

O-19-48
8/21/19

AN ORDINANCE OF THE CITY OF BAYONNE, COUNTY OF HUDSON, NEW JERSEY, DESIGNATING A CERTAIN PORTION OF A PUBLIC STREET KNOWN AS WEST 2ND STREET WITHIN THE CITY OF BAYONNE AS A PEDESTRIAN MALL, PURSUANT TO *N.J.S.A. 40:56-65 ET SEQ.* (UNIMPROVED PORTION W 2ND STREET)

WHEREAS, the Municipal Council of the City of Bayonne in its capacity as the redevelopment entity (the “**Municipal Council**”) for the City of Bayonne (the “**City**”) is responsible for implementing redevelopment plans and carrying out redevelopment projects pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “**Redevelopment Law**”); and

WHEREAS, pursuant to the Redevelopment Law, the Municipal Council adopted Resolution No. 98-02-04-040, designating the entire City as an area in need of rehabilitation in accordance with *N.J.S.A. 40A:12A-14*; and

WHEREAS, pursuant to the provisions of *N.J.S.A. 40A:12A-7(e)* and *N.J.S.A. 40A:12A-15* of the Redevelopment Law, the Planning Board, through the City’s staff and/or Planning Board professionals, is permitted to prepare a redevelopment plan; and

WHEREAS, the Municipal Council previously adopted and from time to time amended the “Amended and Restated Redevelopment Plan Texaco Redevelopment Area” (“**Redevelopment Plan**”), dated September 11, 2015, as amended June 11, 2019; and

WHEREAS, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “Redevelopment Law”), on July 17, 2019, the City of Bayonne (the “City”) approved a redevelopment agreement with BCP, LLC (the “Redeveloper”) for the redevelopment of certain properties, including an unimproved portion of West 2nd Street (the “**Redevelopment Agreement**”).

WHEREAS, N.J.S.A. 40:56-65 authorizes the governing body of every municipality to adopt an ordinance to protect the public welfare and health and the interests of the public in the safe and effective movement of persons and to preserve and enhance the function and appearance of the business districts of such municipality.

WHEREAS, Pursuant to N.J.S.A. 40:56-66, a pedestrian mall or pedestrian mall improvement means any local improvement designed to be used primarily for the movements, safety, convenience and enjoyment of pedestrians, and a pedestrian mall improvement shall include but not be limited to pedestrian thoroughfares, public seating, park areas, outdoor cafes, trees, flower plantings, kiosks, street lighting and such other fixtures, equipment, facilities and appurtenances.

WHEREAS, Pursuant to N.J.S.A. 40:56-68 and 40:56-69, the City Council of the City of Bayonne make the following findings regarding the designation of a pedestrian mall in the City:

- (a) The street to be designated is not part of any State highway, is located primarily in a business district, will be improved to its maximum feasible width with regard to adjoining buildings and improvements;
- (b) Reasonably convenient alternate routes to other parts of the municipality and State exist for private vehicles;
- (c) Continued unlimited use of the street or part thereof by private vehicles may constitute a hazard to the health and safety of pedestrians;
- (d) Abutting properties can reasonably and adequately be provided with emergency vehicular services and receive and deliver merchandise and materials from other streets and alleys or by provisions for limited use of the streets by emergency vehicles and carriers of such merchandise and materials; and
- (e) It is in the best interests of the municipality and the public and of benefit to adjacent properties to use such street primarily for pedestrian purposes, and that pedestrian use is determined to be the highest and best use of such street or part thereof.

WHEREAS, the City Council of the City of Bayonne has determined that it would fulfill a public purpose to designate a portion of West 2nd Street, located at West 2nd Street between Ave. A and Kennedy Blvd (“Unimproved Portion of West 2nd St.”), which property is identified as W 2ND STREET between Blocks 373 and 362/510 as shown on the Official Tax Map of the City of Bayonne, County of Hudson, State of New Jersey, as a pedestrian mall to facilitate the public purpose to be served by the redevelopment of the certain properties, including a portion of West 2nd Street, and to limit the use of the surface of such street or part thereof at all times.

WHEREAS, access to the Unimproved Portion of West 2nd St. designated as a pedestrian mall for construction and maintenance of the West 2nd Street Plaza by the Redeveloper and its successors and assigns, shall be provided by the City by a lease agreement between the City and the Redeveloper and is authorized pursuant to this Ordinance.

NOW THEREFORE, BE IT ORDAINED, BY THE MUNICIPAL COUNCIL OF THE CITY OF BAYONNE, NEW JERSEY, AS FOLLOWS:

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

Section 2. Pursuant to the findings set forth above, the Unimproved Portion of West 2nd St., as more fully described and set forth on the plan attached hereto, be and is hereby designated as a pedestrian mall, pursuant to N.J.S.A. 40:56-65 et seq.

Section 3. The plans and specifications for the construction of the West 2nd Street Plaza, pedestrian mall and pedestrian mall improvements, by the Redeveloper shall be submitted to the City Engineer for review and approval prior to commencement of work.

Section 4. Access to the portion of West 2nd Street designated as a pedestrian mall for construction and maintenance of the West 2nd Street Plaza by the Redeveloper and its successors and assigns, shall be provided by the City by a lease agreement between the City and the Redeveloper and is authorized pursuant to this Ordinance.

Section 5. It is in the best interests of the municipality and the public and of benefit to adjacent properties to use such street primarily for pedestrian purposes, and that pedestrian use is determined to be the highest and best use of such street or part thereof.

Section 6. The City Clerk shall publish this Ordinance in the manner required by N.J.S.A. 40:49-2, except that after same has been introduced and passed on first reading, as required by N.J.S.A. 40:56-71, the City Clerk shall, at least ten (10) days prior to the time fixed for final passage, mail a copy of this Ordinance, together with a notice of the introduction thereof and the date, time and place when this Ordinance shall be considered for final passage to the owners of the lots or parcels of land abutting or directly affected by the proposed pedestrian mall.

Section 7. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

Section 8. That any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

Section 9. This Ordinance shall take effect in accordance with applicable laws.