

CRANBURY TOWNSHIP ORDINANCE # 05-16-09

AN ORDINANCE VACATING, RELEASING AND EXTINGUISHING ANY AND ALL PUBLIC RIGHTS IN AND TO OLD HIGHTSTOWN ROAD BOUNDED BY OLD CRANBURY ROAD AND OLD TRENTON ROAD (ROUTE 535) IN THE TOWNSHIP OF CRANBURY, COUNTY OF MIDDLESEX AND STATE OF NEW JERSEY IN ORDER TO FACILITATE REDEVELOPMENT OF BLOCK 19, LOTS 1, 2, 3 AND 4 AND BLOCK 20.16, LOTS 7, 8, 9, 10 AND 20 AS SO DESIGNATED ON THE TAX MAP OF THE TOWNSHIP OF CRANBURY

WHEREAS, High Point Development, LLC (“**HPD**”) is the contract purchaser of property located at Old Trenton Road, Old Cranbury Road and South Main Street, consisting of approximately 12.705 acres, designated on the Cranbury Township Tax Maps as Block 19, Lots 2, 3 and 4 and Block 20.16, Lots 7, 8, 9, 10 and 20 (the “**Property**”); and

WHEREAS, the Property comprises the “High Point Redevelopment Area” pursuant to a certain redevelopment Plan entitled “Redevelopment Plan for the Cheney/Hagerty/Kushner Tract in the Township of Cranbury, New Jersey”, adopted by the Township Committee of the Township of Cranbury on October 26, 2015 by Ordinance # 10-18-15 (the “**Redevelopment Plan**”); and

WHEREAS, On December 15, 2015, HPD received Preliminary and Final Major Subdivision Approval, Preliminary and Final Major Site Plan Approval (Phase 1), and Preliminary Major Site Plan Approval (Phase 2), with Site Plan Ordinance Exceptions (Waivers) and Redevelopment Plan Deviations (collectively, the “**Approvals**”) from the Cranbury Township Planning Board to redevelop the Property with 54 three-bedroom townhouses grouped in 11 buildings consisting of either 4 or 6 units, a +- 4.7 acre open space area, 3 private roads and associated storm water management, parking, lighting, landscaping and other improvements (Phase 1), and a 3.5 acre mixed-use lot containing a 12,000 square foot pharmacy with drive-up window and pass-by lane, a 5,000 square foot bank with 3 drive-through lanes and a pass-by lane, and a 12,250 square foot building containing retail space on the ground floor and 12 apartments on the second floor, of which 7 apartments will be affordable to low and moderate income households, with all 3 buildings fronting on Old Trenton Road (Phase 2) (the “**Redevelopment Project**”), as set forth with more particularity in the Resolution of Memorialization (Application Number PB 267-15), adopted February 5, 2016; and

WHEREAS, the Redevelopment Plan specifically addresses the vacation of Old Hightstown Road, stating that “[i]n order for the Redevelopment Area to be developed as envisioned in the Redevelopment Plan, it will be necessary to vacate Old Hightstown Road, which currently bisects the Redevelopment Area”; and

WHEREAS, the aforesaid Resolution of Memorialization of the Approvals permitting the Redevelopment Project grants such Approvals subject to the condition Old Hightstown Road be vacated, stating that “[t]he Redevelopment Plan calls for Old Hightstown Road to be vacated, and applicant’s proposed development of the site depends on such vacation. The applicant shall

therefore request that the Cranbury Township Committee adopt an ordinance vacating Old Hightstown Road.”; and

WHEREAS, HPD has filed a Petition with the Township Committee of the Township of Cranbury requesting vacation of Old Hightstown Road as described precisely by metes and bounds in the legal description and as depicted on the plan entitled “Right of Way Dedication”, each dated April 8, 2016, prepared by Bowman Consulting Group, Ltd. (the “**Bowman Plan**”), a genuine and complete copy of which is appended hereto as “**Schedule A**” to “**Exhibit A**” and made a part hereof; and

WHEREAS, the said Petition has been duly advertised and proof of the giving of due notice of the Petition requesting enactment of this Ordinance as required by law has been filed with the Township Clerk, and the Township Committee of the Township of Cranbury having held a public meeting thereon, and no objections having been made thereto; and

WHEREAS, the Township Committee of the Township of Cranbury is authorized and empowered to vacate Old Hightstown Road pursuant to N.J.S.A. 40:67-1(b), N.J.S.A. 40A:12-13(c) and N.J.S.A. 40A:12A-8(g); and

WHEREAS, The Township Committee of the Township of Cranbury has determined that the vacation of Old Hightstown Road to facilitate the redevelopment of the Property with the Redevelopment Project in accordance with the Approvals and the Redevelopment Plan serves a public purpose and is in the public interest;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Cranbury, County of Middlesex and State of New Jersey, that:

1. The factual matters set forth in the preamble to this Ordinance are hereby found to be true and correct.
2. Any and all public rights in and to Old Hightstown Road bounded by Old Cranbury Road and Old Trenton Road (Route 535) in the Township of Cranbury, County of Middlesex and State of New Jersey be and the same hereby are vacated, released and extinguished as described and depicted in the Bowman Plan attached hereto and made a part hereof.
3. All costs and expenses incidental to the introduction, passage and publication of this Ordinance, including preparation and mailing of any and all notices related to this Ordinance upon owners within 200 feet of the area and publication shall be borne and paid by HPD.
4. HPD shall file this Ordinance with **Exhibit A** appended hereto with the Clerk of the County of Middlesex within sixty (60) days after the Ordinance becomes effective, but not before HPD has acquired title to the Property. Upon the filing of this Ordinance with the Clerk of the County of Middlesex, title to the vacated area shall vest in HPD, but shall revert to the Township of Cranbury in the event the Redevelopment Plan is not effectuated.

5. Pursuant to N.J.S.A. 40:67-1(b), this vacation ordinance shall expressly reserve and except from vacation all rights and privileges then possessed by public utilities, as defined in R.S. 48:2-13, and by any cable television company, as defined in the “Cable Television Act,” P.L. 1972, c. 186 (C. 48:5A-1 et seq.), to maintain, repair and replace their existing facilities in, adjacent to, over or under the street or any part thereof to be vacated. The costs of relocating any utilities and related utility facilities, including but not limited to water, sewer, gas, electric, telephone and cable television lines, poles, wires and related facilities, necessitated by the within vacation shall be borne and paid entirely by the applicable utility company and/or HPD, as required by law, and not by the Township.

6. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

7. This Ordinance shall be a part of the Township of Cranbury Code as though codified and fully set forth therein. The Township Clerk shall have this Ordinance codified and incorporated in the official copies of the Township of Cranbury Code. The Township Clerk and the Township Attorney are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code in order to avoid confusion and possible accidental repeat of the existing provisions.

8. This Ordinance shall take effect immediately upon its passage and publication, as required by law, but not before HPD has acquired title to the Property.

CERTIFICATION

I, Kathleen R. Cunningham, Clerk, hereby certify that this is a true copy of an Ordinance introduced on First Reading on May 23, 2016 at a meeting of the governing body of the Township of Cranbury, in the County of Middlesex, State of New Jersey. It will be further heard on Second Reading, after a public hearing thereon at the Township Committee Meeting on June 13, 2016 at 7:00 p.m. Copies are available at Town Hall, 23-A North Main Street or on the Township’s web site: www.cranburytownship.org (click on “Document Library”) at no charge.

Kathleen R. Cunningham, RMC
Municipal Clerk

EXHIBIT A
PETITION

**TO THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CRANBURY,
MIDDLESEX COUNTY, NEW JERSEY:**

High Point Development, LLC (“**HPD**”), a New Jersey limited liability company, having its principal office at 237-A Milburn Avenue, Milburn, New Jersey 07041, respectfully states as follows;

WHEREAS, in order to redevelop Block 19, Lots 1, 2, 3, and 4 and Block 20.16, Lots 7, 8, 9, 10 and 20 as so designated on the Tax Map of the Township of Cranbury (the “**Property**”) pursuant to that certain “Redevelopment Plan for the Cheney/Hagerty/Kushner Tract in the Township of Cranbury, New Jersey” adopted by the Township Committee of the Township of Cranbury on October 26, 2015 by Ordinance # 10-18-15 (the “**Redevelopment Plan**”), as well as that certain Preliminary and Final Major Subdivision Approval, Preliminary and Final Major Site Plan Approval (Phase 1) and Preliminary Major Site Plan Approval (Phase 2) with Site Plan Ordinance Exceptions (Waivers) and Redevelopment Plan Deviations granted by the Township’s Planning Board on December 15, 2015 as set forth with more particularity in the Resolution of Memorialization (Application No. PB-267-15) adopted February 5, 2016 (the “**Approvals**”), it is necessary to vacate Old Hightstown Road bounded by Old Cranbury Road and Old Trenton Road (Route 535), as more particularly described in and depicted on the legal description and plan prepared by Bowman Consulting Group, Ltd., each dated April 8, 2016, 2016, genuine and complete copies of which are appended hereto as “**Schedule A**” and made a part hereof; and

WHEREAS, both the Redevelopment Plan and the Approvals specifically provide for the vacation of Old Hightstown Road bounded by Old Cranbury Road and Old Trenton Road (Route 535) as being necessary for such redevelopment of the Property; and

WHEREAS, the public street to be vacated is located in the Township of Cranbury, County of Middlesex and State of New Jersey; and

NOW THEREFORE, HPD requests that the Township Committee of the Township of Cranbury adopt an Ordinance which shall ordain the vacation, release and extinguishment of any and all public rights in and to Old Hightstown Road bounded by Old Cranbury Road and Old Trenton Road (Route 535) as more particularly described and depicted on **Schedule A**.

High Point Development, LLC

By: Paul Schneier, Managing Member
Date:

SCHEDULE A
(PLAN AND LEGAL DESCRIPTION)

SCHEDULE A

April 8, 2016
BCG Proj. 080327-F0-002

DESCRIPTION OF A PROPOSED ROAD VACATION SITUATED IN THE TOWNSHIP OF
CRANBURY, MIDDLESEX COUNTY, NEW JERSEY.

BEING a variable width public right-of-way to be vacated known as Old Hightstown Road, AKA Old York Road and Old Cranbury Road, as shown on map entitled "Preliminary & Final Major Subdivision, Preliminary and Final Site Plan, Phase 1, and Preliminary Site Plan, Phase 2 for Proposed Residential and Mixed Use Development, Final Plat, Major Subdivision, Block 16, Lots 7-10 and 20, Block 19, Lots 2-4, Tax Map Sheet No. 3 and 3.04 (Dated June 2003), Township of Cranbury, Middlesex County, New Jersey" dated October 29, 2015 and prepared by Bowman Consulting and also shown on an Exhibit attached hereto, more particularly described as follows:

- BEGINNING at a point of cusp in the southeasterly sideline of Old Hightstown Road, variable width public right-of-way, where the same is intersected by the division line between Lot 5, Block 19 and Lot 4, Block 19, and running; Thence, by a new line through said right-of-way the following 2 courses
- 1) Along the aforesaid division line between Lots 4 and 5, extended northwesterly, North $87^{\circ}39'15''$ West, 79.34 feet to an angle point where same is intersected by the northeasterly sideline of Old Cranbury Road, 50 feet wide, extended southeasterly; Thence
 - 2) Along said extended sideline of Old Cranbury Road, North $16^{\circ}41'51''$ West, 47.91 feet to a point where same is intersected by a point of curve leading into the northerly sideline of said Old Hightstown Road; Thence, along said sideline the following 9 courses
 - 3) Along said division line, along a curve to the left having a radius of 20.00 feet, an arc length of 29.21 feet, the chord of which bears South $58^{\circ}32'07''$ East, 26.68 feet to a point of compound curve in same; Thence
 - 4) Along a curve to the left having a radius of 125.00 feet, an arc length of 125.55 feet, the chord of which bears North $50^{\circ}51'07''$ East, 120.34 feet to a point of tangency in same; Thence
 - 5) North $22^{\circ}04'38''$ East, 122.50 feet to an angle point in same; Thence
 - 6) South $73^{\circ}53'51''$ West, 18.63 feet to an angle point in same; Thence
 - 7) North $11^{\circ}50'02''$ East, 204.79 feet to an angle point in same; Thence

- 8) North $10^{\circ}48'54''$ East, 463.89 feet to an angle point in same; Thence
- 9) North $73^{\circ}21'20''$ East, 23.17 feet to an angle point in same; Thence
- 10) North $09^{\circ}54'15''$ East, 19.45 feet to an angle point in same; Thence
- 11) North $07^{\circ}43'15''$ East, 278.10 feet to a point where same is intersected by the southerly sideline of Old Trenton Road, County Route 535, variable width public right-of-way; Thence
- 12) Along said sideline, South $85^{\circ}00'45''$ East, 33.04 feet to a point where same is intersected by the aforesaid easterly sideline of Old Hightstown Road; Thence, along said sideline the following 4 courses
- 13) South $07^{\circ}43'15''$ West, 280.30 feet to an angle point in same; Thence
- 14) South $09^{\circ}54'15''$ West, 652.71 feet to a point of curve in same; Thence
- 15) Along a curve to the right having a radius of 988.37 feet, an arc length of 176.26 feet, the chord of which bears South $17^{\circ}08'01''$ West, 176.02 feet to a point of compound curve in same; Thence
- 16) Along a curve to the right having a radius of 174.91 feet, an arc length of 115.07 feet, the chord of which bears South $41^{\circ}05'21''$ West, 113.01 feet to the aforesaid point of BEGINNING

Containing 65,244 square feet or 1.4978 acres, more or less. Subject to easements and restrictions of record.

This description was prepared by:


Kevin P. Bollinger, PLS Inc. 30744
BOWMAN CONSULTING GROUP, LTD.

