

**RESOLUTION OF THE MUNICIPAL LAND USE BOARD
THE BOROUGH OF EMERSON**

In the matter of:

**RECOMMENDING TO THE MAYOR AND COUNCIL THE DESIGNATION OF
BLOCK 419, LOTS 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9, AND 10 AS A CONDEMNATION
REDEVELOPMENT AREA PURSUANT TO THE NEW JERSEY LOCAL
REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1 ET SEQ.**

WHEREAS, on August 16, 2016, the Mayor and Council of the Borough of Emerson (“Governing Body”) adopted Resolution No. 221-16 authorizing and directing the Land Use Board of the Borough of Emerson (“Board”) to conduct an investigation to determine and recommend 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 (“Study Area”), meets the statutory criteria to qualify as a condemnation “area in need of redevelopment” (“Condemnation Redevelopment Area”) pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., (“LRHL”); and,

WHEREAS, pursuant to N.J.S.A. 40A:12A-4(b), a municipal planning board has the power to conduct, when authorized and directed by the Governing Body, a preliminary investigation, hearings and make recommendations to the Governing Body as to whether an area meets the statutory criteria as a Condemnation Redevelopment Area; and,

WHEREAS, in order to complete the investigation of the Study Area the Board retained Brigitte Bogart PP, AICP, CGW of Planning & Design Professionals, LLC (“Planner Bogart”), to serve as planning consultants and to prepare a report and assist the Board in the investigation and analysis of the LRHL statutory criteria as it pertains to the Study Area; and,

WHEREAS, Planner Bogart has prepared a map delineating the boundaries of the Study Area with a statement of basis for the investigation to be kept on file at the Borough Clerk’s office in accordance with N.J.S.A. 40A:12A-6; and,

WHEREAS, the Board’s Planner Bogart has recommended and the Board has determined to divide the Study Area into subsections and conduct an investigation of an area, specifically Block 419, Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9, and 10 (“Subsection A”) in accordance with the guidelines set forth in N.J.S.A. 40A:12A-6 to determine whether the Study Area, specifically Subsection A, meets the statutory criteria to be designated as a Condemnation Redevelopment Area; and,

WHEREAS, a report was prepared by Planner Bogart, entitled “Determination of Area in Need of Redevelopment” dated December 8, 2016, providing an investigation of Subsection A and

a recommendation that it meets the criteria set forth under N.J.S.A. 40A:12A-5 to be deemed a Condemnation Redevelopment Area ("Report") identified as LUB-1, attached hereto and incorporated herein as Exhibit A; and,

WHEREAS, pursuant to the requirements set forth in N.J.S.A. 40A:12A-6, the Board caused proper notice of the hearing to be published once a week for two (2) consecutive weeks in *The Record* and caused a copy of the notice to be mailed, at least ten (10) days prior to the date set for the hearing, to the last owner of the property and persons in interest of the property within the Study Area according to the tax assessment records of the Borough of Emerson; and,

WHEREAS, the Board conducted a public hearing on Subsection A on December 8, 2016; and,

WHEREAS, the Board advised all of those in attendance that only the properties identified in Subsection A would be discussed during this hearing and that all other property owners and/or persons of interest within the Study Area would be noticed for a hearing regarding all the other properties; and,

WHEREAS, the Planner Bogart prepared Report was presented to the Board that set forth certain findings, recommendations, and conclusions with respect to the eligibility of Subsection A as an "area in need of redevelopment" in accordance with the provisions N.J.S.A. 40A:12A-5; and,

WHEREAS, Professional Planner Bogart was accepted as an expert and presented extensive testimony supporting and supplementing the aforesaid Report and addressing the statutory criteria set forth under N.J.S.A. 40A:12A-5; and,

WHEREAS, all persons present and affected by the potential designation were given an opportunity to be heard by the Board and any testimony and/or evidence presented was made part of the public record; and,

WHEREAS, the following individuals of the public were heard and their testimony was made part of the record:

- 1) Jim Jaworski, Esq. on behalf of 214 Kinderkamack, LLC, Block 419, Lot 4 located at 214 Kinderkamack Road.
- 2) Debbie Agnello, Block 419, Lot 6.01 located at 188 and 190 Kinderkamack Road.
- 3) Ernest Vanderkuegel from Congers, Rockland County, New York (not a subject property owner or person in interest for this hearing).
- 4) Rosella and Eduardo Cordero, stated 11 Chestnut Street (Block 405, Lot 4 on the Borough tax record, but property owners stated Block 214, Lot 3.02 on the record at the hearing. Also, not a subject property owner or person in interest for this hearing).
- 5) Kenneth Hoffman, 61 Emwood Drive (not a subject property owner or person in interest for this hearing).
- 6) Robert Petrow, 6 Hawthorne Terrace, Saddle River (not a subject property owner or person in interest for this hearing).

- 7) Jill McGuire, 154 Linwood Ave. (not a subject property owner or person in interest for this hearing).
- 8) Ed Bueti, 61 Chestnut Street (not subject property owner or person in interest for this hearing). Mr. Bueti read an e-mail written by Alisha Wallace (not present) who owns 198 Lincoln Blvd. (not a subject property owner or person in interest for this hearing).
- 9) Danielle DiPaola, 93 Union Street (not a subject property owner or person in interest for this hearing)
- 10) Tim O'Brien, 118 Dyer Avenue (not a subject property owner or person in interest for this hearing).
- 11) Mark Santangelo, 85 Kinderkamack Road (not subject property owner or person in interest for this hearing).

WHEREAS, no written objections were received during the hearing; and,

WHEREAS, the Board of the Borough of Emerson makes the following factual findings and conclusions based on the Report and testimony of Bogart:

1. The preliminary investigation of Subsection A of the Study Area indicates that the proposed redevelopment area meets the statutory criteria found in N.J.S.A. 40A:12A-5 of the LRHL;
2. In general, the majority of Subsection A of the Study Area exhibits faulty arrangement that is characteristic of meeting Criteria "d". The faulty arrangement is due to the size and location of the buildings, lack of parking and improper circulation aisles. This creates a site with an inefficient layout with no opportunities to improve. Given the uses and building sizes on a number of lots, there is a need for outdoor storage and display which is inappropriate and leads to further decay. Furthermore, the lack of a curbing along Kinderkamack Road creates safety issues with un-channeled vehicles exiting and entering the sites and/or backing out onto Kinderkamack Road;
3. The majority of Subsection A of the Study Area exhibits poor design and arrangement which are indicators that the area is not being properly utilized and exhibits economic underutilization. This is clear evidence that the area as a whole is underutilized in accordance with statutory criteria "e", as well as the broader land use and planning goals of the municipality;
4. Subsection A as a whole is not fully productive and developing in a manner that furthers or is consistent with the Borough's plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development;
5. The proposed designation of Subsection A as a Condemnation Redevelopment Area would allow for the creation of a Redevelopment Plan for the area that can encourage creative design, require streetscape improvements, and permit uses that will be compatible with the area's proximity to the train station. These changes would be compatible to the vision of the Smart Growth principles of the New Jersey State Plan and the Borough's Master Plan, which goals have been on the books since 1999 and have

been re-examined frequently (i.e., 2003, 2004, 2006, 2008) since then with little or no progress.

6. Subsection A is suitable for improved utilization, employment and tax generating uses that could serve the health, safety and welfare of the community, including but not limited to allowing for the Borough to comply with its court mandated Council on Affordable Housing Obligation;

7. Many of the structures identified in Subsection A are in unsafe conditions with boarded-up windows, falling roofs, crumbling windows, unimproved driveways, lack of parking, faulty arrangements and the presence of debris throughout;

8. The inclusion of the properties located within Subsection A within the boundaries of the Redevelopment Area are necessary for the effective redevelopment of the entire Redevelopment Area as a whole;

9. There is sufficient credible evidence to support the finding that the designation of the Subsection A as a Condemnation Redevelopment Area authorizes the municipality, if necessary, to exercise the power of eminent domain to acquire any property in Subsection A; and

10. The Report, identified as LUB-1, is incorporated herein together with its findings and conclusions.

NOW, THEREFORE BE IT RESOLVED, that the Municipal Land Use Board of the Borough of Emerson does hereby state as follows:

1. That all of the recitals, including all findings and conclusions of facts set forth hereinabove together with the Report (LUB-1) (attached hereto as **Exhibit A**) are incorporated and adopted by reference herein.

2. That the Board has caused to be undertaken proper notice of the public hearing which was held during the Board's consideration of this matter on December 8, 2016.

3. Such public hearing was held in accordance with law and the Board heard and considered public comment regarding the study and the designation of Subsection A of the Study Area as a Condemnation Redevelopment Area.

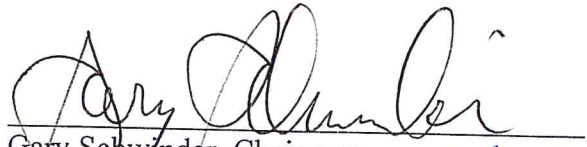
4. The Board has considered public comments and the Report, specifically the findings and recommendations made therein, with regard to each of the properties studied in Subsection A of the Study Area and hereby adopts all of the findings and recommendations of the Report and specifically finds that each of the subject parcels in Subsection A meets one or more of the criteria for redevelopment pursuant to N.J.S.A. 40A:12A-5 as more specifically described and set forth in the Report and hereinabove.

5. The Planning Board recommends that Block 419, Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9, and 10 be and are hereby recommended to the Mayor and Council for use of all those powers provided by the Legislature to designate the area as a condemnation "area in need of redevelopment" pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq.; and

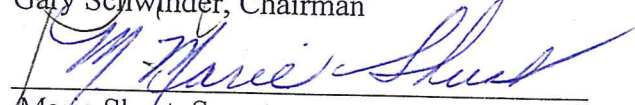
6. The Board Secretary shall forward a copy of the Report together with a copy of this Resolution to the Governing Body of the Borough of Emerson and shall otherwise circulate, file and distribute same in accordance with the law.

The undersigned certifies that the within Resolution was adopted by the Board and memorialized herein on January 5, 2017.

Dated: 1/5/17


 Gary Schwinder, Chairman

Dated: 1/5/17


 Marie Shust, Secretary

OFFERED BY:
 SECONDED BY:
 VOTE: Ayes:
 Nays:
 Abstain:

Yes	No	Abstain	Absent	Not Eligible
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Adams			<input checked="" type="checkbox"/>	
Callagee	N/E			x
DeOrio	N/E			x
Goursky	<input checked="" type="checkbox"/>			
Kutzin	<input checked="" type="checkbox"/>			
Malone	<input checked="" type="checkbox"/>			
McKendry			<input checked="" type="checkbox"/>	
Ortiz	N/E			x
Reiger	N/E			x
Sudano	<input checked="" type="checkbox"/>			
Tripodi, Councilman	N/E			x
Lamatina, Mayor	N/E			x
Schwinder, Chairman	<input checked="" type="checkbox"/>			