

**BOROUGH OF EMERSON
COUNTY OF BERGEN
NOTICE OF ADOPTION**

ORDINANCE NO. 1535-16

Introduced: December 6, 2016

Adopted: December 20, 2016

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF
EMERSON AMENDING THE CENTRAL BUSINESS DISTRICT
REDEVELOPMENT PLAN PURSUANT TO N.J.S.A. 40A:12A-7**

NOTICE IS HEREBY GIVEN that the following ordinance was adopted on the second reading after a Public Hearing at the Regular Meeting of the Borough Council of the Borough of Emerson on the 20th day of December, 2016. A copy of Ordinance 1535-16 is on file in the Borough Clerk's Office in the Municipal Building, 1 Municipal Pl., Emerson, NJ 07630.

WHEREAS, Pursuant to the Local Redevelopment and Housing Law, (N.J.S.A. 40A:12A-1 et seq.) (the "Redevelopment Law"), on February 3, 2004 the Mayor and Council of the Borough of Emerson ("Mayor and Council" or "Borough") authorized the Emerson Planning Board, now known as the Emerson Land Use Board, ("Board") to conduct a preliminary investigation and hold the requisite public hearing to determine whether a certain area located within the Central Business District, including Lots 1, 2, 3, 4 & 5 on Block 412; Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9 & 10 on Block 419; Lots 2 & 16 on Block 420; Lots 1,10,11,12,13,14,15,16,17 & 18 on Block 422; Lots 2, 3, 4, 5, & 6 on Block 603; Lots 3 & 4 on Block 606; Lots 1, 2, 4, 5.01, 5.02, 6, 7, 8, 9.01, 9.02, & 10 on Block 610; Lots 1 & 2 on Block 613; Lot 1 on Block 615; Lots 1, 16, 17, 19, 20, 21, 22, 23 & 24 on Block 616; and Lot 1 on 617.01 on the Official Tax Assessment Map of the Borough of Emerson ("Area") met the statutory criteria to be designated as "an area in need of redevelopment" as defined by the Redevelopment Law; and

WHEREAS, The Board conducted the requested investigation and held the requisite hearings on July 29, 2004 and August 19, 2004, which were all done on proper notice, to determine whether the studied Area met the statutory criteria to be designated as "an area in need of redevelopment"; and

WHEREAS, On September 7, 2004, the Board adopted a Resolution, recommending that the Mayor and Council designate the studied Area as "an area in need of redevelopment"; and

WHEREAS, The Mayor and Council adopted Resolution No. 242-04 on December 14, 2004 designating the Area as "an area in need of redevelopment" as well as directing the Board to prepare a redevelopment plan and forward its recommendation to the Mayor and Council; and

WHEREAS, The Board prepared a proposed redevelopment plan ("Redevelopment Plan") and on April 6, 2006 adopted a Resolution recommending the adoption of the Redevelopment Plan to the Mayor and Council; and

WHEREAS, On July 11, 2006, the Governing Body adopted Ordinance No. 1305-06 adopting the Redevelopment Plan and were determined to implement said plan; and
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WHEREAS, On May 4, 2010, the Governing Body adopted Ordinance No. 1394-10 adopting certain amendments and reaffirming the Redevelopment Plan for the Central Business District (the "2010 Redevelopment Plan"); and

WHEREAS, In furtherance of redeveloping the Central Business District Redevelopment Area, on August 16, 2016 the Mayor and Council adopted Resolution No. 222-16, directing that the Board prepare revisions and/or amendments to the 2010 Redevelopment Plan pursuant to N.J.S.A. 40A:12A-7(e) and N.J.S.A. 40A:12A-7(f); and

WHEREAS, On September 8, 2016, the Board held a public meeting where at the Board's retained planner, Brigette Bogart PP, AICP, CGW of Planning & Design Professionals LLC ("Planner") presented proposed amendments to the 2010 Redevelopment Plan; and

WHEREAS, On September 22, 2016, after review of the proposed amendments, the Board adopted a Resolution affirming and recommending amendments to the 2010 Redevelopment Plan to the Mayor and Council, which also contained its report with its findings and conclusions of facts; and

WHEREAS, On November 21, 2016, the Mayor and Council held a meeting whereby the Planner and designated redeveloper presented its comments and recommendations for additional amendments to the Redevelopment Plan; and

WHEREAS, the Mayor and Council has determined it to be in the Borough's best interests to further amend the 2010 Redevelopment Plan in order to effectuate redevelopment on certain parcels located within the Central Business District Area ("Proposed Amendments"); and

WHEREAS, concurrently with the introduction of this Ordinance, the Mayor and Council shall adopt a Resolution referring the Proposed Amendments to the Board in Accordance with N.J.S.A. 40A:12A-7(e) and N.J.S.A. 40A:12A-7 (f) for its report and recommendation after review of the Proposed Amendments; and

WHEREAS, prior to final adoption of this Ordinance, the Mayor and Council shall have reviewed the Board's report and recommendation or if the Board fails to transmit a recommendation within 45 days after referral, the Mayor and Council may act upon this Ordinance adopting the Proposed Amendments pursuant to N.J.S.A. 40A:12A-7(e).

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Emerson as follows:

SECTION ONE: Permitted Uses.

§ 290-68A. Principal Uses shall be deleted in its entirety and replaced with the following:

1. Retail stores.
2. Personal service businesses.
3. Eating and Drinking establishments (except drive ins)
4. Professional, financial and medical offices
5. Multi-family residential dwellings above at-grade, retail, commercial and other principal permitted uses.
6. Multi-family residential dwellings including buildings above at grade parking, only in areas where the building is behind a building that fronts on Kinderkamack Road.
7. Multi-family residential dwellings at grade only where they front on Lincoln Boulevard and only in areas where the building is behind a building that fronts on Kinderkamack Road.
8. Instructional studios spaces, including dance, artist, martial arts, music and other related studios.
9. Financial institutions
10. Childcare facilities and nursery schools.

SECTION TWO: Area and Bulk Requirements.

§ 290-69. Table A shall be deleted in its entirety and replaced with the following:

TABLE A: AREA AND BULK REQUIREMENTS CBD-10 AND CBD-15

Regulation	CBD-10	CBD-15
Minimum Lot Area	10,000 square feet (a)	15,000 square feet (a)
Minimum Lot Width	75 feet	120 feet
Minimum Lot Depth	60 feet(1)	75 feet (1)
Minimum Front Yard		
Kinderkamack	17 feet (2) (4)	15 feet (3)
Other Streets	0 feet	N/A
Maximum Front Yard		
Kinderkamack	25 feet (2)	50 feet (3)
Other Streets	15 feet	N/A
Minimum Side Yard one/both	0/0 feet	10/20 feet(1)
Minimum Rear Yard	0 feet	10 feet
Maximum Building Stories	Four	Three
Maximum Building Height		
Along Public Streets	42 feet (5)	40 feet (5)
Along the Railroad ROW	50 feet (5)	40 feet (5)
Maximum Building Coverage	85 percent	85 percent
Maximum Impervious Coverage	95 percent	90 percent

- (1) Corner parcels with rights of way located on three sides may reduce the required depth by 55% & reduced side yards of 5 feet each yard.
- (2) In accordance with the streetscape requirements set forth in Section 290-70B1 of the ordinance.
- (3) In accordance with the streetscape requirements set forth in Section 290-70B2 of the ordinance.
- (4) Measured to the curb line.
- (5) Additional Height is permitted in accordance with Section 290-70A3 and shall only be permitted on development parcels which are two (2) acres or greater. Further the 50 foot building height will only be permitted setback from the front building facade by a minimum of 5 feet in depth on buildings facing Lincoln Boulevard and Kinderkamack Road.
- (a) Provided that, where an entire block is to be redeveloped pursuant to the Redevelopment Plan, the minimum lot area shall coincide with the block as depicted on that map.

SECTION THREE: PARKING REQUIREMENTS

§ 290-71. Table C shall now include the footnote (a) below:

(a) If a project contains retail on the first floor with residential above, the parking requirement may be reduced to a maximum of up to 25% to account for shared parking, subject to and conditioned upon: (i) the receipt of testimony provided by the applicant's traffic/parking expert supporting such reduction; and, (ii) the Land Use Board retaining a traffic/parking consultant to support and confirm such determination, which shall be paid for by the applicant. If a development is constructed with the parking reduction then medical office space shall be a prohibited use. For the purpose of this section "medical office" shall include walk-in and urgent care clinics, other medical, dental, treatment and therapy related facilities.

SECTION FOUR: DESIGN STANDARDS

§ 290-70A(3) Rooflines/building height shall be deleted in its entirety and replaced with the following:

(a) The top of all buildings must be capped by a cornice or sloping roof element other than structures utilized for parking.

(b) An additional five feet in height for ornamentation, such as parapets and cornices, is permitted. This additional height is only permitted along a maximum of 66% of the facade to encourage a varying roofline.

(c) In addition to Subsection A(3)(b) above, for each portion of a building that provides cornices and similar appurtenances for ornamental purposes, such elements may not be more than 25 feet in length each.

(d) All roof-mounted equipment shall be screened from public view by use of parapet walls.

(e) All lighting proposed on all buildings shall be designed to minimize any impact to the surrounding area. The lighting design should be consistent with the streetscape standards of the district and complimentary to the structure design.

(f) In the CBD-W zone district, 50% of a building may be four stories in height where the topography of land provides a minimum of an eight-foot change in elevation.

(g) Irrespective of other height restrictions, buildings in the area south of Ackerman Avenue may be developed with a maximum three residential stories above at-grade parking or above at-grade commercial, with a maximum height of 50 feet.

SECTION FIVE: Purpose and Compliance with Statutory Requirements:

A. Purpose. The purpose of the Redevelopment Plan is to improve areas designated as being in need of redevelopment; to achieve the goals and objectives of the Master Plan as described above, to enhance the downtown commercial area, to provide for affordable housing in an appropriate location within the Borough, to provide added development near mass transit, to create additional walkable areas and reduce auto dependency, to provide for appropriate land usage, to provide public improvements including public parking, plazas and recreation facilities and to otherwise promote the public health, safety and welfare.

B. Compliance with Statutory Requirements.

- 1) While it is not contemplated that implementation of the amendments to the Redevelopment Plan will require the relocation of businesses or persons, any relocation that may be required shall comply with the requirements of the New Jersey Relocation Assistance Law (N.J.S.A. 52:31(B)(1) et seq.) the Residential Eviction Law (N.J.S.A. 2A:18-61.1 et seq.) and any regulations adopted pursuant thereto.
- 2) The within Redevelopment Plan contemplates potential planned condemnation of properties, if required.
- 3) The within Redevelopment Plan does not require the removal of any affordable housing units.
- 4) The within Redevelopment Plan provides sufficiently complete information to establish compliance with the objectives of local zoning, redevelopment, building, land use, population density, traffic, transportation, recreation and public facilities.
- 5) The within Redevelopment Plan conforms to the New Jersey Development and Redevelopment Plan adopted pursuant to the State Planning Act and implements goals and objectives of the State Plan.
- 6) The within Redevelopment Plan complies with all provisions of the Municipal Land Use Law.
- 7) The within Plan further complies with the provisions of the Bergen County Draft Master Plan Report.
- 8) The Borough of Emerson hereby affirms that it and its designated agents will assert leadership within the community to ensure compliance with Title VI of the Civil Rights Act of 1964 and Title VII as amended in March of 1972, and with all the affirmative action requirements of the State of New Jersey, as well as regulations issued by the State of New Jersey and the Borough of Emerson.
- 9) No covenant, lease, conveyance, or other instrument shall be affected or executed by the Borough of Emerson or by a developer or any successor of an developer whereby the land within the Redevelopment District is restricted by the Borough or the developer on the basis of race, creed, color, or national origin in the sale lease, use or occupancy thereof. Appropriate covenants, running with the land, will prohibit such restrictions and shall be included in disposition instruments. There shall be no restrictions of occupancy or use of any part of the Redevelopment District on the basis of race, creed, color or national origin.

- 10) The provisions of this Redevelopment Plan and the requirements and restrictions contained herein shall be in effect for a period of thirty (30) years from the date of approval of this Ordinance by the Mayor and Council.

SECTION SIX: Additional Provisions.

A. Deviation Requests. The Borough may grant deviations from the regulations contained in the within Ordinance where permitted by the provisions of the Municipal Land Use Law. Notwithstanding the above, any changes to the uses permitted in the within Redevelopment Plan Ordinance shall only be permitted by an amendment to this Ordinance by the Mayor and Council upon a finding that such deviation would be consistent with and in furtherance of the goals and objectives of this Ordinance.

B. Implementation of the Plan. The Mayor and Council are also authorized to enter into an agreement with a Redeveloper to implement the provisions of the within Redevelopment Plan Ordinance. In the event the Borough does enter into such an agreement the Redeveloper shall be responsible to post sufficient escrows to cover any and all costs of the professional consultants retained by the Borough to review the proposed redevelopment project and any and all other aspects of the redevelopment process. The Redeveloper, at the Redeveloper's sole cost and expense, shall also provide all necessary engineering studies in order to construct all on-site and/or off-site improvements, municipal infrastructure improvements, capacity enhancements or upgrades or other improvements required in connection with the provisions of water, sanitary sewer, stormwater sewer, electric and gas services to the project, and, in addition, all required tie-in or connection fees. The Redeveloper shall also be responsible for providing, at the Redeveloper's sole cost and expense, all lighting, on-site and off-site traffic controls, road improvements, street trees, pavers, furniture, landscaping, and any and all other improvements required as a result of the proposed redevelopment. Any Redevelopment Agreement between the Borough and the Redeveloper will contain the terms, conditions, specifications and description of required performance guarantees pertaining to the Redeveloper's obligation to provide all improvements.

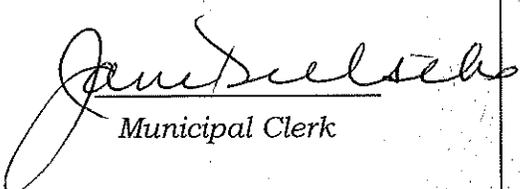
C. This Ordinance may be amended upon compliance with the requirements of State Law. In the event a Redeveloper requests any amendment of the within Ordinance, said Redeveloper shall be required to post escrows in such amounts as shall be necessary to cover all costs of the Borough's professionals in connection with the required amendment, including, but not limited to the costs of an impact study prepared by a professional planner.

BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby declared to be severable. Should any section, paragraph, subparagraph, provision, sentence, or part hereof be declared invalid or unconstitutional, said finding shall not affect any other section, paragraph, subparagraph, provision, sentence, or part thereof and the remainder of this Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, This Ordinance shall take effect immediately following final passage, adoption and publication as provided by law.

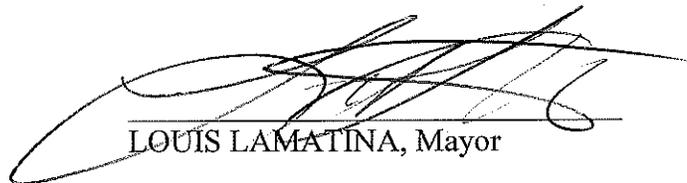
COUNCIL	M O V E D	S E C O N D E D	A Y E S	N A Y E S	A B S E N T	A B S T A I N
DiPaola				X		
Lazar	X		X			
Downing			X			
Knoller		X	X			
Tripodi				X		
Worthington				X		
Mayor Lamatina			X			

I hereby certify that the above Resolution was duly adopted by the Borough of Emerson at a meeting held on December 20, 2016.

Attest: 
Municipal Clerk

Adopted: December 20, 2016

Approved: _____


LOUIS LAMATINA, Mayor

ATTEST:


JANE DIETSCH, Borough Clerk