

**THE PLANNING BOARD OF  
THE BOROUGH OF BERNARDSVILLE**

**RESOLUTION #2022-14 RECOMMENDING TO THE BOROUGH COUNCIL THAT CERTAIN PROPERTY IDENTIFIED ON THE BOROUGH'S TAX MAPS AS BLOCK 125, LOTS 1, 2, AND 3, NOT BE DESIGNATED AS A NON-CONDEMNATION REDEVELOPMENT AREA UNDER THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1, ET SEQ.**

**WHEREAS**, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., as amended and supplemented (the "**Redevelopment Law**"), authorizes a municipality to determine whether certain property within the municipality constitutes an area in need of redevelopment; and

**WHEREAS**, to make such a determination under the Redevelopment Law, the municipal governing body (the "**Borough Council**") of the Borough of Bernardsville (the "**Borough**"), by way of a resolution adopted January 10, 2022 (Resolution #22-25), authorized and directed the Planning Board of the Borough (the "**Planning Board**") to conduct a preliminary investigation, pursuant to N.J.S.A. 40A:12A-6, of the property identified on the Borough's tax maps as Block 125, Lots 1, 2, and 3, more commonly known as 39 Olcott Square, 35 Olcott Square, and 5 Morristown Road (the "**Study Area**"), and to determine whether all or a portion of the Study Area meets the criteria set forth in the Redevelopment Law, specifically N.J.S.A. 40A:12A-5, to be designated as an area in need of redevelopment, which designation would permit the Borough to utilize all of the redevelopment powers, except for Eminent Domain (a "**Non-Condemnation Redevelopment Area**"), pursuant to Sections 5 and 6 of the Redevelopment Law; and

**WHEREAS**, the Borough Council authorized the firm of TOPOLOGY LLC, having an address of 60 Union Street, #1N, Newark, New Jersey (the "**Planning Consultant**"), to conduct the aforementioned investigation and perform a study pursuant to N.J.S.A. 40A:12A-6 to determine whether the Study Area satisfies the criteria set forth in N.J.S.A. 40A:12A-5 to be designated as a Non-Condemnation Redevelopment Area; and

**WHEREAS**, the Redevelopment Law requires the Planning Board to conduct a public hearing prior to determining whether or not the Study Area should be designated as a Non-Condemnation Redevelopment Area, at which hearing the Planning Board shall hear all persons who are interested in, or would be affected by, a determination that the Study Area is a Non-Condemnation Redevelopment Area; and

**WHEREAS**, the Redevelopment Law further requires the Planning Board, prior to conducting such public hearing, to publish notice of the hearing in a newspaper of general circulation in the municipality once each week for two consecutive weeks, with the last publication made no fewer than ten days prior to such public hearing; and

**WHEREAS**, the Redevelopment Law further requires notice to be mailed to the last known owner(s) and interest holders of the subject properties, as listed in the Borough's assessment records, at least ten days prior to such public hearing; and

**WHEREAS**, the Planning Board caused the aforementioned notices to be published in the *Bernardsville News* on June 23, and June 30, 2022, and served by Certified Mail to the last known owners and interest holders of the subject properties within the Study Area on June 28, 2022; and

**WHEREAS**, the Planning Consultant has prepared an investigative report dated April 21, 2022 (the "**Report**"), a copy of which Report is attached hereto as **Exhibit A**; and

**WHEREAS**, the Planning Board has reviewed the Report, received testimony from the Planning Consultant, and conducted a public hearing during which members of the general public were given an opportunity to pose questions, comment, and raise objections to the Planning Board and its representatives concerning the potential designation of the Study Area as a Non-Condensation Redevelopment Area; and

**WHEREAS**, the Planning Consultant concluded in the Report, and testified to the Planning Board, that there is substantial evidence to support a finding that the Study Area meets certain of the redevelopment criteria provided under the Redevelopment Law, N.J.S.A. 40A:12A-5, and should be designated as a Non-Condensation Redevelopment Area; and

**NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Bernardsville, Somerset County, New Jersey, as follows:**

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. Based on the information and testimony received at the Planning Board hearing held on July 14, 2022, as well as the Report itself and the advice from the Planning Consultant and the Planning Board's professionals, the Planning Board finds that the Study Area does not sufficiently demonstrate the redevelopment criteria provided under N.J.S.A. 40A:12A-5, and, as such, hereby recommends that the Borough Council not designate the Study Area as a Non-Condensation Redevelopment Area pursuant to the Redevelopment Law. Specifically, as to Criteria d (N.J.S.A. 40A:12A-5(d)), which provides:

Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community;

the Planning Board finds that the evidence presented did not rise to the level of constituting dilapidation, faulty arrangement, obsolescence or any combination of these or other factors, so as to be detrimental to the safety, health, morals, or welfare of the community, for purposes of designating the subject lots, or any part thereof, an area in need of non-condemnation

redevelopment. The Planning Board recognizes that, as confirmed by the Planning Consultant, Criteria h, the “consistent with smart growth planning principles,” criteria, is not customarily utilized as a stand-alone criteria that can support a designation of a lot or lots, in whole or in part, as a non-condemnation redevelopment area.

Section 3. The Secretary of the Planning Board shall forward a copy of this Resolution to the Borough Council upon adoption.

Section 4. This Resolution shall take effect immediately.

ROLL CALL VOTE:

Those in Favor: Gardner, Graham, Horowitz, Kellogg, Simoff and Thompson.

Those Opposed: None.

The foregoing is a true copy of a Resolution adopted by the Planning Board of the Borough of Bernardsville at its meeting on July 28, 2022.



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FRANK MOTTOLA, Recording Secretary

Dated: August 3, 2022