

US Aluminum Site

For Adoption 8/11/14

BOROUGH OF WANAQUE
COUNTY OF PASSAIC
STATE OF NEW JERSEY

ORDINANCE #11-0-14

AN ORDINANCE AMENDING THE REDEVELOPMENT PLAN ESTABLISHED IN ORDINANCE NUMBER 5-0-14 CREATING THE FOURTH AVENUE RESIDENTIAL OVERLAY ZONE (FAR) CONSISTENT WITH THE FOURTH AVENUE REDEVELOPMENT PLAN SO AS TO PROVIDE HEREIN THE TAKING THROUGH THE USE OF EMINENT DOMAIN CONDEMNATION THE PROPERTY AT BLOCK 435 LOT 5.01, WHICH IS WHOLLY UNPRODUCTIVE, VACANT AND HAS A CONFUSED TITLE OF OWNERSHIP WITH A SIGNIFICANT DELINQUENT TAX BALANCE

WHEREAS, on March 10, 2014 the Borough Council of the Borough of Wanaque adopted Ordinance Number 5-0-14 entitled:

“AN ORDINANCE AMENDING THE REDEVELOPMENT PLAN ESTABLISHED IN ORDINANCE NUMBER 5-0-09 (PROVIDING FOR AN INDUSTRIAL MIXED USE ZONE (IMU)) AND CREATING THE FOURTH AVENUE RESIDENTIAL OVERLAY ZONE (FAR) CONSISTENT WITH THE BOUNDARIES OF THE IMU ZONE AND CONSISTENT WITH THE FOURTH AVENUE RESIDENTIAL REDEVELOPMENT PLAN, SO AS TO INCLUDE THE PROPERTIES LOCATED AT BLOCK 435 (LOT 5) AND BLOCK 435 (LOT 5.01) WITHIN THE FAR AS AN OVERLAY ZONE TO THE EXISTING IMU ZONE HERETOFOR ESTABLISHED BY ORDINANCE NUMBER 5-0-09; AND, FURTHER AMENDING THE ZONING MAP OF THE BOROUGH OF WANAQUE TO INCLUDE THE FAR OVERLAY ZONE. CHAPTER 114-14.12 OF THE CODE OF THE BOROUGH OF WANAQUE ENTITLED ‘MRA ZONE’ IS HEREBY AMENDED TO INCLUDE THE FAR OVERLAY ZONE AND ZONING DISTRICT;” and

WHEREAS, N.J.S.A. 40A:12A-1 et seq., the Local Redevelopment and Housing Law (LRHL), as amended by Assembly Bill 3615--P.L. 2013, Chapter 159, signed into law on September 6, 2013, allows for the substantial improvement to properties included in an area in need of redevelopment resulting in capital investment and the turnaround or rearrangement of properties that are either unused, underutilized, fragmented, or deteriorated and foster beneficial economic development, notwithstanding the foregoing, A-3615 modifies criterion e of the LRHL, commonly known as “criterion ‘e’ *under-utilization*”—“a growing or lack of proper utilization caused by title, diverse ownership,...” problems, and now with the 2013 modification to the LRHL, requires that such under-utilized property must “impede land assemblage or discourage the undertaking of improvements”; in other words the property must have an absolute state of unproductiveness; and

WHEREAS, the 2013 LRHL modification requires notice to the property owner from the beginning of the redevelopment process, said notice indicating that their property is subject to eminent domain condemnation, which said process has been refreshed so as to comply with the strict notice of condemnation requirements; and

WHEREAS, the properties included in the underlying IMU zone and the newly created FAR overlay zone are located in a "Non-Condensation Redevelopment Area" as contemplated in the LRHL; however, Section 1 C. of Ordinance Number 5-0-14 indicates that the Borough of Wanaque may proceed with In Rem foreclosure proceedings regarding the property at Block 435, Lot 5.01; and

WHEREAS, the designated redeveloper of the Parkside at Wanaque project, Greentree Development Group, LLC, is the contract purchaser of the property located at Block 435, Lot 5 and has provided notice to the current property owner of their intent to redevelop this property together with the smaller companion property at Block 435, Lot 5.01 consistent with the recently redeveloped property (project) located at Block 432, Lot 36 and 38, which share a common boundary separated only by a public right of way, a public street--Fourth Avenue; and

WHEREAS, the aforesaid properties located in Block 435 have either environmental contamination (Lot 5) or a serious title defect (Lot 5.01) and as of the date of adoption of this ordinance continue to qualify as an area in need of redevelopment; and

WHEREAS, the Borough Council of the Borough of Wanaque desires this project to move toward completion with the property at Block 435, Lot 5.01 being a critical piece to meeting the objectives of the Redevelopment Plan and this one parcel should be considered an area in need of redevelopment subject to condemnation.

NOW, THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Wanaque, in accordance with the provisions of the LRHL, that the following 2014 Wanaque Redevelopment Plan Amendment made to the Fourth Avenue Redevelopment Area, is hereby established with the following provisions.

Section 1. Declaration of Condemnation Redevelopment Area.

A. The preamble, or Wheareas clauses, hereinbefore recited are made a part of this ordinance as though they are part of the functional part of the ordinance and as though they are included in the Ordained portion of this redevelopment plan ordinance.

B. Based upon the prior original recommendation of the Wanaque Planning Board made by resolution of the Board at their October 16, 2008 public meeting and following a study entitled: "Ringwood Avenue Redevelopment Study Area 2008-The Midvale and Haskell Are Redevelopment Invectigation Report", dated October 6, 2008, the property at Block 435, Lot 5.01 is found to be wholly unproductive, vacant and a critical parcel to the Greentree Redeopment Project. Recognizing the diligent work of the Board, the property at Block 435, Lot 5.01, is hereby declared to continue to qualify as an area in need of redevelopment and is now subject to condemnation pursuant to the provisions of N.J.S.A. 40A:12A-1 et seq.

C. It is further determined by the Borough Council that the use of eminent domain condemnation to acquire the title and ownership of Bpock 435, Lot 5.01is authorized in this Redevelopment Plan . However, notwithstanding the foregoing, the Borough may enter In Rem foreclosure proceedings regarding the property located at Block 435, Lot 5.01.

Section 2. Positive Site Plan Finding as to Ownership. Any site plan application submitted in connection with this ordinance covering Block 435, Lot 5 shall also include Block 435, Lot 5.01 upon adoption of this ordinance and certification by the Borough Administrator that In Rem Foreclosure or eminent domain proceedings have started as to Block 435, Lot 5.01. Upon the adoption of this ordinance and receiving the certification by the Borough Administrator the Wanaque Planning Board may consider any ownership tests or requirements as being satisfied under the provisions of N.J.S.A. 40:55D-89 et seq., the Municipal Land Use Law.

Section 3. Powers of Redevelopment Entity.

As stipulated in ordinance numbers 5-0-14 and 5-0-09 the Borough Council may, pursuant to N.J.S.A. 40A:12A-8 of the LRHL, proceed with the clearance, replanning, development and redevelopment of the designated Redevelopment Area(s), in cooperation with the property owner(s) or pursuant to eminent domain proceedings, and, so as to carry out and effectuate said purposes.

BE IT FURTHER ORDAINED as follows:

Section 4. Execution of Documents.

The Mayor or Administrator of the Borough of Wanaque are hereby authorized and designated to execute, and the Borough Clerk of the Borough of Wanaque is hereby designated to attest to, any and all documents necessary to carry out any of the purposes set forth in this ordinance. This includes the specific authorization to sign and execute a redevelopment

agreement and all documents necessary to effectuate an eminent domain taking of the property at Block 435, Lot 5.01.

Section 5. Notice.

The Borough Clerk is hereby directed to give notice at least ten (10) days prior to the adoption of this ordinance to the Passaic County Planning Board and to all other persons, including ALL of the property owners of record of Block 435, Lot 5.01, entitled thereto pursuant to N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-63, if required. Upon the adoption of this ordinance after public hearing thereon, the Borough Clerk is further directed to publish notice of the passage thereof and to file a copy of the ordinance as finally adopted with the Passaic County Planning Board, as required by N.J.S.A. 40:55D-16.

Section 6. Conflict.

All ordinances or resolutions, or parts of ordinances or resolutions that are in conflict with the provisions of this ordinance are hereby repealed to the extent necessary.

Section 7. Illegal Provisions-Severability.

If any article, section, subsection, term or condition of this ordinance is declared invalid or illegal for any reason, the balance of the ordinance shall be deemed severable and shall remain in full force and effect.

Section 8. Effective Date and Expiration Date.

This ordinance shall take effect immediately upon final passage and publication as required by law and upon filing with the Passaic County Planning Board. This ordinance, and the amendment to the redevelopment plan, shall expire on December 31, 2015 unless the Wanaque Planning Board has granted preliminary site plan approval.

Dated: June 9, 2014

Katherine J. Falone, RMC, CMC
Municipal Clerk

BOROUGH OF WANAQUE
COUNTY OF PASSAIC
STATE OF NEW JERSEY

ORDINANCE #11-0-14

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was Introduced at a Regular Meeting of the Mayor and Council of the Borough of Wanaque, Passaic County, New Jersey, held on the 9th day of June 2014, and passed on first reading, and the same was then ordered to be published according to law; and that such Ordinance will be further considered for final passage at a meeting of said Mayor and Council to be held in the Municipal Building, 579 Ringwood Avenue, Wanaque, New Jersey, on August 11, 2014 at 7:00 P.M., at which time and place or at any time and place to which said meeting shall be from time to time adjourned, all persons interested will be given an opportunity to be heard concerning said Ordinance.

BY ORDER OF THE MAYOR AND COUNCIL OF THE BOROUGH OF
WANAQUE.

DATED: June 9, 2014

KATHERINE J. FALONE, RMC, CMC
Municipal Clerk