonly known as the White Street parking lot located at 75-79 White Street, Red Bank, New Jersey and identified on the Borough's tax map as Block 31, Lot 2.01 (the "White Street Property") meets the statutory criteria to be designated as a "Non-Condemnation Area In Need Of Redevelopment" under the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "LRHL"); and

WHEREAS, the Planning Board held a public hearing regarding the preliminary investigation of the White Street Property on June 6, 2016 and the Planning Board subsequently adopted a resolution recommending that the Borough Council designate the Front Street Property as a "Non-Condemnation Area In Need Of Redevelopment" under the LRHL; and

WHEREAS, the Borough Council reviewed the Planning Board's recommendations and adopted Resolution 16-189 determining that the White Street Property is a "Non-Condemnation Area In Need of Redevelopment" under the LRHL; and

WHEREAS, the Borough has prepared a proposed redevelopment plan for the White Street Property; and

WHEREAS, the Borough Council has reviewed the redevelopment plan and has considered the recommendations of the Planning Board and any public comment; and

WHEREAS, the Borough Council has determined that it is in the public interest to adopt the redevelopment plan for the White Street Property.

NOW, THEREFORE, BE IT ORDAINED by the governing body of the Borough of Red Bank, County of Monmouth, State of New Jersey as follows:

1. The Borough Council hereby adopts the Redevelopment Plan attached hereto as **Exhibit A** and incorporated herein. The Redevelopment Plan shall supersede all previous zoning standards and development regulations for the White Street Property.
2. The Borough Council hereby amends the zoning district map of the Borough of Red Bank to reflect the rezoning of the White Street Property by the Redevelopment Plan.
3. This Ordinance shall take effect immediately upon final adoption and publication as required by law.

Seconded by Councilman Taylor and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Councilwoman Burnham	()	(x)	()	()
Councilman Zipprich	()	(x)	()	()
Councilwoman Horgan	()	()	()	(x)
Councilwoman Schwabenbauer	(x)	()	()	()
Councilman Taylor	(x)	()	()	()
Councilman Whelan	(x)	()	()	()

Dated: December 14, 2016

AFFIDAVIT OF PUBLICATION

Publisher's Fee \$22.50 Affidavit \$35.00

State of New Jersey } SS.
Monmouth/Ocean Counties

Personally appeared

Denise Carney

Of the **Asbury Park Press**, a newspaper printed in Freehold, New Jersey and published in Neptune, in said County and State, and of general circulation in said county, who being duly sworn, depose and saith that the advertisement of which the annexed is a true copy, has been published in the said newspaper 1 times, once in each issue as follows:

12/17/16 A.D 2016

Kathleen A. Gibson

Sworn and subscribed before me, this 17 day of
December, 2016

Denise Carney

Ad Number: 0001802387



BOROUGH OF RED BANK

NOTICE

ORDINANCE NO. 2016-25

PLEASE TAKE NOTICE that, at a regularly scheduled meeting of the Mayor and Borough Council of the Borough of Red Bank, Monmouth County, New Jersey held on December 14, 2016 Ordinance #2016-25 entitled: "AN ORDINANCE ADOPTING A REDEVELOPMENT PLAN FOR THE PROPERTY COMMONLY KNOWN AS THE WHITE STREET PARKING LOT LOCATED AT 75-79 WHITE STREET AND IDENTIFIED ON THE BOROUGH'S OFFICIAL TAX MAP AS BLOCK 31, LOT 2.01" passed final reading and was adopted after a public hearing thereon. Copies of this ordinance are available at the Borough Clerk's Office, 4th Floor, 90 Monmouth Street or on line at www.redbanknj.org.

PAMELA BORGHI
MUNICIPAL CLERK

(\$22.50)

0001802387-01

EXHIBIT B

Redevelopment Plan White Street Municipal Parking Lot Block 31, Lot 2.01

**75-79 White Street
Red Bank, New Jersey**

Prepared for:

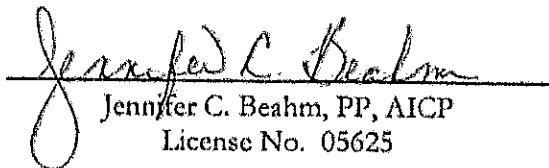
**The Borough of Red Bank
Monmouth County, New Jersey**

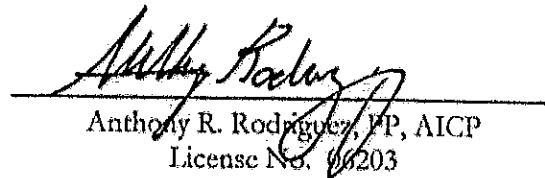
October 2016

Prepared By:



**1460 Route 9 South
Howell, New Jersey 07731
(732) 462-7400**


Jennifer C. Beahm, PP, AICP
License No. 05625


Anthony R. Rodriguez, PP, AICP
License No. 06203

The original document was appropriately signed and sealed in accordance with NJAC 13:41

NOV 22 2016

Red Bank Borough Council

Mayor Pasquale Menna
Council President Cindy Burnham
Councilwoman Kathleen Horgan
Councilman Edward Zipprich
Councilwoman Linda Schwabenbauer
Councilman Mark Taylor
Councilman Michael Whelan

Planning Board

John Cash, Chairman
Daniel Mancuso, Vice Chairman
Mayor Pasquale Menna
Councilman Michael Whelan
Stanley Sickels
Louis DiMento
Dr. Guy Maratta
Arthur V. Murphy
John Goode
Barbara Boas
Linda Cohen, Alternate No. 1
Juanita Lewis, Alternate No. 2

Christine Ballard, Board Engineer
Michael Leckstein, Board Attorney
Dina Anastasio, Board Secretary

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INTRODUCTION

On January 27, 2016, the Red Bank Borough Council adopted Resolution No. 16-32 directing the Borough Planning Board to undertake a preliminary investigation to determine whether Block 31, Lot 2.01, commonly known as the White Street Municipal Parking Lot (the "Study Area"), met the statutory criteria to be designated as a "Non-Condernnation Area in Need of Redevelopment" pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40:12A-1 et seq. (the "LRHL"). On March 23, 2016, the Red Bank Borough Council adopted Resolution No. 16-90 directing the Borough Planning Board to include Block 30, Lot 10.01, located at 55 West Front Street (the "Front Street Property"), within the Study Area. The Planning Board completed a preliminary investigation report for the Study Area on May 20, 2016 and subsequently held a public hearing on July 6, 2016 to review the findings of the report and to provide an opportunity for public comment in accordance with the requirements of the LRHL. At the completion of the public hearing, the Planning Board recommended that the Borough Council designate the Study Area as a "Non-Condernnation Area in Need of Redevelopment" pursuant to the LRHL. The Borough Council subsequently adopted a resolution on July 13, 2016 designating the Study Area as a "Non-Condernnation Area in Need of Redevelopment" in accordance with the Planning Board's recommendation.

This Redevelopment Plan ("Redevelopment Plan" or "Plan") is intended to govern the redevelopment of the White Street Municipal Parking Lot (sometimes referred to herein as the "White Street Lot" or the "Redevelopment Area"). The White Street Lot is located in the northerly portion of the Borough between White Street, Monmouth Street, Broad Street and Maple Avenue (New Jersey State Route 35). The Plan establishes permitted land uses, bulk and area requirements, and design standards for any proposed development of the Redevelopment Area.

STATUTORY REQUIREMENTS

This Plan and the provisions herein have been prepared pursuant to Section 7 of the LRHL (N.J.S.A. 40A:12A-7), which provides that "no redevelopment project shall be undertaken or carried out except in accordance with a redevelopment plan adopted by ordinance of the municipal governing body, upon its finding that the specifically delineated project area is located in an area in need of redevelopment...according to criteria set forth in section 5...as appropriate." Pursuant to the requirements of the LRHL, this Redevelopment Plan includes an outline for the planning, development, redevelopment, or rehabilitation of the redevelopment area sufficient to indicate:

- Its relationship to definite local objectives as to appropriate land uses, density of population and improved traffic and public transportation, public utilities, recreational and community facilities, and other public improvements.
- Proposed land uses and building requirements in the redevelopment area.
- Adequate provision for the temporary and permanent relocation, as necessary, of residents in the redevelopment area, including an estimate of the extent to which decent,

safe and sanitary dwelling units affordable to displaced residents will be available to them in the existing local housing market.

- An identification of any property within the redevelopment area proposed to be acquired in accordance with redevelopment plan;
- Any significant relationship of the redevelopment plan to:
 - (a) The Master Plans of contiguous municipalities;
 - (b) The Master Plan of the County in which the municipality is located, and;
 - (c) The State Development and Redevelopment Plan (the "SDRP") adopted pursuant to the "State Planning Act," P.L. 1985, c.398 (C.52:18A-196 et al.).
- As of the date of the adoption of the resolution finding the area to be in need of redevelopment, an inventory of all housing units affordable to low and moderate income households, as defined pursuant to section 4 of P.L.1985,c.222 (C.52:27D-304), that are to be removed as a result of implementation of the redevelopment plan, whether as a result of subsidies or market conditions, listed by affordability level, number of bedrooms, and tenure.
- A plan for the provision, through new construction or substantial rehabilitation of one comparable, affordable replacement housing unit for each affordable housing unit that has been occupied at any time within the last 18 months, that is subject to affordability controls and that is identified as to be removed as a result of implementation of the redevelopment plan. Displaced residents of housing units provided under any State or federal housing subsidy program, or pursuant to the "Fair Housing Act," P.L.185,c.222 (C.52:27D-301 et al.), provided they are deemed to be eligible, shall have first priority for those replacement units provided under the plan; provided that any such replacement unit shall not be credited against a prospective municipal obligation under the "Fair Housing Act," P.L.185,c.222 (C.52:27D-301 et al.), if the housing unit which is removed had previously been credited toward satisfying the municipal fair share obligation. To the extent reasonably feasible, replacement housing shall be provided within or in close proximity to the redevelopment area. A municipality shall report annually to the Department of Community Affairs on the progress in implementing the plan for the provision of comparable, affordable replacement housing required pursuant to this section.

The LRHL provides that "a redevelopment plan may include the provision of affordable housing in accordance with the "Fair Housing Act," P.L. 1985, c.222 (C.52:27D-301 et al.) and the housing element of the municipal master plan." Finally, the Plan is required to describe its relationship to pertinent municipal development regulations, and must note whether the provisions of the Plan supersede applicable provisions of the development regulations of the municipality or constitute an overlay zoning district.

major project

DESCRIPTION OF REDEVELOPMENT AREA

The Redevelopment Area governed by this Plan is approximately 2.29 acres in area and is comprised of the following properties:

- Block 31, Lot 2.01 (75-79 White Street)

The Redevelopment Area is bordered by White Street to the north and Monmouth Street to the south and is located between Maple Avenue (New Jersey State Route 35) and Broad Street. The Redevelopment Area is located adjacent to the westerly edge of the Borough's central business district and is within walking distance of the Red Bank Train Station.

REDEVELOPMENT PLAN OBJECTIVES AND RELATIONSHIP TO LOCAL OBJECTIVES

This Redevelopment Plan provides standards to facilitate the redevelopment of an existing surface parking lot owned and operated by the Borough. The objectives of the Redevelopment Plan are as follows:

- Effectuate the redevelopment of an obsolete and inadequate surface parking lot to increase the Borough's supply of public parking.
- Increase activity on White Street by providing for a mix of uses within the Redevelopment Area, improving the streetscape, and providing the opportunity for the development of public space along the Redevelopment Area's frontage on White Street.
- Facilitate access to public parking from White Street and Monmouth Street in a manner that preserves the free flow of traffic and along these roadways.
- Enhance vehicular connectivity across White Street and existing pedestrian connections between White Street and Monmouth Street.
- Provide for flexibility and creativity with respect to design of buildings and improvements within the Redevelopment Area while ensuring that the aesthetics of redevelopment project(s) are consistent with the character of the neighborhood and the Borough.
- Provide for the redevelopment of the Redevelopment Area in a manner consistent with the Red Bank Borough Master Plan, Monmouth County Planning documents, and the State Development and Redevelopment Plan.

The Redevelopment Plan objectives articulated above are consistent with and seek to advance the goals of the Borough Master Plan and SDRP as discussed herein.

LAND USE PLAN

Relationship to Zoning and Land Development Regulations

In order to implement the Plan consistent with the objectives herein, the Redevelopment Area shall be redeveloped in accordance with the standards detailed in this Redevelopment Plan. Except where otherwise noted, this Plan supersedes the underlying use, bulk, and design standards of the Borough's Planning and Development Regulations as they relate to the area governed by this Redevelopment Plan. The definitions of the Red Bank Borough Planning and Development Regulations shall apply except as otherwise noted herein.

Land Use and Building Requirements

Permitted Principal Uses

1. Multifamily dwellings and apartment uses.
2. Professional and business offices.
3. Retail commercial uses except as prohibited herein.
4. Personal service uses except as prohibited herein.
5. Hotels.
6. Health clubs.
7. Primary food service establishments.
8. Retail food establishments.
9. Common open space and public areas including public plaza, seating areas, public art, and mini parks.
10. Entertainment and amusement uses including bowling alleys, theaters, arcades, nightclubs, primary liquor-service establishments, or other similar use subject to the approval of the Planning Board.

Prohibited Uses

1. Adult oriented businesses.
2. Boardinghouses and lodging houses.
3. Bulk storage.
4. Drive through facilities.
5. Fast-food establishments.
6. Gas stations.
7. Junkyards.
8. Light Manufacturing.
9. Manufacturing.
10. Massage parlors.
11. Motels.
12. Motor vehicle diagnostic and service facilities.
13. Motor vehicle repair garages.
14. Motor vehicle service stations.
15. Self-service laundry or self-service dry cleaning shops.
16. Shops which offer for sale firearms and/or ammunition.

17. Tattoo parlors/body piercing.
18. Thrift stores, secondhand, pawn and consignment shops.

Permitted Conditional Uses

1. None.

Required Accessory Uses

1. Vertical parking garage operated as a public garage.

Permitted Accessory Uses

1. Leasing offices associated with residential development.
2. Resident amenities for private use by residents such as common terraces/decks/gardens, tenant storage areas, private fitness centers, business centers, and interior common areas.
3. Signs as regulated pursuant to §490-104.
4. Sidewalk cafes as regulated pursuant to Chapter 562.
5. Any other use that is deemed by the Planning Board to be customary, incidental, and accessory to the principal uses or structures permitted herein.

Lot and Building Requirements

1. Maximum building setback from White Street: 10 feet
2. Maximum number of stories: 8 stories
3. Maximum number of stories without incorporating step-backs: 4 stories → ?
4. Minimum step-back from ground floor building footprint: 15 feet
5. Maximum Floor Area Ratio (FAR)¹: 2.0
6. Minimum gross habitable floor area for residential uses:
 - a. Studio unit: 450 square feet
 - b. One Bedroom unit: 500 square feet
 - c. Two Bedroom unit: 650 square feet
 - d. Three Bedroom unit: 800 square feet
7. Minimum open space requirement: 10 percent. Landscaped and lawn areas and areas dedicated to public use may be included in the calculation of open space, except that landscaped islands within any parking area shall not be counted toward satisfying this requirement.

Off-Street Parking, Loading and Circulation Requirements

1. Off-street parking shall be provided in a vertical parking garage in accordance with the provisions of §490-98 of the Borough Planning and Development Regulations and the provisions of this Redevelopment Plan. The vertical parking garage shall:

¹ Floor area dedicated to parking shall be excluded from this calculation.

Joke

- a. Provide a minimum of 550 public parking spaces.
 - b. Provide off-street parking to serve any residential use or hotel pursuant to the requirements of §490-98.O and the Residential Site Improvement Standards (RSIS).
 - c. All other uses shall be exempt when calculating the parking requirement associated with any proposed redevelopment project(s).
2. Vehicular access shall be provided from both White Street and Monmouth Street. A maximum of two (2) access driveways shall be permitted along each roadway.
 3. At least one driveway providing access to public parking shall be oriented to align with the White Street ingress/egress driveway of English Plaza. ?
 4. Vehicle entrances to the vertical parking garage shall not front directly upon White Street.
 5. Off-street loading shall be provided in accordance with the provisions of §490-97 of the Borough Planning and Development Regulations. Provision shall be made to preserve access to existing loading areas at the rear of buildings that front along Monmouth Street.
 6. Redevelopment shall incorporate pedestrian facilities that provide continuous north-south pedestrian access between English Plaza, the Redevelopment Area, and Monmouth Street. The utilization of existing pedestrian walkways and alleys adjacent to the Redevelopment Area is encouraged.

Design Standards

Redevelopment of the Redevelopment Area shall comply with the following design standards:

1. Mixed use development within the Redevelopment Area is required. Retail commercial, personal service uses, and primary food-service establishments shall be required on the ground floor along White Street for a minimum depth of thirty (30) feet as measured from the building façade fronting upon White Street.
2. All building(s) shall be oriented such that a principal entrance from White Street is provided for each use. Secondary entrances from parking areas and pedestrian walkways are permitted subject to the approval of the Planning Board.
3. The redevelopment of the Redevelopment Area shall take into account the character of the surrounding neighborhood and streetscape. Redevelopment project(s) shall be designed in a manner that:
 - a. Utilizes materials and architectural elements that complement and are compatible with the built environment along White Street, Monmouth Street, and Broad Street. The design of building(s) shall:

- i. Utilize high quality, durable architectural materials such as brick, brick veneer, pre-cast stone, masonry, fiber cement siding, glass, and metal. Exterior Insulation Finishing Systems (EIFS), stucco, and concrete masonry units (CMUs) shall be prohibited as finishing materials.
 - ii. Incorporate a complementary color palette that utilizes neutral shades. The façade finishes may incorporate accent colors provided that such accent colors are compatible with primary finishes and all other color selections.
 - b. Incorporates step backs, façade articulation and fenestration in a manner that is sensitive to the built environment and reduces the overall perceived mass of any building(s). Façade step-backs shall be required on any floor above the fourth story as measured from the ground floor.
 - c. Hybridizes the provision of public parking with a mix of commercial, office, and residential uses along White Street in order to minimize the visual impact of building area dedicated to parking and enhance the streetscape.
4. Architectural elements and treatments shall be provided along all building façades to provide a visually interesting design aesthetic and shall be subject to the review and approval of the Borough Planning Board. Architectural treatments may include any combination of:
- a. Awnings or canopies over building entrances, exits and ground floor storefront windows. Awnings or canopies may be constructed in a hard "marquee" style or in a soft "awning" style consisting of a metal frame clad with fabric. Vinyl and plastic awning coverings are prohibited.
 - b. Window sills and lintels.
 - c. Parapets.
 - d. Ornamental cornices.
 - e. Decorative metalwork
 - f. Horizontal belt courses between stories.
 - g. Balconies and terraces.
 - h. Wall breaks and projections along building façades.
 - i. Changes in finish materials provided that heavier finish materials (e.g., pre-cast stone or brick) are located below lighter finish materials (e.g. siding). In the event that materials consist of materials of similar perceived weights, the material with the largest surface area per unit, as measured along the finished building façade, shall be placed below materials with smaller surface areas per unit.
5. All trash, recycling, and storage of refuse shall be fully enclosed within the proposed building(s), except that staging shall be allowed in designated areas outside on pick up days. Permanent outside storage of trash, recycling, or other refuse shall be prohibited.
6. Directional and safety signage shall be provided in accordance with applicable standards to ensure ease and safety of vehicular and pedestrian circulation throughout the site.

7. All lighting within the Redevelopment Area shall be provided in accordance with the applicable provisions of the Borough Planning and Development Regulations and shall be subject to the approval of the Board Engineer.
8. Any application for development shall include a detailed Traffic Statement, which shall address impacts associated with the proposed project on the existing roadway network. The report shall address adequacy of service levels at access points, adequacy of existing signalized intersections, vehicular and pedestrian circulation throughout the site, and the adequacy of proposed parking and loading areas.

PLANNING RELATIONSHIP

Red Bank Borough Master Plan

Pursuant to the LRHL, "all provisions of the Redevelopment Plan shall be either substantially consistent with the municipal master plan or designed to effectuate the master plan." (N.J.S.A. 40A:12A-7d).

The Borough's most recent Master Plan was adopted in 1995. The Borough Planning Board subsequently adopted Master Plan Reexamination Reports in 2002, 2008, and 2009. The Borough adopted its most recent Housing Plan Element and Fair Share Plan in 2010.

The 1995 Master Plan established several goals pertaining to the development and redevelopment of the Borough including:

- Develop in higher density mixed-use centers that accommodate the varied housing types, employment, retail and support services, the use of alternative modes of transportation; and
- As part of the larger goal of expanding the commercial tax base, the Downtown should grow and thrive. Development should be encouraged, historic structures and areas should be protected, and a true mix of uses that includes a variety of residences should occur.

The Master Plan Reexamination Reports prepared and adopted subsequent to the 1995 Master Plan recognize that the objectives and policies of the 1995 Master Plan continue to remain appropriate. The 2002 Master Plan Reexamination Report noted that "insufficient parking continues to be a problem" and that "Heightened emphasis on providing adequate parking and improved traffic flow is an important issue to focus on as the Borough moves forward." Indeed, all of the Borough's Master Plan Reexamination Reports note the Borough's land use boards have been reluctant to approve applications where adequate parking is not provided.

The Borough's most recent Housing Plan Element and Fair Share Plan, adopted in 2010, notes that the Borough established the Affordable Housing Overlay Zone – 1 (AH-1) as a result of a motion brought by the Fair Share Housing Center before COAH in September of 2008. The Plan notes that the goal of the AH-1 District is to develop as much affordable housing as possible to meet the Borough's unmet need. The Redevelopment Area is located within the AH-1 Overlay Zone.

This Redevelopment Plan sets forth standards that will facilitate the construction of a mixed use development that includes a significant increase in the number of public parking spaces while providing adequate parking to serve any residential or hotel component that may be developed as part of any redevelopment project(s). This Redevelopment Plan provides standards that will contribute to the growth of the Borough's Downtown and provide a true mix of uses. This Redevelopment Plan also contains requirements ensuring the provision of an affordable housing component to the project. With this in mind, the Redevelopment Plan and standards herein are substantially consistent with the Borough Master Plan and will effectuate the goals and objectives of the Master Plan.

Contiguous Municipalities

Red Bank Borough is bordered by the Navesink River and Middletown Township to the north and west, the Borough of Fair Haven to the east, and the Boroughs of Little Silver, Shrewsbury, and Tinton Falls to the south. However, the Redevelopment Area is not located in close proximity to any of the Borough's contiguous municipalities, and thus will have a negligible effect on any Master Plan of these municipalities.

Monmouth County

The Monmouth County Growth Management Guide was adopted by the County Planning Board in 1995. The Growth Management Guide established several goals and objectives to guide planning and development within the County. Many of the goals and objectives established by the Growth Management Guide remain relevant despite the relative age of the document. This Redevelopment Plan and the goals and objectives established herein serve to further the following goals and objectives of the Monmouth County Growth Management Guide:

- Promote land use planning that encourages the use of transit, walking and cycling, and the creation of centers in order to improve air quality by reducing automobile trips and congestion.

This Redevelopment Plan establishes standards for the redevelopment of a Redevelopment Area located proximate to the Borough's Downtown. The redevelopment of the Redevelopment Area will provide the opportunity for a "park once and walk" arrangement for visitors and will provide significant opportunities for walking and cycling to nearby destinations for residents and visitors alike. Furthermore, the Redevelopment Area is located less than one-half of one mile from the Red Bank Train Station, which provides access to local and regional transit options via bus and rail. The redevelopment of the redevelopment area serves to promote the use of public transit while capitalizing on the walkability of the Borough's Downtown.

- To promote new and revitalize older urban areas into well designed mixed use centers with an easily accessible compact but varied core of residential, commercial, and community services which provide employment and create a specific identity.

The Redevelopment Plan promotes the continued revitalization and enhancement of the Borough's Downtown and serves to promote the Borough's easily accessible, compact,

and varied core, which contains a robust mix of uses. Redeveloping the Redevelopment Area will serve to enhance the Borough's character and identity while facilitating ease of access to increase and modernized public parking.

- To provide housing opportunities for all residents of Monmouth County.

The Redevelopment Plan provides regulations that permit the development of multifamily residential uses that will serve to diversify the housing stock and opportunity for housing within the Borough.

The Coastal Monmouth Plan, prepared by the Monmouth County Planning Department in 2007 and revised in 2010, recognizes Red Bank as a Regional Center in accordance with the designation of the Office of Smart Growth, Department of Community Affairs. The Coastal Monmouth Plan also recognizes that the Borough's population will continue to grow at a substantial rate. This Redevelopment Plan provides provisions to:

- Facilitate the development of additional public parking to meet the demand resulting from the Borough's status as a Regional Center;
- Encourage the development of housing to accommodate the Borough's anticipated population growth; and
- Enhance the mix of uses contained within the Borough's mixed use center.

Therefore, this Redevelopment Plan is consistent with the provisions of the Coastal Monmouth Plan.

State Development and Redevelopment Plan

The State Plan Policy Map and State Development and Redevelopment Plan (SDRP) classify all of Red Bank Borough as a Metropolitan Planning Area (PA-1). According to the State Plan, the Metropolitan Planning Area is intended to provide for much of the state's future development and redevelopment; revitalize cities and towns; promote growth in compact forms; stabilize older suburbs; redesign areas of sprawl; and protect the character of existing stable communities. Further, the SDRP envisions the Metropolitan Planning Area as an area to promote compact development forms and protect natural resources.

The Redevelopment Area is located in an existing urbanized area characteristic of the Metropolitan Planning Area. Existing infrastructure is readily available to serve the Redevelopment Area and the Redevelopment Area is located proximate to a wealth of transportation choices.

The goals, objectives, and provisions of this Redevelopment Plan are intended to guide the redevelopment of the Redevelopment Area in a manner consistent with the State Plan policies established for the Metropolitan Planning Area. The Redevelopment Plan provides provisions to encourage a mix of uses while requiring the development of a new, state of the art public parking facility. The Plan serves to revitalize an obsolete surface parking lot and promote growth in

compact forms. Redeveloping the Redevelopment Area will also serve to expand housing to attract a balanced residential population in a manner consistent with the traditional urban fabric.

ADMINISTRATIVE AND PROCEDURAL REQUIREMENTS

Acquisition and Relocation

The Redevelopment Area governed by this Redevelopment Plan is a Non-Condensation Redevelopment Area owned by the Borough of Red Bank. The Redevelopment Area does not contain any residential uses. Therefore, provisions related to acquisition and relocation assistance are not required. In the event that it is determined that relocation assistance is necessary, the Borough will provide the appropriate relocation assistance pursuant to applicable State and Federal law as necessary.

Inventory and Replacement of Affordable Housing

The Redevelopment Area governed by this Redevelopment Plan contains no housing units affordable to low and moderate income households, as defined pursuant to section 4 of P.L.1985, c.222 (C.52:27D-304). No affordable units will be removed as a result of implementation of this Redevelopment Plan. For that reason, the Borough is not required to plan for the provision of new or substantially rehabilitated affordable housing as a result of the implementation of this Redevelopment Plan.

Amending the Redevelopment Plan

Upon compliance with the requirements of applicable law, the Borough Council may amend, revise, or modify the Redevelopment Plan in general or for specific properties within the Redevelopment Area as circumstances may make such changes appropriate. The review and approval of any proposed amendments shall be undertaken in accordance with the procedures set forth in the LRHL. Any proposed changes in permitted uses, the land use plan, building height, or other core design concepts of this Plan shall require notice and public hearings in a manner similar to the adoption of the original Plan.

Redevelopment Powers

The Borough may also use any and all redevelopment powers granted to it pursuant to the LRHL to effectuate this Plan, except that the use of eminent domain shall be prohibited. The Borough may enter into agreements with a designated redeveloper(s) in connection with the construction of any aspect of the Redevelopment Plan, including off-site improvements.

Conveyance of Land

The Borough may sell, lease, or otherwise convey to a redeveloper for redevelopment, subject to restrictions, controls and requirements of the Redevelopment Plan, all or any of the properties designated in need of redevelopment within the designated Redevelopment Area that it owns or may acquire via means other than eminent domain. The Borough may also use its redevelopment

powers pursuant to the LRHL to enter into other agreements with a designated redeveloper or redevelopers in connection with the implementation of the Redevelopment Plan.

Duration of the Plan

The Redevelopment Plan, as it may be amended from time to time, shall be in full force and effect upon its adoption by ordinance by the Borough Council and shall be in effect until the redevelopment of the Redevelopment Area is completed as evidenced by the issuance by the Borough of a certificate of project completion in accordance with the Redevelopment Plan.

REDEVELOPER OBLIGATIONS

Redevelopment under the terms of this Redevelopment Plan shall only be undertaken pursuant to a redevelopment agreement entered into between the Borough and the designated redeveloper. The following restrictions and controls on redevelopment shall apply notwithstanding the provisions of any zoning or building ordinance or other regulations now or hereafter in force:

- The redeveloper will be obligated to carry out the specified improvements in accordance with this Redevelopment Plan.
- The redeveloper, its successors or assignees shall develop the Redevelopment Area in accordance with the uses and building requirements specified in the Redevelopment Plan.
- Until the required improvements are completed and a certificate of completion is issued, the redeveloper covenants provided for in N.J.S.A. 40A:12A-9 and imposed in any redevelopment agreement, lease, deed or other instruments shall remain in full force and effect.
- The redevelopment agreement(s) shall contain provisions to assure the timely construction of the redevelopment project, the qualifications, financial capability and financial guarantees of the redeveloper(s) and any other provisions necessary to assure the successful completion of the project.

AFFORDABLE HOUSING REQUIREMENTS

The redeveloper shall provide for an affordable housing component to the project so as to contribute towards the Borough's constitutional fair share obligation through any lawful mechanism recognized by the Fair Housing Act and the Council on Affordable Housing's implementing regulations as agreed upon by the Borough. Compliance with this requirement shall be included in any redevelopment agreement(s) entered into by the Borough and the designated redeveloper(s).

PLANNING BOARD REVIEW PROCESS

Pursuant to N.J.S.A. 40A:12A-13, all development applications for development of sites governed by this Redevelopment Plan shall be submitted to the Planning Board for review and approval. The following provisions shall govern review of any proposed redevelopment projects for the redevelopment area:

- No building or zoning permit shall be issued by the construction or zoning official for any work resulting in a change of intensity of development or change of use for any properties or buildings within the area of the Redevelopment Plan without prior review and approval of the work by the Borough Council and the Planning Board.
- Regular maintenance and minor repair shall not require Planning Board review and approval.
- The Planning Board shall conduct site plan and subdivision review, if applicable, pursuant to N.J.S.A. 40:55D-1 et seq. and the Borough Planning and Development Regulations.
- As part of site plan approval, the Planning Board may require the redeveloper to furnish performance guarantees pursuant to N.J.S.A. 40:55D-53 and as required in the Borough Planning and Development Regulations. The performance guarantees shall be in favor of the Borough of Red Bank, and the Borough Engineer shall determine the amount of any performance guarantees.
- Any subdivision of lots or parcels of land within the Redevelopment Area shall be in compliance with the Redevelopment Plan and reviewed by the Planning Board pursuant to the Local Redevelopment and Housing Law and N.J.S.A. 40:55D-1 et seq.
- Once a property has been redeveloped in accordance with the Redevelopment Plan, it may not be converted to any use not expressly permitted in this Redevelopment Plan. No non-conforming use, building, or structure may be expanded or made more non-conforming in nature after adoption of this Redevelopment Plan. A use or structure not conforming to the requirements of this Redevelopment Plan may not be reconstructed in the event of its destruction. The Planning Board shall determine the issue of whether the non-conforming use or building structure has been "destroyed."
- The Planning Board may grant "C" variances, exceptions or waivers from design standards from the requirements for site plan or subdivision approval. Any exceptions or waivers granted shall be reasonable within the general purposes and intent of the provisions for site plan review and/or subdivision approval within this Redevelopment Plan. No deviations may be granted under the terms of this section unless such deviations can be granted without resulting in substantial detriment to the public good and will not substantially impair the intent and purpose of this Redevelopment Plan or the Borough Master Plan.
- No deviations may be granted which will result in permitting a use that is not a permitted use within this Redevelopment Plan. Any deviation from standards of this Redevelopment Plan that results in a "D" variance pursuant to N.J.S.A. 40:55D-70d may only be addressed as an amendment to the Redevelopment Plan by the Borough Council rather than via variance relief through the Borough Zoning Board of Adjustment. All development must be approved by the Planning Board and shall be submitted through the normal site plan and subdivision procedures as identified by N.J.S.A. 40:55D, et seq. Final adoption of this Redevelopment Plan by the Borough Council shall be considered

an amendment to the Borough of Red Bank Planning and Development Regulations and Borough Zoning Map. Unless otherwise defined in the Redevelopment Plan, terms used in this Redevelopment Plan shall have the same meaning as defined in the Borough Planning and Development Regulations.

- The regulations and controls of this Redevelopment Plan shall be implemented, where applicable, by appropriate covenants, or other provisions and through agreements between the redeveloper and Borough pursuant to N.J.S.A. 40A:12A-8 and 40A:12A-9.
- The extent of the redeveloper's responsibility for any installation or upgrade of infrastructure related to the development of the Redevelopment Area, or contribution thereto, shall, whether on-site or off-site, be subject to a redevelopment agreement with the Borough of Red Bank, as the municipal redevelopment agency.
- Any and all definitions contained within this Redevelopment Plan shall prevail. In the absence of a definition, the definition found within the Borough Planning and Development Regulations shall prevail. Any and all definitions inconsistent with N.J.S.A. 40A:12A-3 shall be considered invalid.
- A redeveloper shall be required to pay all applicable escrow fees and other required charges in accordance with applicable provisions of the Borough Ordinance and State law. Additionally, a redeveloper shall be required to pay their proportional share of the cost of any studies, plans, reports, or analysis prepared by the Borough or its designated redevelopment entity as part of this Redevelopment Plan. Any such payments required to reimburse the Borough shall be specified in the redevelopment agreement.

The above provisions are all subject to approval by ordinance and/or resolution according to law. If a court of competent jurisdiction finds any word, phrase, clause, section, or provision of this Redevelopment Plan to be invalid, illegal, or unconstitutional, the word, phrase, clause, section, or provision shall be deemed severable, and the remainder of the Redevelopment Plan and implementing ordinances shall remain in full force and effect.

AMENDMENT TO ZONING MAP AND DEVELOPMENT REGULATIONS

The Borough Zoning Map is hereby amended to reference this Redevelopment Plan as a zoning district encompassing the Redevelopment Area in its entirety. Additionally, the listing of zoning districts in the Borough of Red Bank Planning and Development Regulations is hereby amended to include a reference to this Redevelopment Plan constituting such substitute zoning district.

Where specifically provided for herein, the development standards set forth in this Redevelopment Plan shall supersede the Planning and Development Regulations of the Borough of Red Bank. In all other instances, the Borough Planning and Development Regulations shall remain in full force and effect.

OTHER PROVISIONS

In accordance with the LRHL, the following statements are made:



- The Redevelopment Plan herein has delineated a definite relationship to local objectives as to appropriate land uses, density of population, and improved traffic and public transportation, public utilities, recreation and community facilities, and other public improvements. The Plan has laid out various programs and strategies needed to be implemented in order to carry out the objectives of this Plan.
- The Redevelopment Plan lays out the proposed land uses and building requirements for the Redevelopment Area.
- The Redevelopment Plan does not permit or require the acquisition of privately-owned property.
- The Redevelopment Plan is substantially consistent with the Master Plan for the Borough of Red Bank. The Plan also advances the goals and objectives of the New Jersey State Development and Redevelopment Plan.

Non-Discrimination Provisions

No covenant, lease, conveyance, or other instrument shall be affected or executed by the Borough Council or by a redeveloper or any of its successors or assignees, whereby land within the Redevelopment Area is restricted by the Borough Council, or the redeveloper, upon the basis of race, creed, color, or national origin in the sale, lease, use, or occupancy thereof. Appropriate covenants, running with the land forever, will prohibit such restrictions and shall be included in the disposition instruments. There shall be no restrictions of occupancy or use on the basis of race, creed, color or national origin.

Appendix A: Zoning Map Exhibit

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY	
	Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA CHG/CK NO. _____ AMOUNT: _____ OVERPAYMENT: _____ BATCH NUMBER: _____	
	ATTORNEY / PRO SE NAME R.S. Gasiorowski, Esq.		TELEPHONE NUMBER (732) 212-9930	
	FIRM NAME (if applicable) Gasiorowski & Holobinko		COUNTY OF VENUE Monmouth	
	OFFICE ADDRESS 54 Broad Street Red Bank, NJ 07701		DOCKET NUMBER (when available) DOCUMENT TYPE Complaint JURY DEMAND <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
NAME OF PARTY (e.g., John Doe, Plaintiff) Residents for Responsible Development, LLC, a Registered Limited Liability Company, Plaintiff		CAPTION Residents for Responsible Development, LLC, a Registered Limited Liability Company of the State of New Jersey vs. Borough of Red Bank		
CASE TYPE NUMBER (See reverse side for listing) 701	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input type="checkbox"/> UNKNOWN		
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> YES <input type="checkbox"/> NO				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION Action in Lieu of Prerogative Writs				
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, FOR WHAT LANGUAGE?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .				
ATTORNEY SIGNATURE: _____				



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|--|---|
| 271 ACCUTANE/ISOTRETINOIN | 292 PELVIC MESH/BARD |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 293 DEPUY ASR HIP IMPLANT LITIGATION |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
| 282 FOSAMAX | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 285 STRYKER TRIDENT HIP IMPLANTS | 297 MIRENA CONTRACEPTIVE DEVICE |
| 286 LEVAQUIN | 299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR |
| 287 YAZ/YASMIN/OCELLA | 300 TALC-BASED BODY POWDERS |
| 289 REGLAN | 601 ASBESTOS |
| 290 POMPTON LAKES ENVIRONMENTAL LITIGATION | 623 PROPECIA |
| 291 PELVIC MESH/GYNECARE | |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category ☐ Putative Class Action ☐ Title 59