

## NOTICE OF PENDING ORDINANCE

### ORDINANCE NO. 11-1318

The ordinance published herewith was introduced and passed upon first reading at a meeting of the Borough Council of the Borough of Tinton Falls, in the County of Monmouth, State of New Jersey, held on May 17, 2011. This Ordinance will be further considered for adoption, after the public hearing is held thereon, at a meeting of the Borough Council to be held on Tuesday, June 21, 2011, **located in the Municipal Building, 556 Tinton Avenue, Tinton Falls, New Jersey, beginning at 7:30 o'clock P.M.** During the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available in the Clerk's Office to the members of the general public who shall request the same.

MAUREEN L. MURPHY, BOROUGH CLERK

### **BOROUGH OF TINTON FALLS COUNTY OF MONMOUTH ORDINANCE NO. 11-1318**

#### **ORDINANCE ADOPTING REVISED CECOM REDEVELOPMENT PLAN**

**WHEREAS**, on September 16, 2003, the Borough of Tinton Falls (the "Borough") adopted Resolution R-03-293 directing the Planning Board to conduct a preliminary investigation of approximately 39.26 acres of real property designated as Lot 1.01 in Block 76.01 on the Official Tax Map of the Borough commonly known as the CECOM Property to determine whether it should be designated as an "area in need of redevelopment" under the Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.) ("Redevelopment Law"); and

**WHEREAS**, at the direction of the Planning Board, Arthur Bernard, P.P. of THP, Inc. ("Bernard") prepared and submitted a report entitled "Area in Need of Redevelopment Analysis, Block 76.01, Lot 1.01, Tinton Falls, New Jersey" dated July 2004, detailing the statutory criteria for determination of whether a site is in need of redevelopment and providing extensive factual information to justify the designation of the CECOM Property as an area in need of redevelopment ("Original Redevelopment Study"); and

**WHEREAS**, the Planning Board, pursuant to Resolution adopted on September 22, 2004, recommended, based on the Original Redevelopment Study, that the CECOM Property be designated as an area in need of redevelopment under the Redevelopment Law; and

**WHEREAS**, on October 5, 2004, the Borough Council adopted Resolution R-04-358 designating the CECOM Property as an "area in need of redevelopment" pursuant to the Redevelopment Law; and

**WHEREAS**, on October 19, 2004, the Borough Council adopted Resolution R-04-380 requesting that the Planning Board prepare a Redevelopment Plan; and

**WHEREAS**, at the direction of the Planning Board, Bernard prepared a redevelopment plan entitled "Redevelopment Plan CECOM Property", dated November 2004 ("Original Redevelopment Plan"); and

**WHEREAS**, on October 27, 2004 the Planning Board recommended to the Borough Council that it adopt the Original Redevelopment Plan; and

**WHEREAS**, on February 15, 2005, the Borough Council adopted Ordinance No. 05-1143 adopting the Original Redevelopment Plan; and

**WHEREAS**, on April 1, 2005, the owner of the property adjacent to the CECOM Property ("Newman Family") filed a Complaint in Lieu of Prerogative Writ in the Superior Court of New Jersey, Monmouth County ("Superior Court"), which, as amended, challenged the

Redevelopment Designation and adoption of the Redevelopment Plan (“Newman Litigation”); and

**WHEREAS**, on December 18, 2005 the Planning Board adopted resolution PB 2005-12 granting the CECOM Property Preliminary Major Subdivision and Preliminary Major Site Plan approval for the construction of 151 market rate age restricted detached dwelling units and associated amenities consistent with the Redevelopment Plan (the “Preliminary Approval”).

**WHEREAS**, on April 10, 2008, the Superior Court approved a settlement agreement among the Borough, Redeveloper and Newman Family (“Settlement Agreement”) settling the Newman Litigation, pursuant to which the parties hereto, among other things, agreed to certain terms, conditions and obligations in connection with the redevelopment project; and

**WHEREAS**, pursuant to the terms of the Settlement Agreement, on May 20, 2008, the Borough Council held a public hearing and adopted Resolution R-08-165, reaffirming the Redevelopment Plan and Redevelopment Designation, and ratifying and reaffirming the Settlement Agreement; and

**WHEREAS**, on May 28, 2008, the Planning Board held a public hearing and adopted a resolution reaffirming and ratifying the Settlement Agreement and reaffirming the Preliminary Approval; and

**WHEREAS**, on June 11, 2008, the Planning Board determined that Redeveloper’s application for Final Major Subdivision and Final Major Site Plan approval for its proposed development on the CECOM Property was consistent with the Redevelopment Plan and adopted a Resolution granting final major subdivision and final major site plan approval (“Initial Approval”); and

**WHEREAS**, on August 26, 2008, PRC Tinton Avenue Developers, LLC acquired title to the Newman Tract; and

**WHEREAS**, on March 25, 2009 the Planning Board adopted resolution P.B. #2008-06 granting Amended Final Site Plan approval for the CECOM Property (the “Amended Approval”); and

**WHEREAS**, on March 25, 2009 the Planning Board adopted resolution P.B. #2008-15 (“Adjacent Approvals”) granting Wayside Acres, LLC (“Wayside”) Preliminary and Final Major Subdivision and Preliminary and Final Major Site Plan approval for the property designated as Lots 1, 2, 3.01 and 4 in Block 85 on the tax maps of the Borough (“Adjacent Property” or “Newman Tract”); and

**WHEREAS**, on April 22, 2009 the Planning Board adopted a resolution granting Wayside and Redeveloper Phasing Plan Approval (“Phasing Approval”); and

**WHEREAS**, on June 16, 2009, a Redevelopment Agreement was entered between the Borough and PRC Tinton Avenue Developers, LLC the Borough and PRC agreed that the Newman Tract was to be developed in conjunction with and as a part of the redevelopment of the CECOM site; and

**WHEREAS**, since the adoption of the Original Redevelopment Plan in 2005, there have been several key changes in the planning, economic, and real estate climate that have adversely affected the developability of the CECOM site; and

**WHEREAS**, on July 2, 2009, Governor Jon Corzine sign into law S-2577 (“Conversion Bill”), an amendment to the Fair Housing Act that allows the conversion of certain age-restricted housing developments to non-age restricted housing developments in response to the issues created by the saturated and slumping age-restricted real estate market in New Jersey; and

**WHEREAS**, in 2010, the Borough was approached by PRC Tinton Avenue Developers, LLC about seeking to amend the Original Redevelopment Plan adopted in 2005 that would lift the age restrictions previously adopted and approved under certain terms and conditions that would include the renegotiation of the June 16, 2009 Redevelopment Agreement; and

**WHEREAS**, on March 1, 2011, the Borough Council work-shopped a draft amended Redevelopment Plan prepared by the Borough’s Planner, Heyer, Gruel & Associates, with PRC Tinton Avenue Developers, LLC’s professionals and the Borough’s professionals present; and

**WHEREAS**, on March 15, 2011, the Borough Council adopted Resolution R-11-074 authorizing and directing the Planning Board to examine and conduct an investigation as to whether the adjacent Newman Tract should also be determined to be an area in need of redevelopment in conjunction with the CECOM Property; and

**WHEREAS**, on March 23, 2011, the Planning Board authorized and directed the Borough's Planner, Heyer, Gruel & Associates, to conduct a Redevelopment Study to examine whether the Newman Tract meets the criteria of N.J.S.A. 40A:12A-3, 5 and 6 as an "area in need of redevelopment" that should be included as part of the CECOM Redevelopment Plan Area; and

**WHEREAS**, in April 2011, Heyer, Gruel & Associates completed its Redevelopment Study of the Newman Tract to determine whether it meets the criteria for an "area in need of redevelopment"; and

**WHEREAS**, on May 11, 2011, through a properly noticed public hearing, the Planning Board determined that based upon the Redevelopment Study of the Newman Tract that it met the criteria for designating it an "area in need of redevelopment" to be included in an expanded CECOM redevelopment area; and

**WHEREAS**, on May 17, 2011, the Borough Council adopted Resolution R-11-\_\_\_\_ designating the adjacent Newman Tract as an "area in need of redevelopment" pursuant to the Redevelopment Law in conjunction with the CECOM Property; and

**WHEREAS**, current economic circumstances have created the need to amend the uses and purposes permitted by the Redevelopment Plan, and to include the Newman Tract within the Original Redevelopment Plan Area in order for both the CECOM site and the Newman Tract to be developed in a consistent and compatible manner under an Amended Redevelopment Plan.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Tinton Falls in the County of Monmouth, State of New Jersey as follows:

**SECTION 1. Amended Redevelopment Plan.**

The Amended CECOM Redevelopment Plan prepared by Heyer, Gruel & Associates attached hereto as **Exhibit A** and made part hereof hereby replaces the Original Redevelopment Plan prepared by Arthur Bernard, P.P. of THP, Inc. and adopted by the Borough Council on February 15, 2005 by Ordinance No. 05-1143 which is hereby repealed in its entirety.

**SECTION 2. Conditioned Upon Entry of Amended Redevelopment Agreement.**

The final adoption of the Amended CECOM Redevelopment Plan shall be conditioned upon finalization of an amended Redevelopment Agreement being negotiated between the Borough and PRC Tinton Avenue Developers, LLC.

**SECTION 3. Severability.**

If any chapter, section, subsection or paragraph of this ordinance be declared unconstitutional, invalid or inoperative, in whole or in part, by a court of competent jurisdiction, such chapter, section, subsection or paragraph shall to the extent that is not held unconstitutional, invalid or inoperative remain in full force and effect and shall not affect the remainder of this ordinance.

**SECTION 4. Effective Date.**

This ordinance shall take effect immediately upon adoption and publication pursuant to law subject only to satisfaction of the conditions precedent contained in Section 2 of this ordinance.