

**ORDINANCE NO. 2236**

**AN ORDINANCE AMENDING THE REDEVELOPMENT PLAN  
PURSUANT TO N.J.S.A. 40A:12A-7 FOR THE ROMEROVSKI SITE  
LOCATED IN THE BOROUGH OF ROSELLE PARK**

**WHEREAS**, by Resolution adopted April 20, 2006, the Borough Council of the Borough of Roselle Park (“Council”) directed and authorized the Planning Board to conduct a preliminary investigation and a public hearing to determine whether an area commonly known as “The Romerovski Site,” and designated as Block 213, Lots 1, & Block 314, Lot 1) on the Official Tax Map of the Borough of Roselle Park is an area in need of redevelopment according to the criteria set forth in the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (“Redevelopment Law”); and

**WHEREAS**, after due notice and a hearing, the Planning Board, by Resolution adopted September 18, 2006, recommended to the Borough Council that the Romerovski Site be declared an area in need of redevelopment pursuant to the Redevelopment Law; and

**WHEREAS**, after receipt of the Planning Board’s resolution, the Council, by Resolution 158-06, designated the Romerovski Site as an area in need of redevelopment pursuant to the Redevelopment Law for reasons stated therein; and

**WHEREAS**, pursuant to the Redevelopment Law, a redevelopment project must be undertaken pursuant to a “redevelopment plan” adopted by ordinance; and

**WHEREAS**, the Borough’s consulting planner prepared for the Council a proposed redevelopment plan entitled “Romerovski Site Redevelopment Plan” (“Proposed Plan”) dated February 2007; and

**WHEREAS**, on February 15, 2007, the Borough Council introduced Ordinance 2201 entitled “An Ordinance Adopting A Redevelopment Plan Pursuant To N.J.S.A. 40A:12A-7 For The Romerovski Site Located In The Borough Of Roselle Park”; and

**WHEREAS**, on February 15, 2007, the Borough Council reviewed the Redevelopment Plan attached to Ordinance 2201 and concluded that the Plan met the statutory requirements of N.J.S.A. 40A:12A-1 et seq., and was designed to effectuate the Borough’s Master Plan as it pertains to the Romerovski Site; and

**WHEREAS**, on March 1, 2007, Ordinance #2201 was adopted on second reading and advertised as prescribed by law; and

**WHEREAS**, notably, the initial Romerovski Redevelopment Plan did not envision the use of the Borough’s powers of eminent domain; and

**WHEREAS**, the site’s owner formed a partnership with another entity filed a builder’s remedy lawsuit on January 31, 2007; and

**WHEREAS**, the Borough was served with this lawsuit on February 15, 2007; and

**WHEREAS**, on June 18, 2007, the Borough Planning Board adopted and the Borough Council endorsed a Housing Element and Fair Share Plan; and

**WHEREAS**, it was subsequently discovered that specific provisions of the Borough's adopted and endorsed Housing Element and Fair Share Plan were somewhat inconsistent with certain provisions of the Borough's adopted Redevelopment Plan; and

**WHEREAS**, it was the Borough's intention to bring its Master Plan, Housing Element and Fair Share Plan, and Redevelopment Plan into consistency with one another; and

**WHEREAS**, in addition, one or more provisions of the Borough's Redevelopment Plan were challenged in plaintiff's lawsuit currently pending in New Jersey Superior Court, Law Division; and

**WHEREAS**, specifically, plaintiff alleged that, under relevant laws, the Borough's initial Redevelopment Plan was invalid to the extent that it limited the tenure of ownership in the residential units to be constructed on the Romerovski site to condominiums and cooperatively owned units; and

**WHEREAS**, without commenting on the validity of any of plaintiff's specific legal challenges, the Borough considered it prudent to amend the Redevelopment Plan to remove the allegedly invalid language while maintaining that any such change to its redevelopment plan did not affect its power to choose the redeveloper for the Romerovski site ; and

**WHEREAS**, on October 4, 2007, the Borough Council adopted Ordinance #2217 on second reading and advertised same as prescribed by law, thereby removing the specific language in the initial Romerovski Redevelopment Plan which limited the tenure of ownership; and

**WHEREAS**, the Borough and the principle for the owner of the Romerovski site, 450 West Westfield Realty LLC, had worked together so cooperatively that the Borough did not see the necessity to exercise its rights under applicable laws to condemn the subject property; and

**WHEREAS**, this cooperation resulted in the Borough's adoption of a redevelopment plan that did not envision the condemnation of the subject property; and

**WHEREAS**, Borough is now satisfied that it cannot count on the cooperation pledged by the property owner at the outset and exhibited in the early stages of the process during which time the Borough declared the subject property an area in need of redevelopment; and

**WHEREAS**, as a result of these realities, the Borough finds it necessary to amend its Redevelopment Plan to enable the Borough to condemn the subject property under applicable redevelopment laws; and

**WHEREAS**, accordingly, the governing body has instructed its professionals to draft an Amended Redevelopment Plan which will, *inter alia*, expressly reserve the Borough's right to utilize the power of eminent domain in order to secure control over the site, and to assure that the Borough and its residents will have the ultimate choice of the redevelopment proposal most suitable to the needs and desires of the community; and

**WHEREAS**, nothing herein should be construed as a waiver or abandonment of the rights of the Borough under applicable law.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the Borough of Roselle Park as follows:

Section 1. Council hereby adopts the attached Amended Redevelopment Plan dated February 2008 and prepared by HGA for the Romerovski Site (Block 213, Lots 1, & Block 314, Lot 1) pursuant to the Redevelopment Law, N.J.S.A. 40A:12A-1 et. seq. A copy of the amended Redevelopment Plan shall be maintained in the offices of the Borough Clerk.

Section 2. The amended Redevelopment Plan shall supersede applicable provisions of the Zoning Ordinance of the Borough of Roselle Park. In all situations where zoning issues are not specifically addressed by the amended Redevelopment Plan, the Zoning Ordinances of the Borough shall remain in full force and effect.

Section 3. Pursuant to N.J.S.A. 40A:12A-7(c), the Zoning Map is hereby amended consistent with Section 1 above, so as to indicate that the amended Redevelopment Plan applies to the redevelopment area depicted in the attached amended Redevelopment Plan.

Section 4. If any provision of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions of this Ordinance, except so far as the provision so declared invalid shall be inseparable from the remainder of any portion hereof.

Section 5. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed.

Section 6. This Ordinance shall take effect immediately upon adoption and publication according to law, and upon filing with the Union County Planning Board.

Introduced: February 4, 2008

Adopted:

Attest: \_\_\_\_\_  
Borough Clerk

\_\_\_\_\_  
Mayor