

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH
NOTICE OF PENDING ORDINANCE**

ORDINANCE NO. 11-1323

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 August 16, 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, September 20, 2011, located in the Tinton Falls 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, Schedules A and B and Zoning Maps 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. 11-1323**

AN ORDINANCE OF THE BOROUGH OF TINTON FALLS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY - AMENDING CHAPTER XL (LAND USE REGULATIONS), ARTICLE V. SECTION 40-28 ZONING DISTRICTS, ARTICLE V. SECTION 40-36 SUPPLEMENTAL STANDARDS, SCHEDULE A – DISTRICT USE REGULATIONS, SCHEDULE B – DISTRICT BULK REGULATIONS AND SCHEDULE E – ZONING MAP, NORTHERN PORTION WHICH AMENDMENTS WILL BE AMENDMENTS TO THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TINTON FALLS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

WHEREAS, on September 16, 2003, the Council of the Borough of Tinton Falls (the “Borough Council”) adopted Resolution R-03-293 directing the planning board of the Borough (the “Planning Board”) to conduct a preliminary investigation of approximately 39.26 acres of real property owned by Redeveloper and designated as Lot 1.01 in Block 76.01 on the Official Tax Map of the Borough commonly known as the CECOM property (the “Original CECOM Property”) to determine whether it should be designated as an “Area in Need of Redevelopment”; 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 (the “Redevelopment Study”); and

WHEREAS, the Planning Board, pursuant to Resolution adopted on September 22, 2004, recommended, based on the Redevelopment Study, that the Original 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 Original CECOM Property as an “Area in Need of Redevelopment” pursuant to the Redevelopment Law (the “Original Redevelopment Designation”); 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 (the “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 Original CECOM Property (the "Newman Family") filed a complaint in lieu of prerogative writ in the Superior Court of New Jersey, Monmouth County (the "Superior Court"), which, as amended, challenged the Redevelopment Designation and adoption of the Redevelopment Plan (the "Newman Litigation"); and

WHEREAS, on December 18, 2005 the Planning Board adopted resolution PB 2005-12 granting the Original 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 Original Redevelopment Plan (the "Preliminary Approval"); and

WHEREAS, on April 10, 2008, the Superior Court approved a settlement agreement among the Borough, Redeveloper and Newman Family (the "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 (hereinafter defined), which terms are more fully set forth in this Agreement; 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 Original Redevelopment Plan and Original 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 Original CECOM Property was consistent with the Redevelopment Plan and adopted a Resolution granting final major subdivision and final major site plan approval (the "Initial Approval"); and

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

WHEREAS, on March 25, 2009 the Planning Board adopted resolution P.B. #2008-15 (the "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 (the "Newman Tract"); and

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

WHEREAS, on June 16, 2009, a Redevelopment Agreement ("2009 Redevelopment Agreement") was entered between the Borough and the Redeveloper and the Borough and the Redeveloper agreed that the adjacent Newman Tract was to be developed in conjunction with and as a part of the redevelopment of the Original CECOM Property; and

WHEREAS, since the adoption of the Original Redevelopment Plan in 2005 and the 2009 Redevelopment Agreement, there have been several key changes in the planning, economic, and real estate climate that have adversely affected the developability of the Original CECOM Property and adjacent Newman Tract; 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 the Redeveloper 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 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 the Redeveloper'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 Original 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 Original CECOM Redevelopment Plan Area; and

WHEREAS, in April 2011, Heyer, Gruel & Associates completed its Redevelopment Study of the adjacent 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 Plan Area; and

WHEREAS, on May 17, 2011, the Borough Council adopted Resolution R-11-142 designating the adjacent Newman Tract as an “area in need of redevelopment” pursuant to the Redevelopment Law in conjunction with the Original CECOM Property, now constituting the “New CECOM Property” consisting of both the Original CECOM Property and the Newman Tract; 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 Original CECOM Property and the Newman Tract to be developed in a consistent and compatible manner under a newly revised Redevelopment Plan (“New Redevelopment Plan”) pursuant to Ordinance No. 11-1318; and

WHEREAS, on May 17, 2011, the Borough Council adopted Ordinance 11-1318 adopting the revised CECOM Redevelopment Plan;

WHEREAS, the underlying AARZ zoning designation of the area of the newly revised CECOM Redevelopment Plan is superfluous and creates two separate, yet identical, sets of land use controls for the site, and

WHEREAS, the Borough Council of the Borough of Tinton Falls wishes to remove any and all confusion as to the land use controls for the site,

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Tinton Falls, Monmouth County, State of New Jersey that Chapter XL (Land Use Regulations) is hereby amended as follows:

Section 1: Article V. Section 40-28 ZONING DISTRICTS be repealed and replaced with the following:

A. Establishment of Zones

For the purposes of this Article, the Borough is hereby divided into districts, as follows:

RA Residential Agricultural

R-1 Single-Family Residential

R-2 Single-Family Residential

R-3 Residential

R-3-I Residential Inclusionary

R-4 Residential

R-4-I Residential Inclusionary

AR Age Restricted Housing

CCRC/AH Continuing Care Retirement Community with Affordable Housing

AH Affordable Housing (Including Age Restricted)

NC Neighborhood Commercial

HCC Highway/Community Commercial

IOP Industrial Office Park

MFG Manufacturing

MFG MFG2 Manufacturing 2

~~Option in Rehabilitation/Planned Development Overlay Area (Requires certain requirements be met prior to application)~~

OS/GU Open Space/Government Use

RET Large Scale Planned Retail Overlay Zone in Rehabilitation/Planned Development Overlay Area (Requires certain requirements be met)

Route 66 Redevelopment Area

CECOM Redevelopment Area

TR Transportation Corridor

Section 2: Article V. Section 40-36 SUPPLEMENTAL STANDARDS Section F. AARZ Active Adult Redevelopment Zone Requirements be repealed in its entirety.

Section 3: Schedule A – District Use Regulations is hereby repealed and replaced with the revised Schedule A – District Use Regulations attached.

Section 4: Schedule B – District Bulk Regulations is hereby repealed and replaced with the revised Schedule B – District Bulk Regulations attached.

Section 5: Schedule E – Zoning Map, Northern Portion is hereby repealed and replaced with the revised Schedule E – Zoning Map, Northern Portion attached.

Section 6: Any and all Ordinances inconsistent with this ordinance are hereby repealed to the extent of any such inconsistency,

Section 7: Should any section, part or provision of this ordinance be deemed invalid or unconstitutional, such decision shall not affect the validity of the remaining terms of this ordinance as a whole or any part thereof, other than section, part or provision so held invalid or unconstitutional.

Section 8: This ordinance shall take effect on its final passage and publication as provided by law.