

ORDINANCE NO. 13-2016

BOROUGH OF ROSELAND
COUNTY OF ESSEX, STATE OF NEW JERSEY

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE
BOROUGH OF ROSELAND, COUNTY OF ESSEX, STATE OF NEW JERSEY,
ADOPTING THE 165 EAGLE ROCK AVENUE REDEVELOPMENT PLAN

WHEREAS, the Mayor and Council (the “Council”) of the Borough of Roseland (the “Borough”), by way of a resolution memorialized on November 19, 2013, directed the Borough Planning Board (the “Board”) to undertake a preliminary investigation as to whether 165 Eagle Rock Avenue, otherwise known as Block 38, Lot 56, (the “Redevelopment Area”) identified in the resolution is in need of redevelopment pursuant to the Local Redevelopment and Housing Law (the “LRHL”) and the Municipal Land Use Law (“MLUL”), codified at N.J.S. 40A:12A-1, et seq. and N.J.S. 40A:55D-1. et seq. respectively; and

WHEREAS, Maser Consulting, P.A., the planning consultants retained by the Board, prepared a written study and report dated February 21, 2014, revised July 14, 2014 and entitled “Redevelopment Study Area Determination of Need, Block 38, Lot 56, Borough of Roseland, Essex County, New Jersey” (the “Study Report”), in furtherance of and to assist the Board with this investigation; and

WHEREAS, the Study Report, as amended, was reviewed and considered at the April 21 and July 21, 2014 regularly scheduled meetings of the Board, at which time the study and recommendations of the consultant, Mr. David G. Roberts of Maser Consulting, were reviewed, heard and considered by the Board, and an opportunity was afforded to members of the public and/or interested persons or parties to be heard, ask questions and/or participate in the Board’s consideration of the Study Report; and

WHEREAS, as a result of the Study Report submitted, the testimony of Mr. Roberts, and the Board’s discussion and consideration thereof, the Board determined and recommended, by way of a resolution memorialized on July 21, 2014 that the findings of the Study Report be adopted thereby; and

WHEREAS, pursuant to the applicable provisions of the LRHL and the MLUL. (the “Redevelopment Law”), the Council by way of Resolution No. 252A-2014 approved on August 19, 2014, designated the Redevelopment Area as an “area in need of redevelopment”; and

WHEREAS, also by way of Resolution No. 252A-2014, the Council authorized the preparation of a redevelopment plan outlining the uses and standards governing the redevelopment of the Redevelopment Area (the “Redevelopment Plan”) pursuant to the Redevelopment Law; and

WHEREAS, on December 9, 2014, the Borough adopted Resolution No. 402-2014 in accordance with N.J.S.A. 40A:12A-7(a) which, among other things, directed the Board to review the draft Redevelopment Plan and provide its recommendations to the Council for its consideration pursuant to N.J.S.A. 40A:12A-7; and

WHEREAS, the Board held a public hearing on December 15, 2014 to review and consider the Plan and at the conclusion of the hearing authorized the Board Planner to put their comments into a report for review at its January 26, 2015 meeting; and

WHEREAS, the Board Planner drafted a report dated December 22, 2014 (the “Plan Report”), but the Board did not conduct a public hearing on January 26, 2015; and

WHEREAS, the Plan Report was nevertheless forwarded to the Council and the Council discussed and considered the content and recommendations thereof, even though many of the items within the Plan Report were comments and not recommendations and even though the Council was not required to discuss and consider the items pursuant to N.J.S.A. 40A:12A-7(e) due to the inaction of the Board; and

WHEREAS, the Council discussed and considered the items outlined in the Plan Report and set forth below:

1. The Board agrees with the Redevelopment Plan objective to address parking in the downtown district and agrees the use of the Property will benefit the rest of Block 38 (Lots 57, 58, 1 and 2);
2. The cover of the Redevelopment Plan should include the name of author and affiliation with Borough;
3. The Board recommends that the Permitted Uses on page 8 specify that the parking on Lot 56 be a permitted use for existing commercial uses on Lots 57, 58, 1 and 2, rather than all uses on Block 38 as adjacent office buildings have their own parking;
4. The Board believes it will be more difficult to achieve the objective of merged parking lots from Block 39, Lot 1 to Lot 56 with access agreements to provide for legal connectivity between properties without a redevelopment plan covering the rest of the B-1 district based upon a rehabilitation area designation;
5. The Redevelopment Plan should revise subsection ii of Permitted Uses on page 8 to anticipate the merger of the parking lot on Lot 57 via the following underlined language:
 - ii. “Parking for commercial uses within Block 38, Lots 57, 58, 1 and 2, in accordance with the requirements of Section 30-508 of the Borough Code. The redevelopment of Block 38, Lot 56 for commercial parking shall incorporate an access easement to Lots 57, 58, 1 and 2, which shall be attached to the redevelopment agreement and shown on a concept plan approved by the Borough Council, acting as the Redevelopment Entity.”

6. A new subparagraph iii under Permitted Uses should be added to specify that not more than one principal building should be permitted on Block 38, Lot 56. The existing garage will be considered a principal building unless the property owner decides to utilize the underlying B-1 Zoning to construct a new building in front of it, in which case it would have to become an accessory building once again to be used in conjunction with such a new principal building.
7. The Board noted the existing lot and building does not conform with many of the lot area, bulk and setback requirements that are listed in items (2) through (7) on page 8 as the lot is undersized and the garage does not conform to the yard requirements for a principal building. The Board recommends the existing lot dimensions and yard be set as the overlay zone requirements for as long as Lot 56 is redeveloped as a parking area that expands the parking capacity for the portion of the downtown on Block 38, Lots 57, 58, 1 and 2;
8. The Board notes there are no provisions in the Redevelopment Plan to permit the Board to grant relief from any standards in the Plan. In order to obtain such relief a petition would have to be made to the Council for an amendment to the Plan; and
9. The Board recommends that the language on p 17 under “XII. OFF-SITE IMPROVEMENTS” be revised to specifically identify consolidation of parking for shared use of all property owners on Block 38, Lots 57, 58, 1 and 2 as an “off-site improvement” to be “outlined in the applicable redeveloper’s agreement with the Borough”; and

WHEREAS, the Council determined by the majority vote noted below to disapprove and not adopt the above items of the Report, to the extent the Borough may ultimately be required to do so pursuant to N.J.S.A. 40A:12A-7(e); and

WHEREAS, the Council also determined to adopt the Plan with the following amendments:

1. The cover sheet of the Plan shall be amended to reference the proper dates;
2. The Table of Contents of the Plan shall be amended to include reference to Exhibits A through D;
2. Page 3 of the Plan shall be amended to reference to proper number and date of the resolution in the fifth paragraph;
3. Sections VI.B and C of the Plan shall be amended to reference their consistency with and relation to the Plan;
4. Page 11 of the Plan shall be amended to insert the word “of” between the words “level” and “detail”;
5. Section XIV on page 19 of the Plan shall be amended to reference the Long Term Tax Exemption Law, the Five Year Exemption and Abatement Law, and the related statutory references;
6. Section XVII.A shall be amended to correct the numerical subsections; insert “and” after “Plan” in subsection (i); delete the “d” from the word “executed” in subsection (ii); and insert the word “Neither” at the beginning of subsection (iv); and
7. The titles of Exhibits A-D shall be inserted.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Roseland, Essex County, New Jersey, as follows:

Section 1. The above WHEREAS paragraphs are hereby incorporated by reference as though specifically set forth herein below.

Section 2. The items within the Plan Report referenced hereinabove are hereby disapproved.

Section 3. If any part(s) of this ordinance shall be deemed invalid, such part(s) shall be severed and the invalidity thereby shall not affect the remaining parts of this ordinance.

Section 4. All ordinances and resolutions or parts thereof that are inconsistent with this ordinance are hereby rescinded.

Section 5. This ordinance shall take effect in accordance with applicable law.

DATE OF INTRODUCTION: October 11, 2016

Motion to Introduce by: Councilman Vidovich

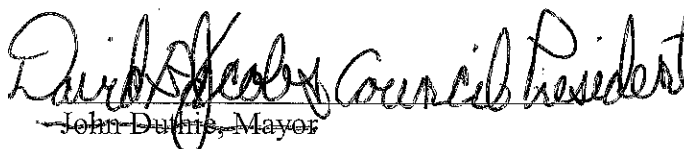
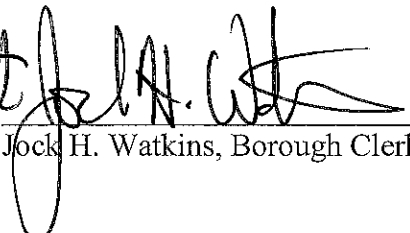
Motion Seconded by: Councilman Tsilionis

Introduction Approved: 3-0 Voice Vote (Leonard Abstain, Smith and Jacobs absent)

DATE OF ADOPTION: November 29, 2016

COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	RECUSE	ABSENT
Council President Jacobs	X		X				
Councilman Leonard					X		
Councilman Smith			X				
Councilwoman Tolli		X	X				
Councilman Tsilionis			X				
Councilman Vidovich			X				
Mayor Duthie (In case of tie)							
VOTE:			5	0			

I hereby certify that the above resolution was duly adopted by the Mayor and Council of the Borough of Roseland at a meeting of Borough Council held on the 29th day of November, 2016.


~~John Duthie, Mayor~~ Council President 
 Jock H. Watkins, Borough Clerk

Date of Publication: December 8, 2016, The Progress