

**WEST DEPTFORD TOWNSHIP**

**ORDINANCE #2017-04**

**ORDINANCE OF THE TOWNSHIP OF WEST DEPTFORD AUTHORIZING THE CONVEYANCE OF PROPERTY TO FHG REALTY URBAN RENEWAL, LLC AND TERMINATING THE PHASE I REDEVELOPMENT AGREEMENT AND GROUND LEASE AGREEMENT BETWEEN THE TOWNSHIP OF WEST DEPTFORD AND FHG REALTY URBAN RENEWAL, LLC FOR BLOCK 328, LOT 7.02 LOCATED IN THE RIVERWINDS REDEVELOPMENT AREA**

WHEREAS, the Township of West Deptford (the “Township”), pursuant to a Redevelopment Ordinance adopted on June 6, 1999 (“Redevelopment Ordinance”) and together with the consultation and recommendation of the Township of West Deptford Planning Board (the “Planning Board”) has designated certain land, approximating 1,100 acres, located within the Township of West Deptford, Gloucester County, New Jersey as an “area in need of redevelopment” (the “Redevelopment Area”) in accordance with the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1, et seq.*, (the (Redevelopment Law”). The designation as a Redevelopment Area allowed the Township to adopt a Redevelopment Plan, dated April 6, 1999 (as it may be amended, the “Redevelopment Plan”), pursuant to and in accordance with the Redevelopment Ordinance.

WHEREAS, the Township, acting directly pursuant to and in accordance with the Redevelopment Law, in said Redevelopment Ordinance designated its Mayor and Township Committee to act in lieu of the “Redevelopment Entity” for purposes of implementing the provisions of the Redevelopment Plan.

WHEREAS, in accordance with the powers conferred upon the Township, as a “Redevelopment Entity” under the Redevelopment Law, the Township was authorized and directed to implement the Redevelopment Plan.

WHEREAS, the Redevelopment Plan contained certain recommendations to the Township with respect to the development of the Redevelopment Area, including the recommendation that a portion of a 4.3 acre parcel of land being a part of Block 328, Lot 7.01, now or to be known as Lot 7.02 (the "Property") be developed for restaurant purposes ("Restaurant Project"); and

WHEREAS, the Township acting in its capacity as the Redevelopment Entity, and in accordance with the powers conferred upon it under the Redevelopment Law, issued a Request for Proposals, dated February 17, 2004 (the "RFP"). The RFP, procured, on behalf of the Township, proposals for the design, construction, development, ownership, operation and management of the Restaurant Project.

WHEREAS, pursuant to the above, the Township entered into a Phase I Redevelopment Agreement providing for the redevelopment of the Property for the Restaurant Project by Helena Balis, Fotious Formakis, and George Drakos doing business as FHG Realty Urban Renewal, LLC (the "Redeveloper"), said Phase I Redevelopment Agreement dated as of June 10, 2004 (the "Redevelopment Agreement").

WHEREAS, pursuant to the above, the Township entered into a Lease Agreement providing for the construction, operation and management of the Restaurant Project by Helena Balis, Fotious Formakis, and George Drakos doing business as FHG Realty Urban Renewal, LLC (the "Redeveloper"), said Ground Lease Agreement dated as of December 11, 2004, as amended by a certain Amendment to Ground Lease Agreement dated January 6, 2006, and further amended by a Second Amendment to Ground Lease dated March 12, 2007 and further amended by a Third Amendment to Ground Lease dated April 13, 2007, and last amended by a Fourth Amendment to Ground Lease dated June 6, 2007 (collectively, the "Ground Lease").

WHEREAS, the Redeveloper constructed and operates a single story, approximately 13,000 square foot restaurant and related amenities on the Property and on or about May 26, 2015, received minor site plan approval from the West Deptford Planning Board for the expansion of the restaurant and related amenities on the Property, which expansion has been completed by the Redeveloper.

WHEREAS, on or about May 11, 2011, the Redeveloper exercised its purchase option under the Ground Lease for the Township to convey fee simple title of the Property to the Redeveloper.

WHEREAS, the Property is the subject of a Soil Remedial Action Permit (SRAP) from the NJ Department of Environmental Protection (“NJDEP”), dated August 22, 2014 and Deed Notice by the Township, dated March 31, 2014, recorded on April 2, 2014 (“NJDEP Permits”). The SRAP Number is RAP140001. The Township and Redeveloper have complied with and shall continue to comply with any and all requirements of the SRAP RAP140001 regarding the conveyance of the Property by the Township to the Redeveloper. The Township is exempt from the financial assurance requirement in the SRAP. Following adoption of this Ordinance, the Township shall continue to be the “Responsible Party” under the SRAP and the Redeveloper shall be responsible for the SRAP financial assurance and monitoring/maintenance obligations of the RAP140001. The Township shall perform annual inspections of the engineering control and biennial review of the site usage and continuing applicability/effectiveness of the deed notice as a remedial measure. The Township shall submit a Remedial Action Protectiveness/Biennial Certification Form-Soil to the Department of Environmental Protection on a biennial basis, including applicable fees.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of West Deptford, in the County of Gloucester and State of New Jersey, as follows:

1. The Township Planning Board on or about January 24, 2017 approved a minor subdivision of the Property to create a new lot to be conveyed to the Redeveloper, which new lot shall be known as Lot 7.02 in Block 328 and consist of 3.765 acres (the "New Lot") and which new lot will include the reservation of easements for the benefit of the Township for access, utility and sanitary sewer.
2. The Township hereby authorizes the conveyance of the New Lot to the Redeveloper which shall be conveyed by a deed containing the covenants, provisions and controls required by the Redevelopment Law.
3. The Township shall remain as the responsible party under the NJDEP Permit and applicable NJDEP regulations for the New Lot.
4. The Township hereby finds that the Redeveloper never exercised the option to lease or purchase the Option Parcel as same is defined in the Ground Lease, which consisted of a .63 acre portion of the Property.
5. Upon conveyance of the New Lot by the Township to the Redeveloper, the Ground Lease and any amendments thereto shall terminate and the parties shall have no rights, obligations or duties pursuant to such Ground Lease.
6. Upon conveyance of the New Lot by the Township to the Redeveloper, the Redevelopment Agreement and any amendments thereto shall terminate and the parties shall have no rights, obligations or duties pursuant to such Redevelopment Agreement.
7. Upon conveyance of the New Lot by the Township to the Redeveloper, the payment in lieu of taxes ("PILOT") for the Property as set forth in the Ground Lease, shall terminate in accordance with applicable law and the Township Tax Collector is hereby authorized to

determine the most efficient manner and timeframe to terminate such PILOT to avoid any inconveniences for tax collection purposes of the Township and Redeveloper.

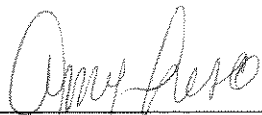

8. Upon conveyance of the New Lot by the Township to the Redeveloper and termination of the PILOT as provided for herein, the New Lot shall be subject to ordinary real estate taxes in accordance with applicable law.
9. The Mayor, Township Clerk, Township Administrator and Township Solicitor are hereby authorized to execute any and all documents required to effectuate the purpose and intent of this Ordinance.

**BE IT FURTHER ORDAINED** that this Ordinance shall take effect immediately upon final passage and publication as required by law.

TOWNSHIP OF WEST DEPTFORD

By:   
Denice DiCarlo, Mayor

ATTEST:

  
Lee Ann DeHart, RMC  


**INTRODUCED** at a meeting of the Township Committee of the Township of West Deptford, held on March 1, 2017.

ROLL CALL VOTE				
	AYES	NAYS	ABSTAIN	ABSENT
Denice DiCarlo	✓			
James Mehaffey	✓			
Adam Reid	✓			
Megan Kerr	✓			
James Robinson	✓			
<b>TALLY:</b>	5			

**ADOPTED** at a meeting of the Township Committee of the Township of West Deptford, held on April 5, 2017.

ROLL CALL VOTE				
	AYES	NAYS	ABSTAIN	ABSENT
Denice DiCarlo	✓			
James Mehaffey	✓			
Adam Reid	✓			
Megan Kerr	✓			
James Robinson	✓			
<b>TALLY:</b>	5	0	0	0