

**TOWN OF WEST NEW YORK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

ORDINANCE #19/20

**AN ORDINANCE VACATING AN UNDEDICATED AND UNOPENED
PORTION OF MADISON STREET AND OTHERWISE RELEASING
AND EXTINGUISHING RIGHTS RELATED THERETO**

WHEREAS, on May 26, 2016, the Board of Commissioners of the Town of West New York (the “Town”) designated various properties located at 511-513 52nd Street and 508 51st Street, also known as Tax Block 108, Lots 8, 9 & 25 as a non-condemnation redevelopment area (“Redevelopment Area”) (including portions referred to as Tract I and Tract II within the Redevelopment Area) in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “Redevelopment Law”); and

WHEREAS, the Redevelopment Area has been identified by the Town as a potential development site; and

WHEREAS, the properties located in the Redevelopment Area are currently used as a surface public parking lot owned by the Town parking authority; and

WHEREAS, on December 18, 2019, the Town adopted a Resolution, as amended on March 18, 2020, approving and authorizing the execution of a redevelopment agreement for the Properties for redevelopment of market rate residential and parking deck project in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “Redevelopment Law”) with Culver Properties, LLC (“Redeveloper”); and

WHEREAS, the Town pursuant Redevelopment Law enacted an Ordinance #25/19 as amended by Ordinance #12/20, authorizing conveyance of to be subdivided land located within a designated Redevelopment Area as an area in need of redevelopment, and more specifically described as 511-513 52nd Street and 508 51st Street, also known as Block 108, Lots 8, 9 and 25 (the “Properties”), which Properties are intended for redevelopment with two fourteen (14) story residential buildings and a public parking deck in accordance with the Plan (the “Project”) to the Redeveloper, including relevant portions of Tracts I and II; and

WHEREAS, by deed dated May 3, 1926, recorded in Deed Book 1609, Page 169, a portion of the Properties within the Redevelopment Area was granted to a predecessor in interest of the property included in Tracts I and Tract II, subject to a reservation of rights in favor of the Town for the “projection of Madison Street” as further set forth in such Deed Book and Page, the pertinent language of which is incorporated as if fully set forth herein (“Madison Street Reservation”); and

WHEREAS, since 1926 Madison Street has not been projected into the Redevelopment Area, the southern end of Madison Street presently terminating at or around 54th Street and the Madison Street Reservation is not otherwise now needed for public use or convenience; and

WHEREAS, the Madison Street Reservation has been identified as an exception to title by Redeveloper’s title insurer as follows: “Subject to Restrictions as set forth in Deed Book 1609 Page 169 (Affects Tracts I and II)” (“the Title Exception”); and

WHEREAS, the Town has determined that the public interest will be better served by vacating, releasing and extinguishing the Madison Street Reservation and any and all of the Town’s rights in and regarding the Madison Street Reservation, and by having the Title Exception removed, and it is the purpose of this Ordinance that such Title Exception be removed; and

WHEREAS, by Ordinance #25/19 the Town authorized the release of rights and restrictions at or prior to the closing on the conveyance of the Properties by the Town to the Redeveloper; and

WHEREAS, pursuant to N.J.S.A. 40:67-1b the Town has the authority to adopt an ordinance to vacate any public vacate street or portion thereof as needed, including the right to vacate any street, highway, lane, alley, square, place or park, or any part thereof, dedicated to public use but not accepted by the municipality, whether or not the same, or any part, has been actually opened or improved; and

WHEREAS, presently it appears only a sewer line runs through the area reserved for the future projection of Madison Street; and

WHEREAS, the vacation of the portion of Madison Street noted herein includes the release of all public rights resulting from any dedication of lands not accepted by the municipality and expressly reserves and excepts from the vacation all rights and privileges currently 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, highway, lane, alley, square, place or park, or any part thereof, to be vacated; and

WHEREAS, the Town may otherwise divest, vacate or extinguish property interests it may hold, however such interest may be deemed, pursuant to N.J.S.A. 40A:12-13 et seq., and otherwise;

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Board of Commissioners of the Town of West New York, County of Hudson, State of New Jersey that the Code of the Town of West New York is hereby amended as follows:

SECTION I.

The findings and declarations set forth in the foregoing preamble are hereby incorporated as if fully restated.

SECTION II.

Based on the findings and declarations set forth herein, the Town of West New York, hereby does fully and irrevocably vacate, release and otherwise extinguished any and all rights and interests the Town may have under the Deed dated May 3, 1926, recorded in Deed Book 1609, Page 169, recorded on May 4, 1926, on file with the Hudson County Register, to the Madison Street Reservation, as they may appear therein.

SECTION III.

The vacation of the portion of Madison Street herein accomplished includes the release of all public rights resulting from any dedication of lands not accepted by the municipality and expressly reserves and excepts from the vacation all rights and privileges currently 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, highway, lane, alley, square, place or park, or any part thereof, herein vacated, to the extent any such rights may be presently possessed by any such public utility.

SECTION IV.

A copy of this Ordinance shall, after passage, be filed in the Hudson County Register of Deeds Office, in accordance with N.J.S.A. 40:67-2.

SECTION V.

The Mayor, the Municipal Administrator, the Town Clerk and the Deputy Town Clerk are hereby each authorized to take such actions as may otherwise be necessary and proper to effectuate the purposes of this Ordinance, including but not limited to the execution and filing of any instruments with the Hudson County Register.

SECTION VI.

Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION VII.

Repealer. All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency.

SECTION VIII.

Codification. The Town Clerk shall have this Ordinance incorporated in the official copies of the Code of the Town of West New York. The Town Clerk and the Town Attorney be and are hereby authorized and directed to correct any typographical error in this Ordinance and change any heading, chapter numbers, article numbers and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those headings and numbers and existing provisions of the Code of the Town of West New York, or as they may otherwise deem appropriate, even if the headings, chapter numbers, article numbers and section numbers thus modified are otherwise provided for in this Ordinance.

SECTION IX.

This Ordinance shall take effect upon passage and publication as required by law.

Summary of Ordinance

This Ordinance fully and irrevocably vacates and otherwise extinguishes any and all rights and interests the Town may have under the Deed dated May 3, 1926, recorded in Deed Book 1609, Page 169, recorded on May 4, 1926 with the Hudson County Register of Deeds.

Introduced: September 2, 2020

Notice

The foregoing Ordinance was adopted for first reading by the Mayor and Board of Commissioners of the Town of West New York, New Jersey, on **September 2, 2020** and ordered published, and will be further considered before final passage at a public hearing on **September 23, 2020 at 6:30 pm** at the Municipal Building, West New York, NJ. A copy of this Ordinance has been posted on the bulletin board upon which public notices are customarily posted on in the Town Hall of the Town of West New York, and a copy (at no charge) is available up to and including the time of such meeting to the members of the public of the Town who shall request such copies, at the Office of the Town Clerk in said Town Hall in West New York, N.J.