

## ORDINANCE 2021-27

### AN ORDINANCE OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, NEW JERSEY ADOPTING THE DISTRICT 5 (RIVERSIDE INDUSTRIAL) AMENDMENT - RIVERFRONT REDEVELOPMENT PLAN

**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 or areas in need of rehabilitation, as such terms are defined in the Act; and

**WHEREAS**, on September 20, 2004 the Planning Board of the Town of Phillipsburg (the “**Town**”) adopted a Master Plan Update (the “**2004 Master Plan**”) which was designed to give guidance and aid in the process of redefining the direction of development in the Town; and

**WHEREAS**, the 2004 Master Plan set forth certain specified objectives, including, but not limited to, (1) preserving the remaining natural features [of Phillipsburg]; and (2) increasing public access and use of the Delaware River; and

**WHEREAS**, one of the recommendations of the 2004 Master Plan was to create a Riverfront Development Plan for the entire length of river frontage, providing for river related businesses, activities and housing and including access plans for trails, view areas and such; and

**WHEREAS**, one component of the 2004 Master Plan was a Land Use Plan that set forth various land use objectives for the Town, including, but not limited to (1) reducing conflicts between residential and non-residential uses; (2) encouraging the development and expansion of businesses and industries that will generate jobs and provide services for local residents; (3) providing functional, accessible, and cost effective locations within the Town for industrial uses that enhance the economics for the individual uses and the Town as a whole; and (4) encouraging and aiding incompatible non-residential uses whose current location is or will negatively impact the future development/redevelopment of that area to find alternate, more appropriate and functional locations within the Town; and

**WHEREAS**, another recommendation of the 2004 Master Plan was that the Town should develop a program to encourage poorly located industries to relocate to more favorable locations within the Town; and

**WHEREAS**, in accordance with the requirements of the Redevelopment Law, the municipal council (“**Town Council**”) of the Town previously determined that the properties identified as Block 2102, Lots 2.01, and 2.02 on the official tax maps of the Town constituted an area in need of redevelopment (the “**Riverfront Redevelopment Area**”) in accordance with the requirements of the Redevelopment Law; and

**WHEREAS**, in order to effectuate the redevelopment of the Riverfront Redevelopment Area and establish the riverfront districts, including District 5, the Town has previously adopted a redevelopment plan entitled “**Revised Riverfront Redevelopment Plan**” dated November 4, 2013 by Ordinance 2013-19 (the “**Revised RRP**”), pursuant to the authority granted under the Redevelopment Law; and

WHEREAS, the Revised RRP designated Block 2102, Lots 2.01 and 2.02 (the "Property") in District 5 as "Riverside Residential," which was to consist primarily of residential buildings, and retail, museum, cultural and office use on the ground floors, and parks and recreational facilities; and

WHEREAS, Peron Construction, LLC (the "Developer") was previously designated by the Town as the Redeveloper for the District 5 portion of the Revised RRP and intends to enter a Second Amendment to the Redeveloper Agreement between the Redeveloper and the Town dated May 15, 2014 for the development of one "industrial building" of approximately 400,000 square feet, associated parking, supporting infrastructure and improvements on the property identified on the tax maps of the Town as Block 2102 Lots 1, 2.01, and 2.02; and

WHEREAS, the Town wishes to amend the Revised RRP to change District 5 from Riverside Residential to Riverside Industrial, to permit industrial uses and allow the related amendments to accommodate the aforementioned purposes as specifically set forth in the attached EXHIBIT A (the "District 5 Amendment – RRP"); and

WHEREAS, the Town has referred the District 5 Amendment – RRP to the Phillipsburg Land Use Board (the "Land Use Board") for its review, report and recommendation in accordance with N.J.S.A. 40A:12A-7(e); and

WHEREAS, the Land Use Board, at a duly noticed and constituted public meeting, has reviewed the District 5 Amendment – RRP; and

WHEREAS, following such review the Land Use Board has rendered its report and recommendations to the Borough and recommended the adoption of the District 5 Amendment – RRP pursuant to N.J.S.A. 40A:12A-7(e); and

WHEREAS, the Town Council previously adopted Ordinance 2021-14 which adopted the **District 5 Amendment – RRP** that is attached hereto ("Original Adoption"); and

WHEREAS, there was a lawsuit filed which challenged the validity of the Ordinance 2021-14 and the **District 5 Amendment – RRP** adoption based, among other things, allegations of conflict among the governing body which acted upon Ordinance 2021-14 and inconsistencies between Ordinance 2021-14 and the 2004 Master Plan; and

WHEREAS, the Town desires to rectify any perceived issues with the Original Adoption by introducing an amended **District 5 Amendment – RRP** adoption ordinance and acting upon same; and

WHEREAS, the Town acknowledges that the District 5 Amendment – RRP presents some inconsistencies, and many consistencies, with the 2004 Master Plan; and

WHEREAS, specifically, the Town acknowledges that the designation of the Property as Light Industrial does not provide for "river related businesses, activities and housing" along the entire length of the Delaware River and does not "increase public access and use of the Delaware River;" and

WHEREAS, despite these inconsistencies, an amendment to the Revised RRP is advisable, and permissible pursuant to N.J.S.A. 40A:12A-7d and well-established case law in the State of New Jersey, given significant changed circumstances since the adoption of the 2004 Master Plan and subsequent Revised RRP and that the original intent of the Town was to permit industrial activities in this area; and



WHEREAS, in accordance with the "Consistency Review Report: Proposed Amendment to the Riverfront Redevelopment Plan" by Van Cleef Engineering Associates, Inc. dated February 25, 2021, the amendment is consistent with many goals and recommendations in the 2004 Master Plan in that more suitable riverfront locations are being prioritized for residential development, and the character of the area surrounding the Property is most suitable for industrial uses; and

WHEREAS, since the adoption of the Town's Revised RRP, the Town has struggled to attract the desired residential development that would be appropriate for Block 2101, Lots 2.01 and 2.02 and, consistent with the 2004 Master Plan, the amendment proposes to locate industrial uses in a more favorable location in Town: adjacent to an existing industrial zone and out of sight from residential and downtown uses; and

WHEREAS, originally, zoning for the Property was "Manufacturing" in the 1988 Master Plan and that Plan recommended changing the existing zoning from a Manufacturing Zone to Light Industrial, which was thereafter codified on the zoning map as Light Industrial and remained so designated for many years; and

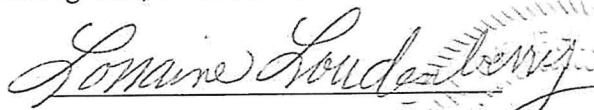
WHEREAS, for the foregoing reasons, the Property is most suited for a Light Industrial designation, which conforms to the general character of the surrounding properties, and residential development is most suitable along other areas of the Riverfront; and

WHEREAS, the Town wishes to adopt the District 5 Amendment – RRP as recommended by the Land Use Board, attached hereto as **EXHIBIT B** (the "Board Recommendation"); however, the this Ordinance shall nonetheless be referred to the Land Use Board for review anew pursuant to N.J.S.A.40A:12A-7(e).

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF PHILLIPSBURG, IN THE COUNTY OF WARREN, AS FOLLOWS:**

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The District 5 Amendment – Riverfront Redevelopment Plan is hereby adopted pursuant to the terms of the Redevelopment Law.
3. The zoning district map included in the zoning ordinance of the Town is hereby amended to reference and delineate the District 5 Amendment – Riverfront Redevelopment Plan. The District 5 Amendment – Riverfront Redevelopment Plan shall supersede the applicable development regulations of the Town's municipal code, as and where indicated.
4. If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of the Ordinance.
5. A copy of the Ordinance and the District 5 Amendment – Riverfront Redevelopment Plan shall be available for public inspection at the office of the Town Clerk during regular business hours.
6. This Ordinance shall take effect in accordance with all applicable laws.
7. Upon this Ordinance becoming final, Ordinance 2021-14 shall be rescinded in its entirety.

(Attestation)



Lorraine Loudenberg,  
Acting Town Clerk

