

TOWNSHIP OF MOORESTOWN

ORDINANCE NO. 15-2023

AUTHORIZING THE EXCHANGE OF THE PROPERTY OWNED BY THE TOWNSHIP OF MOORESTOWN COMMONLY KNOWN AS THE NAGLE TRACT, LOCATED AT 200 HARTFORD ROAD AND ALSO KNOWN AS BLOCK 7401, LOT 3, WITH A 12.5 ACRE PARCEL OF LAND OWNED BY LMC PROPERTIES, INC. LOCATED ON BORTON LANDING ROAD AND KNOWN AS PROPOSED BLOCK 7401, LOT 1.02 WHICH IS A PORTION OF EXISTING BLOCK 7401, LOTS 1 AND 2

WHEREAS, in 1988, the Township of Moorestown (the “Township”) acquired real property located at 200 Hartford Road, identified as Block 7401, Lot 3 on the Official Tax Map of the Township, commonly known as the Nagle Tract (the “Property”) intending that the Property would be developed for affordable housing; and

WHEREAS, in connection with the litigation entitled In the Matter of the Application of the Township of Moorestown, County of Burlington, Docket No. BUR-L-1604-15, which sought a Judgment of Compliance and Repose approving the Township’s Affordable Housing Plan to satisfy its constitutional obligation to provide a realistic opportunity for the development of affordable housing, the Township identified the Property as the intended location of an affordable housing community to consist of a total of 152 units, 76 of which (50%) would be set aside and designated as affordable units; and

WHEREAS, a Conditional Judgment of Compliance and Repose entered February 23, 2021 by the Honorable Paula T. Dow, P.J.Ch. specifically required the Township to expeditiously work with a designated developer to submit an application for a mixed income tax credit funding application in the 2021 application cycle which would provide funding to create the yield of 76 affordable housing units; and

WHEREAS, by Resolution 91-2021, the Township Council authorized the Mayor to execute a Memorandum of Understanding between the Township of Moorestown and Walters-Cornerstone Development, LLC for the development of the Property; and

WHEREAS, subsequent to the execution of the Memorandum of Understanding, the Department of Navy and Lockheed Martin Corporation have notified the Township of its objection to the development of the Property for any purpose based on national security interests because the Property is in close proximity to the Navy’s Combat System Engineering Development Site (CSEDS), and its development would pose, Counterintelligence (CI), Signal Intelligence (SI) and Operational Security (OPSEC) threats; and

WHEREAS, simultaneous with notice that it objected to development of the Property, and in an effort to assist the Township’s need to satisfy its constitutional obligation to provide a realistic opportunity for the development of affordable housing, LMC Properties, Inc. offered to exchange a suitable parcel of nearby land also owned by LMC Properties, Inc. provided it was in a location

that would not present the national security threats identified by the Navy and would not conflict with Lockheed Martin's operations; and

WHEREAS, LMC Properties, Inc., has identified proposed Lot 1.02 of Block 7401, which is a portion of existing Lots 1 and 2 of Block 7401 as suitable property that LMC Properties, Inc. would convey to the Township in exchange for the Township conveying the Property to LMC Properties, Inc.; and

WHEREAS, in accordance with the Local Lands and Buildings Law, specifically N.J.S.A. 40A:12-16, a municipality by ordinance may exchange land owned by the municipality when the municipality determines that the lands to be conveyed to the municipality are at least of equal value, that their acquisition is more advantageous to the municipality for public use than the lands to be conveyed by the municipality, and it is in the public interest that such exchange of land be consummated; and

WHEREAS, the Township Council finds that proposed Lot 1.02 is of similar size and condition as the Property and therefore is of equal value; and

WHEREAS, since the national security interests expressed by the Department of the Navy prevent the Property from being developed for affordable housing, the acquisition of proposed Lot 1.02 is advantageous to the Township since it can be developed for affordable housing which will assist the Township in satisfying its constitutional obligation; and

WHEREAS, the Township Council previously adopted Ordinance 21-2021 which authorized the exchange of property contemplated herein, but that ordinance was invalidated by decision of the Appellate Division of the Superior Court of New Jersey in a case entitled Reddy v. Township of Moorestown, requiring further action by the Township Council; and

WHEREAS, the Township Council finds it is in the public interest that the exchange of land be consummated since the exchange will facilitate the development of affordable housing in accordance with the Township's constitutional obligation to provide a realistic opportunity for the development of affordable housing, and will assist the Township in complying with the Final Judgment of Compliance and Repose entered by Judge Dow on May 10, 2022; and

WHEREAS, the Township Council, consistent with its authority to exchange land pursuant to N.J.S.A. 40A:12-16 wishes to memorialize its authority to exchange the Property for the proposed Lot 1.02 consistent with the law and pursuant to this Ordinance.

NOW THEREFORE, BE IT ORDAINED by the Township Council of the Township of Moorestown, County of Burlington, State of New Jersey, as follows:

Section 1. Exchange Authorized. The Township Council hereby authorizes the conveyance of the Property it owns at 200 Hartford Road, more specifically identified as Block 7401, Lot 3 to LMC Properties, Inc. in exchange for the conveyance by LMC Properties, Inc. to the Township of Moorestown of a 12.5 acre parcel of land identified as

proposed Lot 1.02, which is a portion of Block 7401, Lots 1 and 2 located on Borton Landing Road for a stated consideration of \$1.00.

Section 2. Official Action Authorized. The Mayor, Township Clerk, Chief Financial Officer, Township Manager and Township Attorney are hereby authorized to take all necessary actions to effectuate this exchange in accordance with the Local Lands and Building Law, or any other applicable statute or regulation.

Section 3. Severability. If any section, paragraph, sentence, clause, phrase, term, provision or part of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid or unenforceable for any reason, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, provision or part hereof directly involved in the controversy in which such judgment shall have been rendered.

Section 4. Repealer. Any and all other ordinances inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 5. Effective Date. This ordinance shall take effect upon proper publication and in accordance with law.

Section 6. Short Title. This Ordinance shall be known as Ordinance No. 15-2023.

CERTIFICATION

I, Patricia L. Hunt, Township Clerk, hereby certify that the attached is a true and correct copy of Ordinance No. 15-2023 which was introduced and adopted on first reading on July 10, 2023 and heard on second reading and was duly adopted by the Township Council of the Township of Moorestown, County of Burlington, State of New Jersey at a meeting of the Township Council held on July 24, 2023.

<u>VOTE:</u>	
GILLESPIE	YES
LAW	YES
MAMMARELLA	YES
VAN DYKEN	YES
ZIPIN	RECUSED

Patricia L. Hunt, RMC
Township Clerk