

Antimo A. Del Vecchio, Esq. (015191989)
Beattie Padovano, LLC
50 Chestnut Ridge Road
P.O. Box 244
Montvale, New Jersey 07645-0244
(201) 573-1810
Attorneys for Plaintiff, Coremark Brunswick 18, LLC

COREMARK BRUNSWICK 18, LLC,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK, et als.,

Defendants.

CHRISTIANA ENTERPRISES, LLC, et als.,

Plaintiffs,

v.

TOWNSHIP OF EAST BRUNSWICK, et als.

Defendants.

TICES DEVELOPERS, LLC,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK, et als.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

DOCKET NO.: MID-L-004858-17

CIVIL ACTION

**NOTICE OF MOTION FOR SUMMARY
JUDGMENT**

DOCKET NO.: MID-L-5699-17

DOCKET NO.: MID-L-5712-17

LPE PARTNERS,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK,et als.,

Defendants

DOCKET NO.: MID-L-5717-17

OFFICE DEPOT, INC.,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK,et als.,

Defendants

DOCKET NO.: MID-L-5715-17

BRUNSWICK TENNIS OPERATIONS,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK,et als.,

Defendants.

DOCKET NO.: MID-L-5522-17

To: Louis N. Rainone, Esq.
Rainone Coughlin Minchello, LLC
Suite 440
555 US Highway 1 S
Iselin, NJ 08830-3100
lrainon@njremlaw.com

On notice to: Daniel J. O'Hern, Jr., Esq.
Byrnes O'Hern & Heugle, LLC
28 Leroy Place
Red Bank, NJ 07701-1712
dohern@byrnesohern.com

Mark A. Rothberg, Esq.
Wilf Law Firm, LLP
2nd Floor
820 Morris Turnpike
Short Hills, NJ 07078-2624
markr@wilf-law.com

PLEASE TAKE NOTICE that on September 14, 2018 at 9:00 a.m., or as soon thereafter as counsel may be heard, the undersigned attorneys for Plaintiff Coremark Brunswick 18, LLC shall move before the Hon. James P. Hurley, J.S.C. of the Superior Court of New Jersey, Law Division, Middlesex County, for an Order granting summary judgment in favor of Plaintiff Coremark Brunswick 18, LLC, and invalidating Township of East Brunswick Ordinance 17-22, the resolution of the Township of East Brunswick Planning Board adopted on July 5, 2017 that recommends a portion of Route 18 be designated as an Area in Need of Redevelopment, and Township of East Brunswick Resolutions 16134 and 16148 because the Township Council and Planning Board of the Township of East Brunswick lacked jurisdiction to conduct their respective hearings due to defective published notice.

PLEASE TAKE FURTHER NOTICE that, in support of its motion, movant shall rely upon its brief and the Certification of Daniel L. Steinhagen, Esq. with exhibits annexed thereto, and the Certification of Paul Grzella.

PLEASE TAKE FURTHER NOTICE that if opposition to this motion is filed, oral argument is requested.

A proposed form of Order is also served herewith.

BEATTIE PADOVANO, LLC
Attorneys for Plaintiff Coremark
Brunswick 18, LLC

Dated: August 16, 2018

By: 
Antimo A. Del Vecchio, Esq.
A member of the firm

CERTIFICATION OF SERVICE

I hereby certify that an original and one copy of the within Notice of Motion, supporting brief, Certification and a proposed form of Order, were electronically filed with the Motions Clerk, Middlesex County Superior Court, New Brunswick, New Jersey, and true copies of all moving papers were served upon:

Louis N. Rainone, Esq.
Rainone Coughlin Minchello, LLC
Suite 440
555 US Highway 1 S
Iselin, NJ 08830-3100
lrainon@njrcmlaw.com

Mark A. Rothberg, Esq.
Wilf Law Firm, LLP
2nd Floor
820 Morris Turnpike
Short Hills, NJ 07078-2624
markr@wilf-law.com

Daniel J. O'Hern, Jr., Esq.
Byrnes O'Hern & Heugle, LLC
28 Leroy Place
Red Bank, NJ 07701-1712
dohern@byrnesohern.com

by electronic filing and email, on this 16th day of August, 2018.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.


Antimo A. Del Vecchio

Antimo A. Del Vecchio, Esq. (015191989)
Beattie Padovano, LLC
50 Chestnut Ridge Road
P.O. Box 244
Montvale, New Jersey 07645-0244
(201) 573-1810
Attorneys for Plaintiff, Coremark Brunswick 18, LLC

COREMARK BRUNSWICK 18, LLC,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK, et als.,

Defendants.

CHRISTIANA ENTERPRISES, LLC, et als.,

Plaintiffs,

v.

TOWNSHIP OF EAST BRUNSWICK, et als.

Defendants.

TICES DEVELOPERS, LLC,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK, et als.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

DOCKET NO.: MID-L-004858-17

CIVIL ACTION

ORDER

DOCKET NO.: MID-L-5699-17

DOCKET NO.: MID-L-5712-17

LPE PARTNERS,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK,et als.,

Defendants

DOCKET NO.: MID-L-5717-17

OFFICE DEPOT, INC.,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK,et als.,

Defendants

DOCKET NO.: MID-L-5715-17

BRUNSWICK TENNIS OPERATIONS,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK,et als.,

Defendants.

DOCKET NO.: MID-L-5522-17

THIS MATTER having been opened to the Court on the motion of Beattie Padovano, LLC counsel for Plaintiff Coremark Brunswick 18, LLC (Antimo A. Del Vecchio, Esq., appearing), on notice to Rainone Coughlin Minchello (Louis Rainone, Esq., appearing), counsel for the Defendants Township of East Brunswick, Mayor and Council of the Township of East Brunswick, and the Planning Board of the Township of East Brunswick, for an Order granting Summary Judgment pursuant to R. 4:46; and

The Court having reviewed the papers in support of the motion, and those in opposition thereto, and the Court having considered the arguments of counsel (if any), and good cause having been shown,

IT IS on this _____ day of September, 2018

ORDERED that summary judgment in favor of Plaintiff Coremark Brunswick 18, LLC be and the same is hereby granted, and it is

FURTHER ORDERED that Township of East Brunswick Ordinance 17-22, the resolution of the Township of East Brunswick Planning Board adopted on July 5, 2017 that recommends a portion of Route 18 be designated as an Area in Need of Redevelopment, and Township of East Brunswick Resolutions 16134 and 16148, which designate a portion of Route 18 as an Area Need of Redevelopment are invalid and of no force and effect; and it is

FURTHER ORDERED that counsel for Plaintiff Coremark Brunswick 18, LLC shall serve a copy of this Order upon all counsel of record within _____ days of the receipt of this Order.

Hon. James P. Hurley, J.S.C.

Antimo A. Del Vecchio, Esq. (015191989)
Beattie Padovano, LLC
50 Chestnut Ridge Road
P.O. Box 244
Montvale, New Jersey 07645-0244
(201) 573-1810
Attorneys for Plaintiff, Coremark Brunswick 18, LLC

COREMARK BRUNSWICK 18, LLC,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK, et als.,

Defendants.

CHRISTIANA ENTERPRISES, LLC, et als.,

Plaintiffs,

v.

TOWNSHIP OF EAST BRUNSWICK, et als.

Defendants.

TICES DEVELOPERS, LLC,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK, et als.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

DOCKET NO.: MID-L-004858-17

CIVIL ACTION

STATEMENT OF UNDISPUTED
MATERIAL FACTS

DOCKET NO.: MID-L-5699-17

DOCKET NO.: MID-L-5712-17

LPE PARTNERS,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK,et als.,

Defendants

DOCKET NO.: MID-L-5717-17

OFFICE DEPOT, INC.,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK,et als.,

Defendants

DOCKET NO.: MID-L-5715-17

BRUNSWICK TENNIS OPERATIONS,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK,et als.,

Defendants.

DOCKET NO.: MID-L-5522-17

1. On January 1, 2017, the Township Council of the Township of East Brunswick adopted Resolution 15983, which designated the official newspapers of the Township of East Brunswick as the Home News Tribune and the Sentinel. Certification of Daniel L. Steinhagen at Ex. "A".

2. Resolution 15983 does not set forth any findings or determinations of the Council relative to either the Home News Tribune or the Sentinel. Steinhagen Cert., Ex. "A".

3. On April 24, 2017, the Township Council adopted Resolution 160673, which directed the Planning Board to study whether a certain area on the west side of Route 18 should be designated as a Condemnation-Area in Need of Redevelopment. Steinhagen Cert., Ex. "B".

4. On April 24, 2017, the Township Council introduced Ordinance 17-22. Steinhagen Cert., Ex. "C".

5. On April 27, 2017, the Township published a notice of public hearing on Ordinance 17-22 in the Home News Tribune. Steinhagen Cert., Ex. "D".

6. On May 8, 2017, the Township Council conducted a second reading of Ordinance 17-22 and adopted Ordinance 17-22. Steinhagen Cert., Ex. "C".

7. On May 11, 2017, the Township published a notice of adoption of Ordinance 17-22 in the Home News Tribune. Steinhagen Cert., Ex. "E".

8. On May 30, 2017 and June 6, 2017, the East Brunswick Planning Board published in the Home News Tribune notices of a hearing to be held on June 21, 2017 concerning whether a portion of Route 18 should be designated as an Area in Need of Redevelopment that would permit the use of the condemnation power. Steinhagen Cert., Ex. "F".

9. On June 21, 2017 and July 5, 2017, the East Brunswick Planning Board conducted hearings on the Area in Need of Redevelopment Study. Steinhagen Cert., Ex. "G".

10. On July 5, 2017, the East Brunswick Planning Board recommended to the Township Council that the entire study area should be designated as an Area in Need of Redevelopment. Steinhagen Cert., Ex. "H".

11. On July 10, 2017 the Township Council adopted Resolution 16134, which designated the entire study area as an Area in Need of Redevelopment, and which authorized the

adoption of a redevelopment plan that allowed for the use of eminent domain to acquire property within the Area in Need of Redevelopment. Steinhagen Cert., Ex. "I".

12. On August 14, 2017 the Township Council adopted Resolution 16148, which replaced Resolution 16134 and which designated the entire study area as an Area in Need of Redevelopment, and which authorized the adoption of a redevelopment plan that allowed for the use of eminent domain to acquire property within the Area in Need of Redevelopment. Steinhagen Cert., Ex. "J".

13. The Home News Tribune does not currently maintain (and has not for the last six years) in Middlesex County any office, printing facility, assembly facility, bundling facility, loading facility, or any other facility associated with the publication of the Home News Tribune. Certification of Paul Grzella at ¶ 4.



Antimo A. Del Vecchio, Esq.

Dated: August 16, 2018

Antimo A. Del Vecchio, Esq. (015191989)
Beattie Padovano, LLC
50 Chestnut Ridge Road
P.O. Box 244
Montvale, New Jersey 07645-0244
(201) 573-1810
Attorneys for Plaintiff, Coremark Brunswick 18, LLC

COREMARK BRUNSWICK 18, LLC,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK, et als.,

Defendants.

CHRISTIANA ENTERPRISES, LLC, et als.,

Plaintiffs,

v.

TOWNSHIP OF EAST BRUNSWICK, et als.

Defendants.

TICES DEVELOPERS, LLC,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK, et als.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

DOCKET NO.: MID-L-004858-17

CIVIL ACTION

DOCKET NO.: MID-L-5699-17

DOCKET NO.: MID-L-5712-17

LPE PARTNERS,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK,et als.,

Defendants

DOCKET NO.: MID-L-5717-17

OFFICE DEPOT, INC.,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK,et als.,

Defendants

DOCKET NO.: MID-L-5715-17

BRUNSWICK TENNIS OPERATIONS,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK,et als.,

Defendants.

DOCKET NO.: MID-L-5522-17

**PLAINTIFF COREMARK BRUNSWICK 18, LLC'S BRIEF IN SUPPORT OF ITS
MOTION FOR SUMMARY JUDGMENT**

Of Counsel
Antimo A. Del Vecchio, Esq.

On the Brief
Daniel L. Steinhagen, Esq.

Dated: August 16, 2018

Table of Contents

PRELIMINARY STATEMENT1

STATEMENT OF UNDISPUTED MATERIAL FACTS2

LEGAL ARGUMENT3

STANDARD OF REVIEW3

POINT ONE

**BECAUSE THE HOME NEWS TRIBUNE IS NOT PUBLISHED IN MIDDLESEX COUNTY
AND IS INELIGIBLE TO PUBLISH LEGAL NOTICES FOR EAST BRUNSWICK, EAST
BRUNSWICK’S AREA IN NEED OF REDEVELOPMENT DESIGNATION AND
ORDINANCE 17-22 ARE INVALID FOR LACK OF JURISDICTION5**

CONCLUSION.....9

Table of Authorities

Aponte-Correa v. Allstate Ins. Co., 162 N.J. 318 (2000).....6

Brody v. Vill. of Port Chester, 434 F.3d 121 (2nd Cir. 2005)8

Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520 (1995)4

City of Plainfield v. Courier-News, 72 N.J. 171 (1976) 6-8

Harrison Redevelopment Agency v. DeRose, 398 N.J. Super. 361 (App. Div. 2008).....5, 8

Robert James Pacilli Homes, LLC v. Twp. of Woolwich,
394 N.J. Super. 319 (App. Div. 2007)8

Rockaway Shoprite Assoc. v. Twp. of Linden, 424 N.J. Super. 337 (App. Div. 2011).....5

N.J.S.A. 40:49-25

N.J.S.A. 40:53-26, 8

N.J.S.A. 40A:12A-65

PRELIMINARY STATEMENT

This is a motion for summary judgment is based upon Defendants Township of East Brunswick and East Brunswick Planning Board providing defective notice concerning their intent to exercise the drastic governmental condemnation powers. Plaintiff Coremark Brunswick 18, LLC seeks the invalidation of the Area in Need of Redevelopment recommendation of the East Brunswick Planning Board, the Area in Need of Redevelopment designation by the Governing Body of the Township of East Brunswick and the adoption of Ordinance 17-22 of the Township of East Brunswick. In taking each of these actions, the Defendants violated New Jersey law regarding the publication of various notices necessary for them to conduct hearings concerning their actions. In particular, the Defendants, by publishing notices in the Home News Tribune, a newspaper published in Somerset County, violated the requirements in Title 40 that requires publication of all municipal notices for ordinances, resolutions or other proceedings in a newspaper published in the municipality, or if there is no such newspaper, then a newspaper published in the county where the municipality is located.

The result of the publication of notices in the Home News Tribune is that the East Brunswick Planning Board lacked jurisdiction to consider its study concerning the proposed Area in Need of Redevelopment and therefore, that its recommendation is void. Without a lawful recommendation, the Township Council was without authority to declare an Area in Need of Redevelopment. Similarly, the adoption of Ordinance 17-22 by the Township Council is void because the Council lacked jurisdiction to conduct a hearing on and adopt that ordinance. The Court should find, as a matter of law, that Coremark is entitled to summary judgment.

STATEMENT OF UNDISPUTED MATERIAL FACTS

1. On January 1, 2017, the Township Council of the Township of East Brunswick adopted Resolution 15983, which designated the official newspapers of the Township of East Brunswick as the Home News Tribune and the Sentinel. Certification of Daniel L. Steinhagen at Ex. "A".

2. Resolution 15983 does not set forth any findings or determinations of the Council relative to either the Home News Tribune or the Sentinel. Steinhagen Cert., Ex. "A".

3. On April 24, 2017, the Township Council adopted Resolution 160673, which directed the Planning Board to study whether a certain area on the west side of Route 18 should be designated as a Condemnation-Area in Need of Redevelopment. Steinhagen Cert., Ex. "B".

4. On April 24, 2017, the Township Council introduced Ordinance 17-22. Steinhagen Cert., Ex. "C".

5. On April 27, 2017, the Township published a notice of public hearing on Ordinance 17-22 in the Home News Tribune. Steinhagen Cert., Ex. "D".

6. On May 8, 2017, the Township Council conducted a second reading of Ordinance 17-22 and adopted Ordinance 17-22. Steinhagen Cert., Ex. "C".

7. On May 11, 2017, the Township published a notice of adoption of Ordinance 17-22 in the Home News Tribune. Steinhagen Cert., Ex. "E".

8. On May 30, 2017 and June 6, 2017, the East Brunswick Planning Board published in the Home News Tribune notices of a hearing to be held on June 21, 2017 concerning whether a portion of Route 18 should be designated as an Area in Need of Redevelopment that would permit the use of the condemnation power. Steinhagen Cert., Ex. "F".

9. On June 21, 2017 and July 5, 2017, the East Brunswick Planning Board conducted hearings on the Area in Need of Redevelopment Study. Steinhagen Cert., Ex. "G".

10. On July 5, 2017, the East Brunswick Planning Board recommended to the Township Council that the entire study area should be designated as an Area in Need of Redevelopment. Steinhagen Cert., Ex. "H".

11. On July 10, 2017 the Township Council adopted Resolution 16134, which designated the entire study area as an Area in Need of Redevelopment, and which authorized the adoption of a redevelopment plan that allowed for the use of eminent domain to acquire property within the Area in Need of Redevelopment. Steinhagen Cert., Ex. "I".

12. On August 14, 2017 the Township Council adopted Resolution 16148, which replaced Resolution 16134 and which designated the entire study area as an Area in Need of Redevelopment, and which authorized the adoption of a redevelopment plan that allowed for the use of eminent domain to acquire property within the Area in Need of Redevelopment. Steinhagen Cert., Ex. "J".

13. The Home News Tribune does not currently maintain (and has not for the last six years) in Middlesex County any office, printing facility, assembly facility, bundling facility, loading facility, or any other facility associated with the publication of the Home News Tribune. Certification of Paul Grzella at ¶ 4.

LEGAL ARGUMENT

Standard of Review

Pursuant to R. 4:46-2(c), this Court should enter summary judgment if “there is no genuine issue to any material fact.” R. 4:46-2(c) states that a motion for summary judgment shall be granted if the “pleadings, depositions, answers to interrogatories and admissions on file together with the Affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law.” *Id.*; *see also Brill v. Guardian Life Ins. Co. of Am.*, 142 N.J. 520 (1995). In *Brill*, the New Jersey Supreme Court announced the standard by which New Jersey Courts must determine whether a disputed issue of fact is genuine or of an insubstantial nature. The Court that held that when considering a summary judgment motion, a trial judge must make the same type of analysis as is required by R. 4:37-2(b) when considering involuntary dismissals. *Id.* at 535. The Court must determine whether the facts are “so one-sided that one party must prevail as a matter of law.” *Id.* at 136.

Brill requires the Court to consider whether the evidence, if competent, would allow a rational finder of fact to resolve the dispute in favor of the non-moving party. *Id.* at 540. Indeed, the Supreme Court mandated that Summary Judgment be granted when the facts are undisputed and the law is free from doubt such that “a rational jury can reach but one conclusion.” *Id.* at 541.

Additionally, by its plain language, R. 4:46-2 dictates that a Court should deny a summary judgment motion only where the party opposing the motion has come forward with evidence that creates a genuine issue as to any material fact challenged. *Brill*, 142 N.J. at 529. Thus, a non-moving party cannot defeat a motion for summary judgment merely by pointing to

any fact, or to disputed facts that are insignificant. Here, because there are no disputed facts, resolution of the issue depends on a question of law, and therefore summary judgment in NER's favor is appropriate.

POINT ONE

BECAUSE THE HOME NEWS TRIBUNE IS NOT PUBLISHED IN MIDDLESEX COUNTY AND IS INELIGIBLE TO PUBLISH LEGAL NOTICES FOR EAST BRUNSWICK, EAST BRUNSWICK'S AREA IN NEED OF REDEVELOPMENT DESIGNATION AND ORDINANCE 17-22 ARE INVALID FOR LACK OF JURISDICTION

Before a municipality can adopt an ordinance, it must publish notice "in a newspaper published and circulated in the municipality, if there be one, and if not, in a newspaper printed in the county and circulating in the municipality." *N.J.S.A.* 40:49-2. Prior to the designation of an Area in Need of Redevelopment, a municipal planning board must undertake a preliminary investigation and hold a hearing to determine whether some or all of the proposed area should be so designated. *N.J.S.A.* 40A:12A-6(a). The planning board is required to publish two notices in a newspaper of general circulation in the municipality before the hearing. *N.J.S.A.* 40A:12A-6(d). It is Coremark's position, as more fully explained below, that publication of notices in the Home News Tribune, does not comport with the statutory requirements for these notices. The failure to provide legally sufficient notice for the adoption of an ordinance or area in need of redevelopment designation is fatal to such action. *See, e.g., Rockaway Shoprite Assoc. v. Twp. of Linden*, 424 *N.J. Super.* 337 (App. Div. 2011); *Harrison Redevelopment Agency v. DeRose*, 398 *N.J. Super.* 361 (App. Div. 2008).

East Brunswick was required to publish notices for the hearing on Ordinance 17-22 and the Planning Board was required to publish notices for the hearing on the Area in Need of Redevelopment investigatory hearing in a newspaper either published in East Brunswick, or if

none existed, in Middlesex County. This is because the Legislature has directed that municipal notices (excluding notices published by cities) for all ordinances or any other matter for which publication is required by law, “shall be published in at least one newspaper published and circulating in the municipality, and if there be no such newspaper, then in at least one newspaper published in the county in which the municipality is located and circulating in the municipality.” *N.J.S.A.* 40:53-2. The use of the term *shall* in the statute connotes that this requirement is mandatory. *See, e.g., Aponte-Correa v. Allstate Ins. Co.*, 162 *N.J.* 318, 325 (2000) (“Under the ‘plain meaning’ rule of statutory construction, the word ‘may’ ordinarily is permissive and the word ‘shall’ generally is mandatory”).

Neither the Township nor the Board complied with this mandate. Instead, the notices for those hearings were published in the Home News Tribune, which is a newspaper published outside of Middlesex County. The publication of notices by East Brunswick and its other agencies, boards and tribunals in the Home News Tribune violates *N.J.S.A.* 40:53-2.

Publication of legal notices and advertisements in an out-of-county newspaper by a municipality was examined by the New Jersey Supreme Court in *City of Plainfield v. Courier-News*, 72 *N.J.* 171 (1976). There, Plainfield, in Union County, had long published its notices in the Courier-News, a newspaper that maintained its news gathering, editing printing and circulation operations in Plainfield between its founding in 1894 and 1972. *Id.* at 175. In 1972, the Courier-News moved most of its employees and equipment to Bridgewater in Somerset County, leaving behind a small number of employees focused on local advertising and news coverage. *Id.*

When another newspaper that was published in Union County challenged the publication of Plainfield’s legal notices in the Courier-News, the Supreme Court evaluated two separate

issues – whether the Courier-News was qualified to accept legal advertisements in general pursuant to *N.J.S.A.* 35:1-2.2 and whether it was authorized to accept legal advertisements from Plainfield in particular. Its finding that the Courier-News was qualified to accept legal advertisements based upon the criteria in *N.J.S.A.* 35:1-2.2 was not dispositive on the second issue, *id.* at 177-182, and it instead examined how the newspaper organized its facilities to determine whether it could accept advertisements from Plainfield. *Id.* at 182.

First, the Court reviewed the multiplicity of statutes governing publication of notices by municipalities. It noted that, despite technical differences, the statutes “have the same general tenor and clearly seek to achieve the same end: wide dissemination of notice throughout the municipality affected, so that citizens and interested parties may have an opportunity to become informed and to be heard.” *Id.* Second, the Court recognized that the Courier-News had the largest circulation in Plainfield and the closest ties to the municipality, but found that it was ineligible for publication based upon the “specific language of the publication statutes.” *Id.* Third, it found that the Courier-News was published in Bridgewater because “all final editing, printing, correction of printed proofs, assembly, bundling, truck deliver and mailing take place there.” *Id.* at 187. Because the Courier-News was published in Bridgewater, it was not published either in Plainfield or in Union County, and could not be Plainfield’s official newspaper. *Id.* at 188.

The facts here are directly on point with those in *City of Plainfield*. Much like the Courier-News in Plainfield, the Home News Tribune was once published in East Brunswick, but has since departed both East Brunswick and Middlesex County¹. The General Manager/Editor of the Home News Tribune, Paul Grzella, has certified that the Home News Tribune maintains no

¹ As an interesting historical coincidence, the Home News Tribune and the Courier-News now share the same office building in Somerville, New Jersey. See <https://www.mycentraljersey.com/contact/staff/>. Mr. Grzella is the general manager and editor of both newspapers.

actual footprint at all in Middlesex County (which is different than in *City of Plainfield*, where a small team of employees remained at the original office). Without an office in Middlesex County, the Home News Tribune is not, as a matter of law, the Home News Tribune is not published in Middlesex County, and cannot, under *N.J.S.A. 40:53-2*², accept legal advertisements from East Brunswick.

The publication of notices for the Planning Board's hearing concerning the designation of the Area in Need of Redevelopment on June 21, 2017 and the Council's hearing on Ordinance 17-22 on May 8, 2017 were invalid because they were published in a newspaper not authorized to accept legal advertisements for East Brunswick.³ It is as if the notices were not published at all. Without jurisdiction conveyed by legally sufficient notice, the adoption of Ordinance 17-22 is void as a matter of law and arbitrary, capricious and unreasonable. *See, e.g., Robert James Pacilli Homes, LLC v. Twp. of Woolwich*, 394 *N.J. Super.* 319 (App. Div. 2007); *Rockaway Shoprite, supra*. Similarly, the Planning Board's hearings on the Area in Need of Redevelopment Study is a nullity in the absence of proper notice, and the Court should invalidate it and East Brunswick's designation of the Area in Need of Redevelopment. *See, e.g., Harrison, supra, citing Brody v. Vill. of Port Chester*, 434 *F.3d* 121 (2nd Cir. 2005)(redevelopment designation that could result in eminent domain taking violates constitutional due process guarantees when legally sufficient notice is not provided). The Court must invalidate both actions.

² *City of Plainfield* noted the inapplicability of *N.J.S.A. 40:53-2* to Plainfield because the statute specifically exempts cities. *Id.* at 192. Here, East Brunswick is not a city, but is instead organized as a mayor-council township under the Faulker Act *N.J.S.A. 40:69A-1.1*, the requirements do apply.

³ Curiously, the Township does not have an affidavit of publication from the Home News Tribune. Instead, the Township Clerk has certified, erroneously, that the notices were published in Middlesex County. It can be inferred from the Home News Tribune's failure to provide an affidavit of publication that it does not believe itself to be published in Middlesex County.

CONCLUSION

For the reasons set forth in this brief, the Court should invalidate the adoption of Ordinance 17-22 and the designation of the Coremark Property as within an Area in Need of Redevelopment.

Respectfully submitted,

BEATTIE PADOVANO, LLC
Attorneys for Coremark Brunswick 18, LLC

By: _____
Antimo A. Del Vecchio, Esq.
A member of the firm

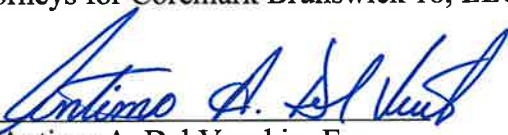
Dated: August __, 2018

CONCLUSION

For the reasons set forth in this brief, the Court should invalidate the adoption of Ordinance 17-22 and the designation of the Coremark Property as within an Area in Need of Redevelopment.

Respectfully submitted,

BEATTIE PADOVANO, LLC
Attorneys for Coremark Brunswick 18, LLC

By: 
Antimo A. Del Vecchio, Esq.
A member of the firm

Dated: August 16, 2018

Daniel L. Steinhagen, Esq. (018622005)
Beattie Padovano, LLC
50 Chestnut Ridge Road
P.O. Box 244
Montvale, New Jersey 07645-0244
(201) 573-1810
Attorneys for Plaintiff, Coremark Brunswick 18, LLC

COREMARK BRUNSWICK 18, LLC,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK, et als.,

Defendants.

CHRISTIANA ENTERPRISES, LLC, et als.,

Plaintiffs,

v.

TOWNSHIP OF EAST BRUNSWICK, et als.

Defendants.

TICES DEVELOPERS, LLC,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK, et als.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY
DOCKET NO.: MID-L-004858-17

CIVIL ACTION

**CERTIFICATION OF DANIEL L.
STEINHAGEN, ESQ. IN SUPPORT OF
PLAINTIFF COREMARK BRUNSWICK
18, LLC'S MOTION FOR SUMMARY
JUDGMENT**

DOCKET NO.: MID-L-5699-17

DOCKET NO.: MID-L-5712-17

LPE PARTNERS,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK,et als.,

Defendants

DOCKET NO.: MID-L-5717-17

OFFICE DEPOT, INC.,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK,et als.,

Defendants

DOCKET NO.: MID-L-5715-17

BRUNSWICK TENNIS OPERATIONS,

Plaintiff,

v.

TOWNSHIP OF EAST BRUNSWICK,et als.,

Defendants.

DOCKET NO.: MID-L-5522-17

Daniel L. Steinhagen, Esq., of full age, certifies as follows:

1. I am an attorney at law of the State of New Jersey and am associated with the firm of Beattie Padovano, LLC, which is counsel to Plaintiff Coremark Brunswick 18, LLC (“Coremark”) in this matter. I am fully familiar with the facts set forth in this certification and I am authorized to make this certification in support of Coremark’s Motion for Summary Judgment.

2. A true and accurate copy of Township of East Brunswick Resolution 15983 is attached as **Exhibit “A”**.

3. A true and accurate copy of Township of East Brunswick Resolution 160673 is attached as **Exhibit “B”**.

4. A true and accurate copy of Township of East Brunswick Ordinance 17-22 is attached as **Exhibit “C”**.

5. A true and accurate copy of the Township of East Brunswick’s notice published in the Home News Tribune for the public hearing on Ordinance 17-22 on April 27, 2017 is attached as **Exhibit “D”**.

6. A true and accurate copy of the Township of East Brunswick’s notice of adoption of Ordinance 17-22 published in the Home News Tribune on May 11, 2017, as obtained from the New Jersey Press Association website (www.njpublicnotices.com) is attached as **Exhibit “E”**.

7. True and accurate copies of the Township of East Brunswick Planning Board’s notices published in the Home News Tribune for the public hearing on the Route 18 Area in Need of Redevelopment investigatory hearing on May 30, 2017 and June 6, 2017 are attached as **Exhibit “F”**.

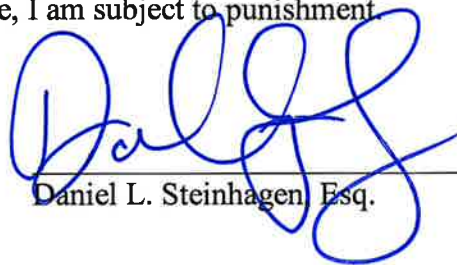
8. True and accurate copies of the meeting agendas of the Township of East Brunswick Planning Board for hearings held on June 21, 2017 and July 5, 2017 are attached hereto as **Exhibit “G”**.

9. A true and accurate copy of the resolution of the Township of East Brunswick Planning Board recommending that a portion of Route 18 be designated as an Area in Need of Redevelopment, undated but adopted on July 5, 2017 is attached as **Exhibit “H”**.

10. A true and accurate copy of Township of East Brunswick Resolution 16134 is attached as **Exhibit "I"**.

11. A true and accurate copy of Township of East Brunswick Resolution 16148 is attached as **Exhibit "J"**.

12. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment



Daniel L. Steinhagen Esq.

Dated: August 16, 2018

EXHIBIT “A”



TOWNSHIP OF EAST BRUNSWICK

NO: 15983 DATE OF ADOPTION: January 1, 2017

RESOLUTION RE: OFFICIAL NEWSPAPERS FOR 2017

BE IT RESOLVED by the Township Council of the Township of East Brunswick that the *Home News Tribune* and the *Sentinel* are hereby designated as official newspapers for the Township of East Brunswick, NJ

CERTIFICATION:

Township Attorney

Joseph P. Gelfo
 Administrator

RECORD VOTE OF COUNCIL ON FINAL PASSAGE									
Council Member	Y	N	NV	Ab	Council Member	Y	N	NV	Ab
Clark <i>16/</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Stanley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hughes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wendell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Spadafino <i>3</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
X • Indicates Vote			NV • Not Voting			Ab • Absent			

This is to certify that this is a true and compared copy of a resolution adopted by the Municipal Council of the Township of East Brunswick on January 1, 2017.

Nennette Perry
 Nennette Perry, Municipal Clerk

EXHIBIT “B”



TOWNSHIP OF EAST BRUNSWICK

NO: 16073

DATE OF ADOPTION: April 24, 2017

RESOLUTION AUTHORIZING THE TOWNSHIP OF EAST BRUNSWICK PLANNING BOARD TO UNDERTAKE A PRELIMINARY INVESTIGATION FOR REDEVELOPMENT OF THAT PORTION OF U.S. ROUTE 18 IDENTIFIED WITH MORE PARTICULARITY AS REDEVELOPMENT AREAS 1A, 2A, 3A AND 6A ON THE MAP ATTACHED HERETO AS SCHEDULE "A" AND DESCRIBED BY ADDRESS, LOT AND BLOCK, ZONE DISTRICT AND REDEVELOPMENT AREA ON SCHEDULE "B" ATTACHED HERETO AND MADE A PART HEREOF

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* provides a mechanism to empower and assist local governments in efforts to promote programs of redevelopment; and

WHEREAS, the Local Redevelopment and Housing Law sets forth a specific procedure for establishing an area in need of redevelopment; and

WHEREAS, pursuant to *N.J.S.A. 40A:12A-6*, prior to the governing body making a determination as to whether a particular study area qualifies as an area in need of redevelopment, the governing body must authorize the Township Planning Board, by Resolution, to undertake a preliminary investigation to determine whether the area meets the criteria of an area in need of redevelopment as set forth in *N.J.S.A. 40A:12A-5*; and

WHEREAS, the Legislature amended the Local Redevelopment and Housing Law on September 6, 2013 to expand and clarify various provisions of same; and

RECORD VOTE OF COUNCIL ON FINAL PASSAGE									
Council Member	Y	N	NV	Ab	Council Member	Y	N	NV	Ab
Clark	✓				Wendell	✓			
Spadafino	✓				Hughes	✓			
Stanley	✓								
X • Indicates Vote			NV • Not Voting				Ab • Absent		

This is to certify that this is a true and compared copy of a resolution adopted by the Municipal Council of the Township of East Brunswick on April 24, 2017.

Gennette Perry
 Gennette Perry, Municipal Clerk

Res. #16073

WHEREAS, as a provision of the amendment to *N.J.S.A. 40A:12-6*, the Legislature has directed that the resolution authorizing the planning board to undertake a preliminary investigation shall state whether the redevelopment area determination shall authorize the municipality to use all those powers provided by the Legislature for use in a redevelopment area other than the use eminent domain ("Non-Condernation Redevelopment Area") or whether the redevelopment area determination shall authorize the municipality to use all those powers provided by the Legislature for use in a redevelopment area, including the power of eminent domain ("Condernation Redevelopment Area"); and


WHEREAS, the redevelopment area determination shall authorize the Township of East Brunswick to use all of the powers provided by the Legislature for use in a redevelopment area including the use of eminent domain, thus designating it as a Condernation Redevelopment Area; and

WHEREAS, the Township of East Brunswick wishes to direct the Planning Board to undertake a preliminary investigation to determine whether the proposed study area, namely that portion of U.S. Route 18 identified with more particularity as Redevelopment Arcas 1A, 2A, 3A and 6A on the zoning map attached hereto as Schedule "A" and described by address, lot and block, zone district and Redevelopment Area on Schedule "B" attached hereto and made a part hereof (the "Study Area") qualifies as an area in need of redevelopment pursuant to *N.J.S.A. 40A:12A-5*.

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of East Brunswick that the Township Planning Board is hereby directed to conduct the necessary preliminary investigation, including the holding of a public hearing, to determine whether the Study Area is or is not an area in need of redevelopment under the criteria set forth in *N.J.S.A. 40A:12A-1 et seq.*

BE IT FURTHER RESOLVED, that the Planning Board shall submit its findings and recommendations to the Township Council in the form of a Resolution with supporting documentation.

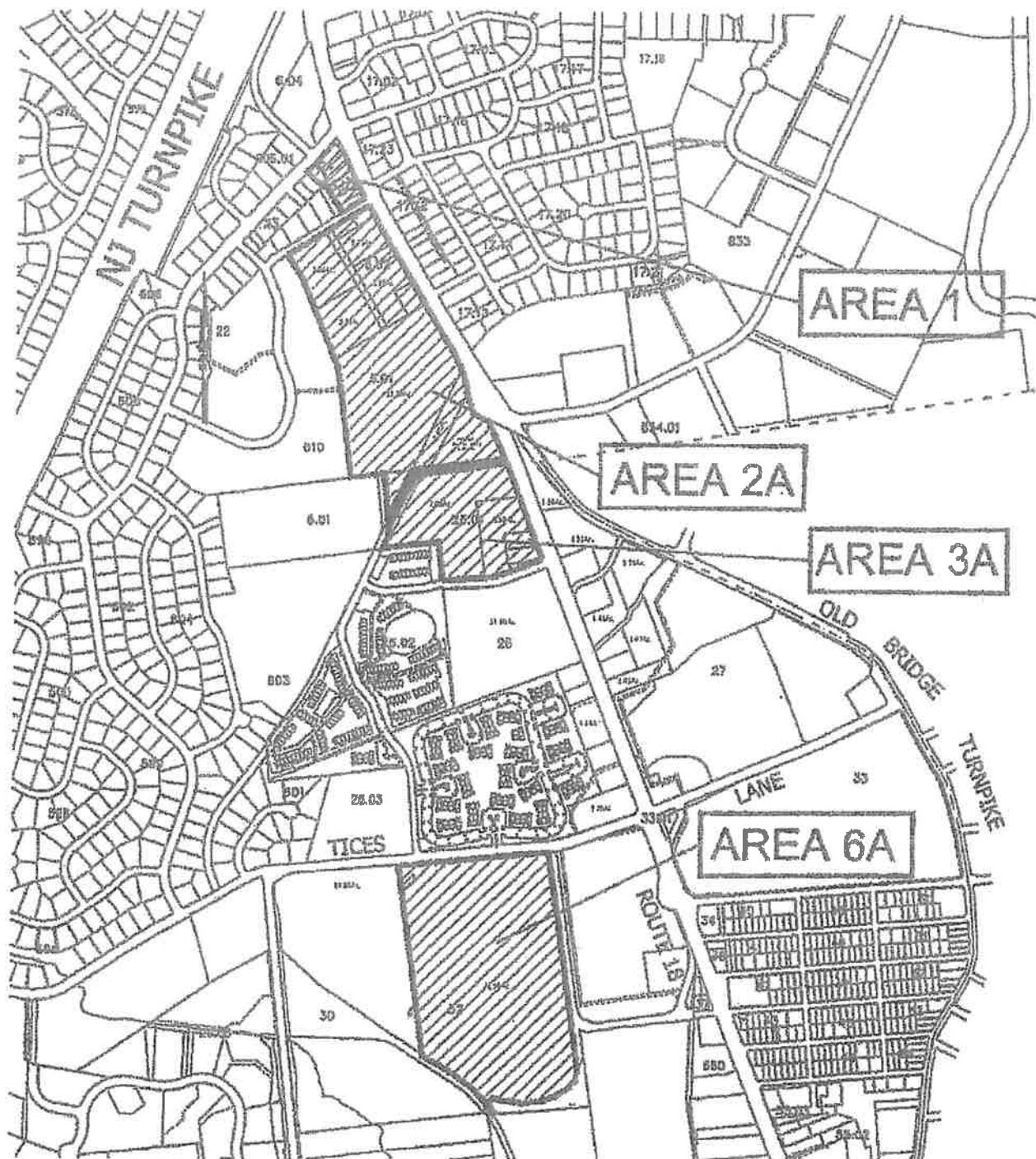
CERTIFICATIONS:


Administrator

Township Attorney

Director, Planning & Engineering

Resolution 16073 - Schedule A



Resolution 16073 - Schedule B

DATED: 4/21/17

REDEVELOPMENT LAND INVENTORY

<u>BLOCK:</u>	<u>LOT:</u>	<u>TAX MAP:</u>	<u>ADDRESS:</u>	<u>LOT AREA (ACRES):</u>	<u>ZONE:</u>	<u>RD AREA</u>
8.03	6.19	8.01	1 RUTH STREET	0.19	C-1	1
24	2	8.01	199 ROUTE 18	0.36	C-1	1
24	1.01	8.01	205 ROUTE 18	0.23	C-1	1
8.03	7.01	8.01	209 ROUTE 18	0.61	C-1	1
8.03	8.01	8.01	209 ROUTE 18	0.16	C-1	1
8.03	9.01	8.01	209 ROUTE 18	0.21	C-1	1
8.03	10.01	8.01	211 ROUTE 18	0.20	C-1	1
24	3	8.01	8 EGGERS STREET	0.23	C-1	1
				2.21		
8.02	6.21	8.01	216 ROUTE 18	0.26	HC-2	2A
8.02	11.02	8.01	215 ROUTE 18	0.23	HC-2	2A
8.02	6.22	8.01	219 ROUTE 18	1.33	HC-2	2A
8.02	6.20	8.01	223 ROUTE 18	2.36	HC-2	2A
8.02	12.01	8.01	223 ROUTE 18	0.22	HC-2	2A
8.01	16.04	8.01	225 ROUTE 18	2.60	HC-2	2A
8.02	13.01	8.01	229 ROUTE 18	0.51	HC-2	2A
8.01	16.02	8.01	233 ROUTE 18	13.26	HC-2	2A
8.01	16.03	8.01	233 ROUTE 18	3.20	HC-2	2A
8.01	16.02	8.02	ROUTE 18	0.81	HC-2	2A
26.01	8	9	ROUTE 18	2.40	HC-2	2A
26.01	9.02	9	ROUTE 18	1.42	HC-2	2A
				26.70		
26.01	6.01	9	253 ROUTE 18	0.63	HC-2	3A
26.01	12	9	253 ROUTE 18	7.86	HC-2	3A
26.01	11	9	257 ROUTE 18	2.50	HC-2	3A
26.01	4	9	259 ROUTE 18	0.45	HC-2	3A
26.01	3	9	261 ROUTE 18	0.55	HC-2	3A
26.01	10	9	261 ROUTE 18	0.17	HC-2	3A
				12.16		
32	1.33	11	110 TICES LANE	32.96	I/M	6A
				32.96		
TOTAL ACRES REDEVELOPMENT AREAS				76.06 ACRES		

EXHIBIT “C”



TOWNSHIP OF EAST BRUNSWICK

ORDINANCE NO: 17-22 DATE OF INTRODUCTION: April 24, 2017

**ORDINANCE 17-22, AMENDING CHAPTER 228,
ZONING OF THE TOWNSHIP OF EAST BRUNSWICK**

BE IT ORDAINED by the East Brunswick Township Council as follows:

SECTION 1. Chapter 228, Zoning of the Township of East Brunswick is hereby amended as follows:

SECTION 2. Chapter 228, Article I, Title; Interpretation; Intent; Definitions and Article XIXA, Regulations for the HC-2 General Highway Commercial District. The code of the Township of East Brunswick is hereby amended by the adoption of this ordinance as more particularly set forth on Schedule A, copies of which are on file in the Clerk's office.

SECTION 3. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

SECTION 4. All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 5. This ordinance shall take effect 20 days after final passage, adaptation and publication according to law.

Michael Hughes
Council President

ATTEST:
Nennette Perry, Township Clerk

Rejected Bradley Polin 5/8/17
 Approved Mayor Date

Reconsidered by Council _____ Override Vote Yes ___ No ___
Michael Hughes Nennette Perry
 Council President Municipal Clerk

RECORD OF VOTE																
Council Member	4/24/17 First Reading					5/8/17 Second Reading					Tabled					
	M	S	Yes	No	NV	Ab	M	S	Yes	No	NV	Ab	M	S	Yes	No
Clark	M		✓						✓							
Spadafino	S		✓				M		✓							
Stanley	-		✓				S		✓							
Wendell			✓						✓							
Hughes			✓						✓							

X • Indicates Vote NV • Not Voting AB • Absent M • Moved S • Seconded

Ord. #17-22

SCHEDULE A

ARTICLE I

Title; Interpretation; Intent; Definitions

& 226-3. Definitions and word usage.

CONVENIENCE STORE – A retail store offering for sale convenience goods such as prepackaged food items, tobacco, medications, limited grocery items and other household goods.

HEALTH CLUB – A facility where members or nonmembers use equipment or space for the purpose of physical exercise.

ARTICLE XIXA

Regulations for the HC-2 General Highway Commercial District

& 228-176. Permitted uses.

- A. Department stores and all uses normally associated with department stores, including the sale and installation of auto accessories in the main building or in a separate building, but nothing herein contained is intended to permit the sale of gasoline, lubrication of motor vehicles or the performance of any other auto repairs, painting or body work.
- B. Retail stores and sales.
- C. Services and service agencies, including hotels, motels, small-animal hospitals, garages and minor automobile repair shops with incidental storage yard for vehicles awaiting repair, radio, television and electrical repair shops, restaurants.
- D. Public and parochial schools and colleges and private schools and colleges for academic instruction.
- E. Public recreational and community-center buildings and grounds.
- F. Public libraries and museums.
- G. Buildings used exclusively by the federal, state, county or local municipal government for public purposes, but not including workshops, warehouses or storage yards.
- H. Private, non-profit recreational and community buildings, clubs, swimming pools and activities of a quasi-public, social, fraternal or recreational character, such as golf and tennis clubs, camps, veteran or fraternal organizations which are not of a commercial character.
- I. Professional occupations and general offices.
- J. The studio of a teacher of music, dancing or art.
- K. The studio of a photographer.
- L. Undertaking establishment.

- M. Clubs, lodges and association buildings, meeting rooms and halls.
- N. Public automobile parking areas.
- O. Public utility structures and facilities other than those of an industrial character, such as repair and maintenance shops, storage facilities, freight stations and freight yards.
- P. Fast-food restaurants where the exclusive means of entry to the premises is through an interior mall, corridor or passageway shared as the common access to premises in the shopping center occupied by other tenants.
- Q. Three or fewer mechanical or electrical amusement devices.
- R. Residential dwellings. Where a single-family dwelling existing on a lot as of January 1, 1988, the residential use may be thereafter continued and the structure may be thereafter enlarged or expanded as long as the proposed alteration conforms to the minimum requirements for height, area, yard and off-street parking as they existed prior to January 1, 1988. If the proposed alteration does not conform to the prior bulk regulations, an application for a bulk variance shall be made to the Zoning Board of Adjustment.

S. Banks and Financial Institutions.

T. Health Clubs.

& 228-176.1. Conditional Uses.

A. Gas stations, on the basis of the following standards [Amended 8-11-03 by Ord. No. 03-25]:

- (1) Where a gas station abuts a residence or residential zone, an all season landscape buffer of twenty-five feet in width shall be established at a minimum of six (6) feet in height. In addition, a six (6) foot solid masonry wall shall be installed on the gas station side of the buffer. The Board may adjust the location of the buffer and wall. [Amended 8-11-03 by Ord. No. 03-25]
- (2) [Deleted 8-11-03 by Ord No. 03-25]
- (3) [Deleted 8-11-03 by Ord No. 03-25]
- (4) The use of the premises for body work, painting, storage of wrecked or junked motor vehicles, major motor vehicle repairs, parking of motor vehicles or the sale or rental of any new or used motor vehicles, trucks, motorcycles or trailers is hereby specifically prohibited. (5) Gasoline pumps shall be setback a minimum of twenty (20') feet from the front property line.
- (6) Canopies over gasoline pumps shall be setback from the front property line a minimum of ten (10) feet.
- (7) Lights underneath the canopy shall be completely recessed.
- (8) For areas designated by the Township Council by adopted Resolution as areas in need of redevelopment, gas stations shall neither be a permitted nor a conditionally permitted use.

B. Gas stations minimarts; on the basis of the following standards:

- (1) Parking shall be provided for the retail use at 1 space per 200 square feet of retail space; pump locations are not counted as parking spaces.
- (2) The site shall be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation. Parking and pump cueing spaces shall be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site. The curb to curb distance between pump islands shall be thirty (30) feet.
- [(3) Building coverage for minimart buildings shall be no greater than five (5%) percent of the total lot area.]
- 3.](4)] All buildings shall have the same architectural features and design on all sides of the buildings.
- 4.](5)] On-site video games shall not be installed or operated on the premises.
- 5.](6)] ATM's shall be located within the retail building.
- 6.](7)] One loading space is required for the minimart.
- 7.](8)] No outside display or storage of merchandise other than automobile maintenance supplies.
- 8.](9)] Fuel delivery shall not block access to customer parking spaces.
9. ~~For areas designated by the Township Council by adopted Resolution as "areas in need of redevelopment", gas stations with minimarts or convenience stores shall neither be a permitted nor a conditionally permitted use.~~

C. Attached and freestanding fast-food restaurants based upon the following standards:

- (1) Minimum lot size shall be 40,000 square feet.
- (2) Building coverage shall be no greater than 10% of the lot area for freestanding restaurants.
- (3) Parking shall be provided at a rate of 1 space for every two seats plus 10 additional spaces for employees.
- (4) Indoor seating for patrons shall be provided. Indoor public seating areas shall be a minimum of one-third of the building area.
- (5) No other tenants shall be permitted in the freestanding building.
- (6) The side and rear yards shall be screened with a solid masonry wall or board-on-board fence at the Board's discretion, a minimum of six (6) feet in height.
- (7) All season planted buffer strips ten feet in width shall be provided along the side and rear property lines. Where the property abuts a residence or residential zone these buffers shall be increased to twenty-five (25) feet in width. In areas with existing space constraints, the board may reduce the width of the buffer if additional plantings, berms, plants of greater height or other mitigating factors are required instead.
- (8) The applicant shall submit traffic and circulation studies to establish the nature and extent of the anticipated customer volume and that such volume can be accommodated at the location without substantial adverse impact.

D. Recreational and amusement facilities operated for profit, including bowling alleys, skating rinks and indoor theaters, mechanical or electrical amusement devices or mechanical or electrical facilities as described in Chapter 135 of the Code of the Township of East Brunswick, where there are four or more such mechanical or electrical devices, subject to the following standards:

1. No such place of amusement, recreation or assembly shall be located within five hundred (500) feet of a residence or a residential zone, regardless of whether or not such zone is actually developed for residences, which distance shall be measured along a straight line from the nearest boundary line of the lot on which the proposed use is to be located and the nearest point of the residence or residential zone.
2. No such place of amusement, recreation or assembly shall be permitted as an accessory use to a permitted use unless the Planning Board shall first have issued a conditional use permit as required by this Chapter.

[E. Hotels and motels subject to the following [Amended 7-26-04 by Ord. No. 04-08]:

1. Minimum lot size: five (5) acres.
2. Front setback: one hundred (100) feet.
3. Minimum number of rooms: fifty (50).]

E.[F.] Drive-thru facilities at attached and freestanding fast-food restaurants subject to the following standards

1. A separate delineated drive-thru lane shall be provided.
2. Queue storage that minimizes interference with pedestrian and vehicular movements.
3. The proposed drive-thru facility shall be implemented without posing a safety hazard to pedestrian and vehicular traffic.
4. Reserve parking spaces shall be provided between the drive-thru area and the facilities exit. Such parking spaces are intended for use by any drive-thru vehicles awaiting delivery of a delayed order.
5. Drive-thru facilities shall operate only when the dining room is open to the public.
6. The drive-thru facility shall be designed for and utilized by motorized vehicles only.
7. A ball-out lane shall be provided so that cars in queue can leave the queue safely.
8. A canopy or cover shall be provided over the window.
9. No loudspeaker shall be permitted at properties that abut a residential zone or residential property line.
10. Drive-thru windows proposed to be located within 150 feet of a residential building shall be closed at 11:00 p.m., subject to the following: [Amended 5-10-93 by Ord. No. 93-19]
 - (a) After the fast food restaurant is open and the drive-thru window is in full operation, the applicant may seek modification of site plan approval by returning to the Board which granted site plan approval. Such modification may include a later closing time of the drive-thru window(s). The applicant for such modification shall conduct noise meter tests between 10:00 p.m. and 11:00 p.m. for seven (7) consecutive nights and shall submit the

test results to the appropriate board. The board shall conduct a public hearing and will determine whether the noise meter results comply with Township noise standards and whether such later closing time of the drive-thru window(s) is consistent with the health, safety and welfare of the adjacent residents.

F.[G.] Taverns and nightclubs, subject to the following:

1. No tavern or nightclub shall be located within five hundred (500) feet of a residence or a residential zone, regardless of whether or not such zone is actually developed for residences, which distance shall be measured along a straight line from the nearest boundary line on the lot on which the proposed use is to be located and the nearest point of the residence or residential zone.
2. A fifty (50) foot wide landscape buffer shall be required where such tavern or nightclub use or residential zone. The width of the landscape buffer shall be measured at right angles from the abutting property line. The landscape buffer shall be planted and maintained with a dense screen of trees, shrubs and evergreens of such a type and nature as to provide a solid "all season" screen. Trees and evergreens shall be at least six (6) feet in height upon planting.
3. The occupancy load of the structure shall be calculated by the applicant/developer in accordance with BOCA National Building Code requirements and shall be identified on the floor plan(s) submitted to the Planning Board as part of the application process.
4. Notwithstanding anything contained in Section 228-15.1 of this Chapter to the contrary, required on-site parking spaces shall be calculated on the basis of one (1) space for every four (4) occupants as calculated in accordance with subsection 228-176.1.E.3. above, plus ten percent (10%) of the required spaces.
5. No wall-mounted lights shall be permitted on the exterior structure of such tavern or nightclub.
6. The height of any structure shall not exceed thirty-five (35) feet.
7. A noise impact study shall be submitted by the applicant/developer to the Planning Board as part of the application process assuring compliance with Chapter 147 of the Code of the Township of East Brunswick, known as the "Noise Control Ordinance".
8. No such tavern or nightclub shall be permitted as an accessory use to a permitted use unless the Planning Board shall first have issued a conditional use permit as required by this Chapter.

& 228-177. Permitted accessory uses.

Accessory uses and buildings permitted shall be:

- A. Outside storage uses normally associated with the above businesses, provided that these areas are fenced and screened from adjacent businesses and residences by a dense evergreen hedge, masonry wall or a suitable tight-woven fence, not less than six (6) feet in height.
- B. Garages to house commercial vehicles normally associated with the type of businesses listed above shall be regulated as follows:
 - (1) Any new structure which provides garage space shall have the garage attached as a part of the main building, not to exceed space for six (6) automobiles or three (3) automobiles and

three (3) commercial vehicles.

- (2) Any existing structure may provide garage space in an accessory building within the required rear yard space, not to exceed six (6) automobiles or three (3) automobiles and three (3) commercial vehicles.
- C. Storage yard for vehicles with a registered gross vehicle weight of 10,000 pounds or less and damaged or disabled vehicles associated with a wrecker operation as an accessory use to an automobile service station or minor automobile repair shops.

& 228-178. Prohibited uses

Prohibited uses and buildings shall include:

- A. Trailers intended or used for dwelling space, offices, storage or any other residential, commercial or industrial purpose, except that nothing herein contained is intended to prohibit the use of trailers for transportation or as construction offices or for the storage of materials and supplies on a job site during the period of construction, or for the collection of aluminum to be recycled.
- B. Drive-in restaurants.
- C. Used car lots.
- D. Car washes.
- E. Sex clubs, massage parlors and adult cabarets.
- F. All uses and buildings not listed in && 228-176, 228-176.1 and 228-177.
- G. Limousine or livery service.
- H. Major automobile repair facilities.

(I For areas designated by the Township Council by adopted Resolution as areas in need of redevelopment, the following uses shall be prohibited

- (1) Gas stations as well as gas stations with mini-marts or convenience stores
- (2) Freestanding convenience stores
- (3) Freestanding fast food restaurants

& 228-179. Area and bulk requirements.

- A. Minimum lot size: 40,000 square feet. Where as of January 1, 1988 a commercial building existed on a lot with an area of less than 40,000 square feet, the commercial use may be thereafter continued and the structure may be thereafter enlarged by no more than 150 square feet without a lot size variance, provided Township parking standards are met for the enlarged structure.
- B. Minimum lot width: two hundred (200) feet.

- C. Front yard setback for principal and accessory structures: 60 feet.
- D. Side yard setback for principal and accessory structures: one side: 20 feet; two sides: 50 feet.
- E. Rear yard setback for principal and accessory structures: 60 feet.
- F. An attached group of stores may be considered as one (1) building in applying the above yard space requirements.
- G. Maximum height: 35 feet.
- H. Maximum lot coverage: seventy-five (75%) percent.
- I. Landscape Buffer: twenty (20') feet along lot frontage and includes shade trees, earth berms and landscaping.
- J. Parking area and driveway setback: 10 feet from side and rear lot lines.
- K. Parking area landscaping: one (1) canopy tree for every five (5) parking spaces shall be planted within the parking area.

& 228-180. (Reserved).

& 228-181. (Reserved).

& 228-182. (Reserved).

& 228-183. (Reserved).

EXHIBIT “D”



Township of East Brunswick

NENNETTE PERRY, RMC/CMR
MUNICIPAL CLERK

EAST BRUNSWICK TOWNSHIP

PROOF OF INSERTION

State of New Jersey
County of Middlesex

TOWNSHIP OF EAST BRUNSWICK
NOTICE

Take Notice that the following ordinance was introduced and passed by the Township Council on first reading at a meeting of the Township Council of the Township of East Brunswick held on April 24, 2017 and will be considered for second and final passage at a meeting of the Township Council to be held on May 8, 2017 at 8:00 p.m. at the East Brunswick Municipal Building located at 1 Jean Walling Civic Center, East Brunswick, New Jersey at which time and place any persons desiring to be heard upon the same will be given an opportunity to be so heard.

Nennette Perry, RMC
Municipal Clerk

ORDINANCE 17-22, AMENDING CHAPTER 228,
ZONING OF THE TOWNSHIP OF EAST BRUNSWICK

BE IT ORDAINED by the East Brunswick Township Council as follows:

SECTION 1. Chapter 228, Zoning of the Township of East Brunswick is hereby amended as follows:

SECTION 2. Chapter 228, Article 1, Title; Interpretation; Intent; Definitions and Article XIXA, Regulations for the HC-2 General Highway Commercial District. The code of the Township of East Brunswick is hereby amended by the adoption of this ordinance as more particularly set forth on Schedule A, copies of which are on file in the Clerk's office.

SECTION 3. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

SECTION 4. All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 5. This ordinance shall take effect 20 days after final passage, adaptation and publication according to law. (\$39.60)

C002094326-01

I, Nennette Perry, do hereby certify that an advertisement, of which the annexed is a true copy, was published in **The Home News Tribune**, a newspaper published and circulated in East Brunswick Township, County and State aforesaid, issue(s) as follow (s) to wit:

Ordinance 17-22 - Amending Chapter 228

In The Township Code Book

Passed on First Reading on April 24, 2017

Published April 27, 2017

Certified this 27 day of April, 2017.

Nennette Perry
Nennette Perry, Municipal Clerk

P.O. BOX 1081 EAST BRUNSWICK, NEW JERSEY 08816-1081
(732) 390-6850
FAX 238-8848

EXHIBIT “E”



Home News Tribune

Publication Name:

Home News Tribune

Publication URL:

Publication City and State:

Somerville , NJ

Publication County:

Somerset

Notice Popular Keyword Category:

Notice Keywords:

east brunswick 17-22

Notice Authentication Number:

201808161001319328880

405146886

Notice URL:

[◀ Back \(/Search.aspx#searchResults\)](#)

Notice Publish Date:

Thursday, May 11, 2017

TOWNSHIP OF EAST BRUNSWICK NOTICE Notice is hereby given that the following Ordinance(s) was passed on second and final reading at an action meeting of the Township Council of the Township of East Brunswick held on May 8, 2017 and was thereafter submitted to the Mayor on May 9, 2017 for his approval or disapproval. A. Ord. 17-20 Of the Township of East Brunswick, County of Middlesex, State of New Jersey Amending Chapter 3, Section 117 of the Township Code of the Township of East Brunswick (Police Service Fees) B. Ord. 17-22 Amending Chapter 228, Zoning of the Township of East Brunswick ATTEST: Nennette Perry Township Clerk (\$18.48)

[← Back \(/Search.aspx#searchResults\)](#)

Use of this site is governed by our [Terms of Use \(/Terms-of-Use.aspx\)](#) agreement. If you have any questions please send an email to the [administrator \(mailto:administrator@njpna.org\)](mailto:administrator@njpna.org).

Select Language

Powered by Google Translate (<https://translate.google.com>)

EXHIBIT “F”

**TOWNSHIP OF EAST BRUNSWICK PLANNING BOARD
LEGAL NOTICE
PROPOSED CONDEMNATION REDEVELOPMENT HEARING**

PLEASE TAKE NOTICE that the Planning Board of the Township of East Brunswick will hold a public hearing on Wednesday, June 24, 2017 at 9:00 a.m. to discuss and determine whether that portion of US Route 18 described by address, lot and block, zone district and redevelopment area ("RD AREA") below and as highlighted in bold on the Tax Map attached hereto as Schedule "A" should be determined to be an "area in need of redevelopment" under the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "LDRH"). This public hearing will be held at the East Brunswick Municipal Building, 1 Jean Walling Civic Center Drive, East Brunswick, New Jersey.

The East Brunswick Planning Board (the "Planning Board") was directed by the Township Council to conduct a preliminary investigation in order to determine whether the following properties (the "Study Area") qualify as an "area in need of redevelopment":

BLK	LOT	TAX MAP	ADDRESS	LOT AREA	ZONE	RD AREA
6.03	6.18	8.01	1 Ruth Street	0.19 acres	C-1	?
24	2	8.01	122 Route 18	0.28 acres	C-1	1
24	1.01	8.01	205 Route 18	0.23 acres	C-1	1
6.03	7.01	8.01	208 Route 18	0.51 acres	C-1	1
6.03	8.01	8.01	209 Route 18	0.18 acres	C-1	1
6.03	9.01	8.01	210 Route 18	0.21 acres	C-1	1
24	3	8.01	211 Route 18	0.28 acres	C-1	1
24	3	8.01	6 Eggars Street	0.28 acres	C-1	1
6.02	6.21	8.01	215 Route 18	0.26 acres	HC-2	2A
6.02	11.02	8.01	215 Route 18	0.23 acres	HC-2	2A
6.02	6.22	8.01	215 Route 18	1.23 acres	HC-2	2A
6.02	6.23	8.01	223 Route 18	2.35 acres	HC-2	2A
6.02	12.01	8.01	223 Route 18	0.23 acres	HC-2	2A
6.02	15.04	8.01	223 Route 18	2.59 acres	HC-2	2A
6.02	13.01	8.01	225 Route 18	0.51 acres	HC-2	2A
6.01	16.01	8.01	225 Route 18	13.28 acres	HC-2	2A
6.01	16.02	8.01	225 Route 18	3.29 acres	HC-2	2A
6.01	15.02	8.02	Route 18	0.91 acres	HC-2	2A
26.01	2	8	Route 18	2.49 acres	HC-2	3A
26.01	8.01	8	Route 18	1.41 acres	HC-2	2A
26.01	12	8	253 Route 18	0.83 acres	HC-2	3A
26.01	11	8	253 Route 18	7.88 acres	HC-2	3A
26.01	11	8	257 Route 18	2.58 acres	HC-2	3A
26.01	4	8	324 Route 18	0.43 acres	HC-2	3A
26.01	3	8	324 Route 18	0.53 acres	HC-2	3A
26.01	10	8	324 Route 18	0.17 acres	HC-2	3A
32	1.32	11	110 Tice Lane	37.96 acres	UM	3A

Please note that a Planning Board determination that the Study Area is an "area in need of redevelopment" shall authorize the Township of East Brunswick to exercise the power of eminent domain to acquire any property within the Study Area.

At the public hearing, the Planning Board will hear testimony regarding whether or not the properties in the Study Area, or any part thereof, qualify as an "area in need of redevelopment" and will hear all others who are interested in or who are affected by a determination that the properties in the Study Area are an "area in need of redevelopment". Upon completion of the preliminary investigation, the Planning Board shall provide its recommendations to the Township Council. If the Township Council adopts a Resolution determining that the Study Area, or any part thereof, is "an area in need of redevelopment", such designation shall constitute a finding of public purpose which shall authorize the Township (or its designated representative) to acquire any property included in the Study Area through condemnation, which means that such property may be acquired by the Township without the owner's consent. Any person seeking to challenge the designation of "an area in need of redevelopment" and the condemnation authority must file a legal challenge to such designation within 45 days of the adoption by the Township Council of a resolution designating the Study Area as "an area in need of redevelopment".

A preliminary investigation report (including maps depicting the Study Area) which was prepared by the Planning Board's consulting planner, Frank Santoni, P.E., of Banich Associates, Inc., is available for public inspection during regular business hours at the office of the Department of Planning and Engineering within the Municipal Building located at 1 Jean Walling Civic Center Drive, East Brunswick, New Jersey.

Jeffrey B. Lehrer, Esq.
Redevelopment Counsel for
The Township of East Brunswick
Date: May 12, 2017
(8192.72)

6-6 17

TOWNSHIP OF EAST BRUNSWICK PLANNING BOARD
 LEGAL NOTICE
 PROPOSED CONDEMNATION REDEVELOPMENT HEARING

PLEASE TAKE NOTICE that the Planning Board of the Township of East Brunswick will hold a public hearing on Wednesday, June 21, 2017 at 8:00 p.m. to discuss and determine whether that portion of US Route 18 described by address, lot and block, zone district and redevelopment area ("RD AREA") below and as highlighted in bold on the Tax Map attached hereto as Schedule "A" should be determined to be an "area in need of redevelopment" under the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "LRHL"). This public hearing will be held at the East Brunswick Municipal Building, 1 Jean Walling Civic Center Drive, East Brunswick, New Jersey.
 The East Brunswick Planning Board (the "Planning Board") was directed by the Township Council to conduct a preliminary investigation in order to determine whether the following properties (the "Study Area") qualify as an "area in need of redevelopment":

BLOCK	LOT	TAX MAP	ADDRESS	LOT AREA	ZONE	RD AREA
6.03	6.13	8.01	1 Ruth Street	0.19 acres	C-1	1
24	2	8.01	188 Route 18	0.38 acres	C-1	1
24	1.01	8.01	205 Route 18	0.29 acres	C-1	1
6.03	7.01	8.01	209 Route 18	0.61 acres	C-1	1
6.03	8.01	8.01	209 Route 18	0.18 acres	C-1	1
6.03	9.01	8.01	233 Route 18	0.21 acres	C-1	1
6.03	10.01	8.01	211 Route 18	0.28 acres	C-1	1
24	3	8.01	5 Eggers Street	0.23 acres	C-1	1
6.02	6.11	8.01	215 Route 18	0.26 acres	HC-2	2A
6.02	11.02	8.01	218 Route 18	0.23 acres	HC-2	2A
6.02	6.22	8.01	219 Route 18	1.33 acres	HC-2	2A
6.02	6.30	8.01	223 Route 18	1.33 acres	HC-2	2A
6.02	12.01	8.01	223 Route 18	0.22 acres	HC-2	2A
6.01	16.04	8.01	223 Route 18	2.60 acres	HC-2	2A
6.02	13.01	8.01	229 Route 18	0.51 acres	HC-2	2A
6.01	16.02	8.01	233 Route 18	15.26 acres	HC-2	2A
6.01	16.03	8.01	233 Route 18	5.20 acres	HC-2	2A
6.01	15.02	8.02	Route 18	0.91 acres	HC-2	2A
25.01	8	9	Route 18	2.49 acres	HC-2	2A
25.01	5.03	9	Route 18	1.42 acres	HC-2	2A
25.01	6.01	9	253 Route 18	0.68 acres	HC-2	2A
25.01	15	9	253 Route 18	7.68 acres	HC-2	2A
25.01	11	9	257 Route 18	2.50 acres	HC-2	2A
25.01	4	9	259 Route 18	0.45 acres	HC-2	2A
25.01	9	9	261 Route 18	0.55 acres	HC-2	2A
25.01	10	9	261 Route 18	0.17 acres	HC-2	2A
22	1.23	11	110 Ticas Lane	52.96 acres	DM	5A

Massa note that a Planning Board determination that the Study Area is an "area in need of redevelopment" shall authorize the Township of East Brunswick to exercise the power of eminent domain to acquire any property within the Study Area.

At the public hearing, the Planning Board will hear testimony regarding whether or not the properties in the Study Area, or any part thereof, qualify as an "area in need of redevelopment" and will hear all others who are interested in or who are affected by a determination that the properties in the Study Area are an "area in need of redevelopment". Upon completion of the preliminary investigation, the Planning Board shall provide its recommendations to the Township Council. If the Township Council adopts a resolution determining that the Study Area, or any part thereof, is "an area in need of redevelopment", such designation shall constitute a finding of public purpose which shall authorize the Township (or its designated representative) to acquire any property included in the Study Area through condemnation, which means that such property may be acquired by the Township without the owner's consent. Any person seeking to challenge the designation of "an area in need of redevelopment" and the condemnation authority must file a legal challenge to such designation within 45 days of the adoption by the Township Council of a resolution designating the Study Area as "an area in need of redevelopment".

A preliminary investigation report (including maps depicting the Study Area) which was prepared by the Planning Board's consulting planner, Frank Sanisch, P.E., of Sanisch Associates, Inc., is available for public inspection during regular business hours at the office of the Department of Planning and Engineering within the Municipal Building located at 1 Jean Walling Civic Center Drive, East Brunswick, New Jersey.

Jeffrey B. Lehrer, Esq.
 Redevelopment Counselor for
 The Township of East Brunswick

Date: May 22, 2017
 (5192.72)

EXHIBIT “G”

EAST BRUNSWICK TOWNSHIP PLANNING BOARD

TENTATIVE AGENDA

July 5, 2017

8:00 PM

COURT ROOM

PLEDGE OF ALLEGIANCE

ROLL CALL

MINUTES

1. June 21, 2017

PUBLIC HEARING

2. Public Hearing to discuss and determine whether a portion of Route 18 should be determined to be an “area in need of redevelopment/condemnation” under the Local Redevelopment and Housing Law, N.J.S.A 40A:12A-1 eq seq.(the “LHRL”).

RESOLUTIONS

3. Acceptance of Preliminary Investigation for determination of a condemnation Area in need of redevelopment regarding a Public Hearing to discuss and determine whether a portion of Route 18 should be determined to be an “area in need of redevelopment/condemnation” under the Local Redevelopment and Housing Law, N.J.S.A 40A:12A-1 eq seq.(the “LHRL”).

EAST BRUNSWICK TOWNSHIP PLANNING BOARD

TENTATIVE AGENDA

June 21, 2017

8:00 PM

COURT ROOM

PLEDGE OF ALLEGIANCE

ROLL CALL

Minutes

1. April 19, 2017

PUBLIC HEARING

2. Public Hearing to discuss and determine whether a portion of Route 18 should be determined to be an “area in need of redevelopment/condemnation” under the Local Redevelopment and Housing Law, N.J.S.A 40A:12A-1 eq seq.(the “LHRL”).

RESOLUTIONS

3. Acceptance of Preliminary Investigation for determination of a condemnation Area in need of redevelopment regarding a Public Hearing to discuss and determine whether a portion of Route 18 should be determined to be an “area in need of redevelopment/condemnation” under the Local Redevelopment and Housing Law, N.J.S.A 40A:12A-1 eq seq.(the “LHRL”).

EXHIBIT “H”

**TOWNSHIP OF EAST BRUNSWICK
PLANNING BOARD
RESOLUTION**

RESOLUTION OF THE TOWNSHIP OF EAST BRUNSWICK PLANNING BOARD IN THE COUNTY OF MIDDLESEX, NEW JERSEY, RECOMMENDING TO THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF EAST BRUNSWICK THAT IT DESIGNATE A PORTION OF U.S. ROUTE 18 IDENTIFIED WITH MORE PARTICULARITY AS REDEVELOPMENT AREAS 1A, 2A 3A AND 6A ON THE MAP ATTACHED HERETO AS SCHEDULE "A" AND DESCRIBED BY ADDRESS, LOT AND BLOCK, ZONE DISTRICT AND REDEVELOPMENT AREA ON SCHEDULE "B" ATTACHED HERETO AND MADE A PART HEREOF AS A CONDEMNATION "AREA IN NEED OF REDEVELOPMENT" IN ACCORDANCE WITH THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1 ET SEQ.

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "LRHL") provides a mechanism to empower and assist local governments in efforts to promote programs of redevelopment; and

WHEREAS, the LRHL sets forth a specific procedure for establishing an area in need of redevelopment; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-6 of the LRHL, prior to the governing body making a determination as to whether a particular study area qualifies as an area in need of redevelopment, the governing body must authorize the Township Planning Board, by Resolution, to undertake a preliminary investigation to determine whether the area meets the criteria of an area in need of redevelopment as set forth in Section 5 thereof; and

WHEREAS, by Resolution #16073 adopted on April 24, 2017, the Township Council of the Township of East Brunswick directed the Planning Board to undertake a preliminary investigation to determine whether the proposed study area; namely, that portion of U.S. Route 18 identified with more particularity as Redevelopment Areas 1A, 2A, 3A and 6A on the zoning map attached hereto as Schedule "A" and described by address, lot and block, zone district and Redevelopment Area on Schedule "B" attached hereto and made a part hereof (the "Study Area") qualifies as an area in need of redevelopment pursuant to N.J.S.A. 40A:12A5; and

WHEREAS, the Planning Board did (i) provide appropriate notice of the conduct of its preliminary investigation of the Study Area, and (ii) conduct a public hearing of its preliminary investigation of the Study Area in accordance with the provisions of the LRHL.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Township of East Brunswick, County of Middlesex, State of New Jersey, as follows:

1. Based upon the report of the Planning Board's consulting planner, Frank Banisch, PP, of Banisch Associates, Inc. entitled "Preliminary Investigation for Determination of A Condemnation Area in Need of Redevelopment Regarding

<u>Block</u>	<u>Lot</u>	<u>Block</u>	<u>Lot</u>
6.03	6.19	6.01	16.04
24	2	6.02	13.01
24	1.01	6.01	16.02
6.03	7.01	6.01	16.03
6.03	8.01	6.01	15.02
6.03	9.01	26.01	8
6.03	10.01	26.01	9.02
24	3	26.01	6.01
6.02	6.21	26.01	12
6.02	11.02	26.01	11
6.02	6.22	26.01	4
6.02	6.20	26.01	3
6.02	12.01	32	1.33

East Brunswick, Middlesex County, New Jersey" dated May 2017 (the "Preliminary Investigation Report"), and all comments entertained at the preliminary investigation hearing on June 21, 2017, the Planning Board does hereby determine that the Study Area satisfies one or more of the criteria under Section 5 of the LRHL for designation as a condemnation "area in need of redevelopment", as more particularly set forth in the Preliminary Investigation Report appended hereto as Schedule "C" and made a part hereof; and

2. The Planning Board Secretary is hereby directed to forward a copy of this Resolution, once adopted with all Schedules appended hereto, to the Mayor and to the Township Council.

ATTEST:


 Charles Heppel, Planning
 Board Secretary

**TOWNSHIP OF EAST BRUNSWICK
 PLANNING BOARD**

By: 
 Shawn Taylor, Chairman

EXHIBIT “I”



TOWNSHIP OF EAST BRUNSWICK

NO: 16134 DATE OF ADOPTION: July 10, 2017

RESOLUTION OF THE TOWNSHIP OF EAST BRUNSWICK, IN THE COUNTY OF MIDDLESEX COUNTY, NEW JERSEY DESIGNATING VARIOUS BLOCKS AND LOTS WITHIN THE TOWNSHIP AS A CONDEMNATION REDEVELOPMENT AREA PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Act") provides a mechanism to empower and assist local governments in efforts to promote programs and redevelopment; and

WHEREAS, on April 24, 2017, by Resolution No. 16703, and in accordance with the provisions of the Act, the Township of East Brunswick, in the County of Middlesex, New Jersey (the "Township") authorized and directed the Planning Board of the Township of East Brunswick (the "Planning Board") to conduct a preliminary investigation to determine whether the proposed study area; as Redevelopment Areas 1A, 2A, 3A, and 6A, (the "Study Area") on the zoning map qualifies as an area in need of redevelopment for which eminent domain may be used, pursuant to *N.J.S.A. 40A:12A-1, et seq.*; and

WHEREAS, the Planning Board caused Frank Banisch, PP, of the Banisch Associates, Inc. (the "Planning Consultant") to conduct a preliminary investigation to determine whether the Study Area should be designated an area in need of redevelopment; and

WHEREAS, in May, 2017, the Planning Board received a report setting forth the basis for the investigation and a map depicting the Property prepared by the Planning Consultant, entitled, "Preliminary Investigation for Determination of A Condemnation Area in Need of Redevelopment Regarding Block 6.03 Lots 6.19, 7.01, 8.01, 9.01, and 10.01, Block 24 Lots 1.01, 2, and 3, Block 6.02 Lots 6.21, 13.01, 11.02, 6.22, 6.20, and 12.01, Block 6.01 Lot 16.04, 16.02, 16.03, and 15.02, Block 26.01 Lots 8, 9.02, 6.01, 12, 11, 4, and 3, and Block 32 Lot 1.33" and dated May 2017 (the "Preliminary Investigation Report"), concerning the determination of the Property as an area in need of redevelopment; and

WHEREAS, the Act requires the Planning Board to conduct a public hearing prior to making its determination whether the Property should be designated as an area in need of redevelopment, at which hearing the Planning Board shall hear all persons who are interested in or would be affected by a determination that the Property is an area in need of redevelopment; and

RECORD VOTE OF COUNCIL ON FINAL PASSAGE									
Council Member	Y	N	NV	Ab	Council Member	Y	N	NV	Ab
Clark		✓			Wendell	✓			
Spadafino	✓				Hughes		✓		
Stanley	✓								
X • Indicates Vote.			NV • Not Voting			Ab • Absent			

This is to certify that this is a true and compared copy of a resolution adopted by the Municipal Council of the Township of East Brunswick on July 10, 2017.

Annnette Perry
Annnette Perry, Municipal Clerk

WHEREAS, the Planning Board carried such public hearing to the June 21, 2017 and July 5, 2017 Planning Board meetings, reviewed the Report, heard testimony from representatives of the Planning Consultant, conducted a public hearing during which members of the general public were given an opportunity to present their own evidence and/or to cross-examine the Planning Consultant, and to address questions to the Planning Board and its representatives, concerning the potential designation of the Property as an area in need of redevelopment; and

WHEREAS, the Planning Consultant concluded in the Report and testified to the Planning Board on June 21, 2017 and July 5, 2017 that the Property satisfies the criterion for redevelopment area designation set forth in the Act; and

WHEREAS, after the conclusion of the public hearing described above, the Planning Board adopted a resolution recommending that the Township Council designate the Property as an area in need of redevelopment pursuant to the Act; and

WHEREAS, the Township Council agrees with the conclusion of the Planning Board that the Property satisfies the criterion for redevelopment area designation set forth in the Act and finds that such conclusion is supported by substantial evidence; and

WHEREAS, the Township Council now desires to designate the Study Area as an area in need of redevelopment, pursuant to N.J.S.A. 40A:12A-6.

NOW THEREFORE BE IT RESOLVED, by the Planning Board of the Township of East Brunswick, County of Middlesex, State of New Jersey, as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. Based on the Preliminary Investigation Report and the recommendation of the Planning Board, the Property satisfies the criterion for redevelopment area designation set forth in the Act, and such Property is hereby designated as an area in need of redevelopment.

Section 3. The Property is further hereby designated as a "Condemnation Redevelopment Area" as referenced in the Act.

Section 4. This determination operates as a finding of public purpose and authorizes the Township to exercise the power of eminent domain to acquire property in the designated redevelopment Area.

Section 5. Legal action to challenge the determination must be commenced within 45 days of receipt of notice and that failure to do so shall preclude an owner from later raising such challenge.

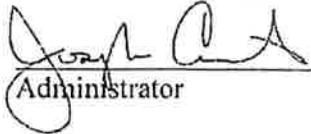
Section 6. A property owner who received notice of the determination as set forth above who does not file a legal challenge to the determination affecting his or her property within 45 days of receipt of such notice shall thereafter be barred from filing such a challenge and, upon compliance with the notice provisions set forth in Sections 5 and 6 above, shall further be barred from asserting a challenge to the determination as a defense in any condemnation proceeding to acquire the property unless the municipality and the property owner agree otherwise.

Section 7. The Township shall, for 45 days next following this determination, take no further action to acquire any property by condemnation within the Study Area.

Section 8. The Township Council hereby directs the Township Clerk to transmit a certified copy of this resolution forthwith to the Commissioner of the Department of Community Affairs for review.

Section 9. This resolution shall take effect in accordance with applicable law.

CERTIFICATIONS:



Administrator

Township Attorney

EXHIBIT “J”



TOWNSHIP OF EAST BRUNSWICK

NO: 16148 DATE OF ADOPTION: August 14, 2017

RESOLUTION OF THE TOWNSHIP OF EAST BRUNSWICK, IN THE COUNTY OF MIDDLESEX COUNTY, NEW JERSEY, CANCELLING RESOLUTION No. 16134 AND DESIGNATING VARIOUS BLOCKS AND LOTS WITHIN THE TOWNSHIP AS A CONDEMNATION REDEVELOPMENT AREA PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Act") provides a mechanism to empower and assist local governments in efforts to promote programs and redevelopment; and

WHEREAS, on April 24, 2017, by Resolution No. 16703, and in accordance with the provisions of the Act, the Township of East Brunswick, in the County of Middlesex, New Jersey (the "Township") authorized and directed the Planning Board of the Township of East Brunswick (the "Planning Board") to conduct a preliminary investigation to determine whether the proposed study area; as Redevelopment Areas 1A, 2A, 3A, and 6A, (the "Study Area") on the zoning map qualifies as an area in need of redevelopment for which eminent domain may be used, pursuant to *N.J.S.A. 40A:12A-1, et seq.*; and

WHEREAS, the Planning Board caused Frank Banisch, PP, of the Banisch Associates, Inc. (the "Planning Consultant") to conduct a preliminary investigation to determine whether the Study Area should be designated an area in need of redevelopment; and

WHEREAS, in May, 2017, the Planning Board received a report setting forth the basis for the investigation and a map depicting the Property prepared by the Planning Consultant, entitled, "Preliminary Investigation for Determination of A Condemnation Area in Need of Redevelopment Regarding Block 6.03 Lots 6.19, 7.01, 8.01, 9.01, and 10.01, Block 24 Lots 1.01, 2, and 3, Block 6.02 Lots 6.21, 13.01, 11.02, 6.22, 6.20, and 12.01, Block 6.01 Lot 16.04, 16.02, 16.03, and 15.02, Block 26.01 Lots 8, 9.02, 10, 6.01, 12, 11, 4, and 3, and Block 32 Lot 1.33" and dated May 2017 (the "Preliminary Investigation Report"), concerning the determination of the Property as an area in need of redevelopment; and

WHEREAS, the Act requires the Planning Board to conduct a public hearing prior to making its determination whether the Property should be designated as an area in need of redevelopment, at which hearing the Planning Board shall hear all persons who are interested in or would be affected by a determination that the Property is an area in need of redevelopment; and

RECORD VOTE OF COUNCIL ON FINAL PASSAGE									
Council Member	Y	N	NV	Ab	Council Member	Y	N	NV	Ab
Clark		✓			Wendell <i>M</i>	✓			
Spadafino	✓				Hughes		✓		
Stanley <i>S</i>	✓								
X • Indicates Vote.		NV • Not Voting				Ab • Absent			

This is to certify that this is a true and compared copy of a resolution adopted by the Municipal Council of the Township of East Brunswick on August 14, 2017, 2017.

Nennette Perry
Nennette Perry, Municipal Clerk

Res. 16148

WHEREAS, the Planning Board carried such public hearing to the June 21, 2017 and July 5, 2017 Planning Board meetings, reviewed the Report, heard testimony from representatives of the Planning Consultant, conducted a public hearing during which members of the general public were given an opportunity to present their own evidence and/or to cross-examine the Planning Consultant, and to address questions to the Planning Board and its representatives, concerning the potential designation of the Property as an area in need of redevelopment; and

WHEREAS, the Planning Consultant concluded in the Report and testified to the Planning Board on June 21, 2017 and July 5, 2017 that the Property satisfies the criterion for redevelopment area designation set forth in the Act; and

WHEREAS, after the conclusion of the public hearing described above, the Planning Board adopted a resolution recommending that the Township Council designate the Property as an area in need of redevelopment pursuant to the Act; and

WHEREAS, the Township Council agrees with the conclusion of the Planning Board that the Property satisfies the criterion for redevelopment area designation set forth in the Act and finds that such conclusion is supported by substantial evidence; and

WHEREAS, the Township Council now desires to designate the Study Area as an area in need of redevelopment, pursuant to N.J.S.A. 40A:12A-6; and

WHEREAS, the Township Council previously passed this resolution as Resolution 16134 on July 10, 2017 but full post-passage notification was inadvertently not completed and therefore to ensure full notification the Township Council desires to readopt this resolution and ensure full notification.

NOW THEREFORE BE IT RESOLVED, by the Planning Board of the Township of East Brunswick, County of Middlesex, State of New Jersey, as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. Based on the Preliminary Investigation Report and the recommendation of the Planning Board, the Property satisfies the criterion for redevelopment area designation set forth in the Act, and such Property is hereby designated as an area in need of redevelopment.

Section 3. The Property is further hereby designated as a "Condemnation Redevelopment Area" as referenced in the Act.

Section 4. The Township Council hereby directs the Township Clerk to transmit a certified copy of this resolution forthwith to the Commissioner of the Department of Community Affairs for review and to all impacted property owners.

Res. 16148

Section 5. This determination operates as a finding of public purpose and authorizes the Township to exercise the power of eminent domain to acquire property in the designated redevelopment area.

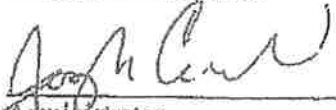
Section 6. Legal action to challenge the determination must be commenced within 45-days of receipt of notice and failure to do so shall preclude a property owner for later raising such challenge.

Section 7. A property owner who received notice of the determination as set forth above who does not file a legal challenge to the determination affecting his or her property within 45 days of receipt of such notice shall thereafter be barred from filing such challenge and, upon compliance with the notice provisions set forth above, shall further be barred from asserting a challenge to the determination as a defense in any condemnation proceeding to acquire the property unless the municipality and the property owner agree otherwise.

Section 8. The Township shall, for 45 days next following this determination, take no further action to acquire any property by condemnation within the Study Area.

Section 9. This resolution shall take effect in accordance with applicable law.

CERTIFICATIONS:



Administrator

Township Attorney

GIBBONS P.C.
Thomas J. Cafferty, Esq.
One Gateway Center
Newark, New Jersey 07102-5310
(973) 596-4863
Our File No: 110081-70130
Attorneys for Home News Tribune

COREMARK BRUNSWICK 18, LLC,
Plaintiff,
v.
TOWNSHIP OF EAST BRUNSWICK, a
municipal corporation of the State of New
Jersey, the MAYOR and COUNCIL of the
Township of East Brunswick, TOWNSHIP OF
EAST BRUNSWICK PLANNING BOARD,
Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

DOCKET NO: MID-L-004858-17

CIVIL ACTION

CERTIFICATION OF PAUL GRZELLA

I, PAUL GRZELLA, of full age, do hereby certify as follows:

1. I am the General Manager/Editor of the Home News Tribune. As such, I am fully familiar with the facts set forth herein.


2. On or about June 29, 2018, I received a Subpoena Ad Testificandum and Duces Tecum (the "Subpoena") dated June 28, 2018 directed to me as "Editor and General Manager" of the Home News Tribune.

3. The Subpoena commands my presence on Monday July 23, 2018 at 11:00 a.m. at the New Jersey Law Center, 1 Constitution Square, New Brunswick, New Jersey. The Subpoena further provides that the following documents are to be produced:

All deeds to property or leases for property located in Middlesex County, New Jersey where the Home News Tribune maintains any office, printing facility, assembly facility, bundling facility, loading facility or any other facility associated with the publication of the Home News Tribune.

4. The Home News Tribune does not maintain in Middlesex County any office, printing facility, assembly facility, bundling facility, loading facility or any other facility associated with the publication of the Home News Tribune, and has not maintained such a facility in the last 6 years.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



PAUL GRZELLA,
General Manager/Editor
Home News Tribune

DATED: 7/10/18