

ORDINANCE NO. 3618-22

ORDINANCE OF THE BOROUGH OF RUTHERFORD, IN THE COUNTY OF BERGEN, NEW JERSEY ADOPTING AN AMENDMENT TO THE “THEATER DISTRICT REDEVELOPMENT PLAN AREA A SYLVAN-WALKWAY/SPRING DELL/GLEN ROAD/ORIENT WAY & ETRICK TERRACE PARKING AREA” FOR THE THEATER DISTRICT REDEVELOPMENT AREA

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “**Redevelopment Law**”), authorizes municipalities to determine whether certain parcels of land in the municipality constitute “areas in need of redevelopment”; and

WHEREAS, on August 22, 2016, the Mayor and Council (the “**Mayor and Council**”) of the Borough of Rutherford (the “**Borough**”), following the recommendation of the Borough Planning Board (the “**Planning Board**”), duly adopted Resolution No. 182-2016 designating the properties identified as Block 128, Lots 1, 2.01, 2.02, 2.03, and 5, Block 145, Lots 10 and 10.01, Block 146, Lots 1, 1.02, 2, 3, 4, and 5, and Block 147, Lots 1, 4, 9, 10, 14, 15, 16, 17.02, 19.01, 20 and 21, on the Borough’s tax map and otherwise known as the “Theater District Redevelopment Area” (collectively, the “**Redevelopment Area**”) as a “non-condemnation area in need of redevelopment/rehabilitation” pursuant to the Redevelopment Law, with the condition that any rehabilitation of the Williams Center Site (Block 147) is to include a theatre aspect; and

WHEREAS, by Resolution No. 182-2016, adopted on August 22, 2016, the Mayor and Council authorized the creation of a redevelopment plan for the Redevelopment Area and Neglia Engineering Associates (“**Neglia**”) was directed to prepare same; and

WHEREAS, Neglia prepared a redevelopment plan for the Redevelopment Area, entitled “Theater District Redevelopment Plan Area A Sylvan-Walkway/Spring Dell/Glen Road/Orient Way & Etrick Terrace Parking Area” (the “**Redevelopment Plan**”); and

WHEREAS, by Ordinance No. 3562, adopted on June 28, 2021, the Mayor and Council approved and adopted the Redevelopment Plan; and

WHEREAS, by Resolution No. 148-2021, adopted on August 9, 2021, Native Center Development, LLC (“**Native**”) was designated as the “conditional redeveloper” of that portion of the Redevelopment Area consisting of 15 Sylvan Street, Block 147, Lot 1 (formerly Lots 1, 1.01, 2 & 3) (the “**Williams Center Property**”); and

WHEREAS, Native is the owner of the Williams Center Property; and

WHEREAS, Native proposes to redevelop and rehabilitate the Williams Center Property with a project consisting of residential units, retail space and the preservation and operation of a black box theatre, a cinema complex and the Williams Center Theatre, all in a seven (7) story building, with related rooftop amenities (the “**Project**”); and

WHEREAS, in order to permit the construction of the Project, certain amendments to the Redevelopment Plan are necessary; and

WHEREAS, Stonefield Engineering and Design, LLC (“**Stonefield**”), prepared proposed amendments to the Redevelopment Plan, outlined in a letter dated January 11, 2022, revised April 18, 2022, and attached hereto as **Exhibit A** (the “**Proposed Redevelopment Plan Amendment**”); and

WHEREAS, on April 4, 2022, by Resolution No. 90-2022 the Mayor and Council referred the Proposed Redevelopment Plan Amendment to the Borough’s Planning Board for its review and comment, in accordance with *N.J.S.A.* 40A:12A-7 of the Redevelopment Law; and

WHEREAS, on May 19, 2022, the Planning Board reviewed the Proposed Redevelopment Plan Amendment and determined that the Proposed Redevelopment Plan Amendment is consistent with the Borough’s Master Plan subject to certain recommended revisions set forth in a letter from the Planning Board Attorney, Gerald R. Salerno, Esq., dated May 25, 2022, attached hereto as **Exhibit B** (the “**Planning Board Recommendations**”); and

WHEREAS, the Borough desires to adopt the Proposed Redevelopment Plan Amendment, except that item #10 therein is omitted, and provided that recommendation # 1, from the Planning Board Recommendations, stating that “[w]ith respect to the proposed increase in maximum impervious coverage to 100%, the Board recommends that the Redeveloper be required to ensure that adequate stormwater management is installed as part of the project” be incorporated into the Redevelopment Plan amendment (the Proposed Redevelopment Plan Amendment, as revised, is hereinafter the “**Redevelopment Plan Amendment**”); and

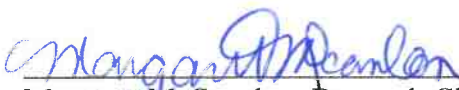
WHEREAS, the Borough finds that adoption of the Redevelopment Plan Amendment will serve the best interests of the Borough and now desires to adopt same.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Rutherford, County of Bergen, State of New Jersey, as follows:

1. The aforementioned recitals hereof are incorporated herein as though set forth at length herein.
2. The Redevelopment Plan Amendment is hereby approved and adopted.
3. Neglia is authorized and directed to prepare a revised version of the Redevelopment Plan to incorporate the Redevelopment Plan Amendment therein.
4. The sections of the Zoning Map of the Borough that relate to the Redevelopment Area are hereby amended to incorporate the provisions of the Redevelopment Plan Amendment.
5. This Ordinance shall take effect in accordance with applicable law.

ATTEST:

BOROUGH OF RUTHERFORD


Margaret M. Scanlon, Borough Clerk


Frank Nunziato, Mayor

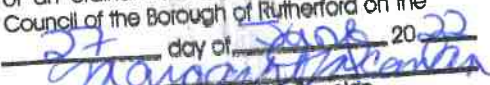
I hereby certify that this is a true and exact copy
of an ordinance adopted by the Mayor and
Council of the Borough of Rutherford on the
27 day of June, 2022

Margaret M. Scanlon
Borough Clerk

EXHIBIT A

Proposed Redevelopment Plan Amendment
Stonefield Letter Dated January 11, 2022

STONEFIELD

Revised April 18, 2022
January 11, 2022

Borough of Rutherford
Planning Board
176 Park Avenue
Rutherford, NJ 07070

**RE: Theater District Redevelopment Plan Amendments
Proposed Mixed-Use Development and Parking Structure
1 Williams Plaza & 5 Ettrick Terrace
Block 147, Lot 1 & Block 145, Lot 10.01
Borough of Rutherford, Bergen County, New Jersey
SE&D Job No. RUT-210308**

Dear Board Members:

Stonefield Engineering and Design, LLC (“Stonefield”) has prepared this updated memo to clarify the identified proposed amendments to the Theater District Redevelopment Plan. Updated commentary has been shown in bold and underlined font below the previously requested amendments.

The subject property is designated as Block 147, Lot 1 and Block 145, Lot 10.01 as depicted on the Borough of Rutherford Tax Map. An ordinance was adopted by the Borough of Rutherford City Council on August 22, 2016, to designate the subject property as an area in need of redevelopment and/or rehabilitation. The subject property is located within the Theater District Redevelopment Area – Area A, which envisions a mixed-use development being located proximate to mass transit. Furthermore, The Theater District Redevelopment Plan reiterates the 2018 Master Plan’s recommendation that the downtown should be a vibrant hub that capitalizes on the Rutherford Train Station. The proposed development would accomplish the goals of both plans by providing transit-oriented development in downtown Rutherford that encourages walkability and the use of mass transit. In order for the subject property to be developed, the following redevelopment plan amendments are required:

Redevelopment Plan Amendments:

1. Permitted Uses in Area A:

Add parking structures to the list of permitted uses in Area A of the Redevelopment Plan.

Section 3.D. add Parking Structure to the list of uses following subsection (e.)

2. Bulk Requirements for parking structures in Area A:

Add the bulk requirements for parking structures:

- 1. Minimum Lot Area: 0.6 acres**
- 2. Maximum Building Coverage: 90%**
- 3. Maximum Impervious Coverage: 100%**
- 4. Maximum Building Height: 5 stories / 60 feet**
- 5. Maximum Height Extension of Parapets & Architectural Elements: 10 feet**
- 6. Minimum Front Yard Setback: None**
- 7. Minimum Side Yard Setback: None**
- 8. Minimum Rear Yard Setback: None**
- 9. Residential Zone Setback: None**

STONEFIELDENG.COM

92 PARK AVENUE, RUTHERFORD, NJ 07070 201.340.4468 T. 201.340.4472 F.

10. Open Space / Outdoor Recreational Area: None

Section 3.D. add above detailed bulk requirements to Parking Structure subsection

3. *Maximum Impervious Coverage for Multifamily Uses:*

Increase the maximum impervious coverage from 90% to 100%.

Section 3.D.b Multifamily Use; increase maximum impervious coverage from 90% to 100%.

4. *Maximum Density for Multifamily Uses:*

Increase the maximum density from 40 units to 90 units.

Section 3.D.b Multifamily Use; this amendment is no longer requested. See item 5 below.

5. *Performing Arts Theater Use with The Newman Theater Bonus:*

Increase the density bonus from 65 units to 90 units.

Update Section 3.D.e to state “The intent of section e is to incentivize a redevelopment entity to preserve, restore, or reconstruct as needed the Newman Theater for resumption of the theater use.”

Revise Section 3.D.e.a. to state “Theater or combined theaters audience capacity to be a minimum of 650.”

Revise Section 3.D.e.b. to state “Parking in the event that the redevelopment entity preserves and/or reconstructs the Newman Center then parking would be per the shared parking study findings.”

Update Section 3.D.e.d.i. Performing Arts Theater Use with The Newman Theater Bonus; increase the number of units from 65 to 90.

6. *Performing Arts Theater Use:*

Eliminate all parking requirements for the Performing Arts Theater Use.

Section 3.D.c Performing Arts Theater Use; eliminate parking requirement (4.)

7. *Retail:*

Eliminate the requirement for retail to be located at street level in a residential multifamily apartment in order to permit a rooftop restaurant.

Section 3.D.d Retail/Commercial/ ; reword 1) to state “Located at street level and on the rooftop of a mixed use building.” Revise 4) to state “Parking for uses other than proposed residential uses listed herein would be subject to the findings of a shared parking study.”

8. *Performing Arts Theater Use with The Newman Theater Bonus:*

Eliminate the parking requirement to provide 100 spaces for the Newman Theater Use.

See item 5. above

9. *Landscaping, Buffers, and Open Space:*

Eliminate the requirement of the total landscaped area to be not less than 10%.

Section 4.A. Landscaping Buffers, and Open Space; eliminate the requirement of the total landscaped area to be not less than 10%. Revise the language of the “Buffer Areas” to reflect the subject property as reflected in the appended marked-up Redevelopment Plan.

10. Sylvan Street right-of-way:

Transfer ownership of the Sylvan Street ROW in the area adjacent to the Williams Center property to the redeveloper.

This amendment continues to be requested to enhance and improve the plaza and create connection between the plaza and the proposed redevelopment project. The applicant requests that the area known as the Sylvan Street ROW is reflected in the maps appended to the Redevelopment Plan.

11. Multi-family parking requirements:

Reduce the parking requirements for multi-family apartment uses from 1.5 spaces per unit to 1 space per unit. Eliminate the offset fee charge for parking spaces not provided under the 1.5 parking space per dwelling unit.

Section 3.b.12. Parking requirement for residential; revise the parking requirement from 1.5 per unit to 1.0 per unit and eliminate the offset fee charge. Applicant to provide a shared parking study to support the parking modification.

Additional Commentary

1. Rooftop Restaurant Interpretation:

Per conversations with the Borough, it has been concluded that the proposed rooftop restaurant would not be considered an additional story in the multi-family building.

This statement continues to apply.

2. Plenary Retail Consumption License:

In reference to Borough Ordinance §7-13 titled “Plenary retail consumption License,” a 650 or more capacity theater venue in Area A of the Theater District Redevelopment Area shall be added to be permitted to obtain a plenary retail consumption license.

This statement continues to apply.

3. Proposed Utility Infrastructure:

The Theater District Redevelopment Plan shall allow for utility infrastructure to be located within the required building setbacks.

This statement continues to apply.

Should you have any questions, please do not hesitate to contact our office.

Best regards,



Matthew J. Seckler, PE, PP, PTOE
Stonefield Engineering and Design, LLC



Charles D. Olivo, PE, PP, PTOE
Stonefield Engineering and Design, LLC

Enclosed: Approved Redevelopment Plan with Mark-ups
Sent via FedEx Addressee

EXHIBIT B

Planning Board Recommendations
Gerald Salerno, Esq. Letter Dated May 25, 2022

ARONSOHN WEINER SALERNO & KAUFMAN, P.C.

A Professional Corporation
COUNSELLORS AT LAW

RICHARD H. WEINER
GERALD R. SALERNO
BARRY L. KAUFMAN

21 MAIN STREET - SUITE 100
COURT PLAZA SOUTH - EAST WING
HACKENSACK, NEW JERSEY 07601

PATRICK W. HARRINGTON
MEMBER N.Y. BAR
CRAIG L. LEVINSOHN
PATRICIA A. FERRARO
STEVEN R. VANDERLINDEN
JONATHAN L. GONZALEZ

RICHARD F. ARONSOHN
(1938-1996)

Telephone: (201) 487-4747
Facsimile: (201) 820-2249
www.aronsohnweinersalerno.com

OF COUNSEL

GARY NEWMAN
MEMBER N.J., N.Y. & FLA. BARS
JOANNE JULIANO GIGER
MEMBER N.J., N.Y. & IL. BARS

May 25, 2022

The Honorable Mayor and Council
Borough of Rutherford
176 Park Avenue
Rutherford, New Jersey 07070

Attention: Margaret M. Scanlon, Borough Clerk

Re: Proposed Amendment to the Theater District Redevelopment Plan

Dear Mayor and Council:

The undersigned serves as the attorney for the Rutherford Planning Board (the "Board"). Please accept this letter in lieu of a formal report of the Board's review of the proposed amendments to the Theater District Redevelopment Plan set forth in the letter dated January 11, 2022, and revised April 18, 2022 from Stonefield Engineering and Design, LLC (the "Proposed Amendments").

On May 19, 2022, the Board conducted an Open Public Meeting, where it heard the testimony of Charles D. Olivo, PE, PP, PTOE, who reviewed the Proposed Amendments. Board members asked questions of Mr. Olivo and questions and the public was afforded a full opportunity to ask questions and provide comments to the Proposed Amendments.

The Board considered each of the Proposed Amendments individually, and voted in favor of recommending all of the Proposed Amendments. As such the Board found that the Proposed Amendments are consistent with the Borough or Rutherford Master Plan subject to the following recommendations:

1. With respect to the proposed increase in maximum impervious coverage to 100%, the Board recommends that the Redeveloper be required to ensure that adequate stormwater management is installed as part of the project.

ARONSOHN WEINER & SALERNO

Pg. 2

2. With respect to the request that ownership of the Sylvan Street right of way be transferred, the Board recommends that adequate requirements be included in the amendment to ensure that the property rights of the adjacent property owners are adequately protected.

Please let me know if you should have any questions.

Very truly yours,

ARONSOHN WEINER SALERNO & KAUFMAN, P.C.

//grs

GERALD R. SALERNO

GRS/jr

cc: Rose Inguanti, Board Secretary
Charles D. Olivo, P.E.