

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE**

ORDINANCE NO. 007-2016

**RE: AN ORDINANCE AUTHORIZING THE EXCHANGE OF CERTAIN PARCELS
OF VACANT GROUND WITHIN THE TOWNSHIP OF UPPER SUBJECT TO
CERTAIN TERMS AND CONDITIONS**

WHEREAS, the Township of Upper is the owner, in fee, of a certain parcels of vacant ground located within the Township of Upper, County of Cape May, and State of New Jersey; and

WHEREAS, the Township has received an offer from John James Germanio, President of Belleplaine Land, Inc. to exchange certain lands; and

WHEREAS, after discussion and deliberation, the Township Committee is of the opinion that the exchange will be in the best interest of the Township as it will eliminate isolated parcels and will permit the Township, as well as a private party, to aggregate land providing for larger parcels; and

NOW, THEREFORE, BE IT ORDAINED by the Township Committee in the Township of Upper, County of Cape May and State of New Jersey as follows:

SECTION 1: Subject to the provisions hereafter set forth, the Township of Upper is authorized to exchange certain lands owned by it with lands owned by Belleplaine Land, Inc. more particularly described as follows:

- (A) The Township of Upper shall convey to Belleplaine Land, Inc. Block 332, Lots 18, 19, and 20; and Block 333, Lots 23 and 24.
- (B) Belleplaine Land, Inc. shall convey to the Township Block 354, Lots 1, 2, 3, 4, and 5.

SECTION 2: The Upper Township Tax Assessor and independent appraisals prepared by Louis A. Bonato dated December 14, 2015 have determined the full and fair market value of the land pursuant to N.J.S.A. 40A:12-16 and the value of the municipal land to be exchanged does not exceed the value of the land to be received by the municipality. The exchange shall be an even exchange with no additional cash consideration from either party.

SECTION 3: The exchange of lands authorized in Section 1 hereof is expressly conditioned and contingent upon the following:

- (A) The parties shall execute an agreement detailing the specifics of the entire transaction. Said agreement shall contain the terms and provisions of this Ordinance and such other terms and conditions as the Township deems appropriate to effectuate the purposes of this Ordinance.
- (B) Title reports shall be prepared by a title abstracting company and title underwriter acceptable to the Township and Belleplain Land, Inc. The title reports must, at a minimum, provide evidence that the property to be exchanged is owned, in fee simple, by the parties who shall be conveying same, that title is marketable and insurable at regular rates and that there are no liens, encumbrances or conditions, reservations or restrictions of record which would interfere with the intended use of the property by the Grantees.
- (C) The agreement between the parties shall expressly provide that the exchange of lands and all contingencies and conditions contained in said agreement are inter-dependent and one shall not occur without the other. To that end, the parties agree that the exchange shall occur simultaneously.
- (D) Any property to be conveyed herein shall be conveyed by Bargain and Sale Deed. The Township of Upper shall pay for the cost of the title report and all title company settlement charges for the land to be received by the Township and Belleplain Land, Inc. shall pay the cost of the title report and all title company settlement charges for the land to be received by Belleplain Land, Inc. Each party shall bear the cost of preparation of the deed conveying the property to the other. Each party shall be solely responsible for the cost of title insurance covering the parcels received by such party as a result of the exchange of lands.
- (E) With respect to the property being conveyed by the Township, conveyance is under and subject to any riparian claim which may affect said property. In addition, the Township makes no representation as to the ability of the property to obtain a building permit or any other governmental approval. Belleplain Land, Inc. is required to comply with all applicable zoning, building and health ordinances, codes and regulations. The property to be transferred by the

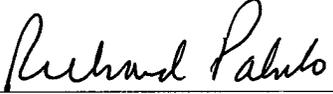
Township may be situated in a flood hazard zone. The Township of Upper makes no warranties or representations, expressed or implied, as to the property being transferred, the condition or marketability of title or any other matter. The Township of Upper makes no warranties or representations, expressed or implied, as to whether or not the property being transferred contains wetlands anywhere on the property. The Township of Upper makes no warranties or representations, expressed or implied, as to any matter of an environmental nature, or otherwise, which may prevent or limit building or construction or use of the property.

(F) In the event a defect in the title or physical condition of the land to be received by the Township is discovered prior to closing, the Township may cancel this exchange whereupon there shall be no further obligations between the parties.

SECTION 4: This Ordinance shall take effect immediately upon final adoption and publication as required by law.

ATTEST:


BARBARA L. YOUNG, Township Clerk


RICHARD PALOMBO, Mayor

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 21st DAY OF MARCH, 2016 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 25th DAY OF APRIL, 2016 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.

BARBARA L. YOUNG, TOWNSHIP CLERK
TOWNSHIP OF UPPER

Legislative History:

Introduced: March 21, 2016

Publication: March 28, 2016

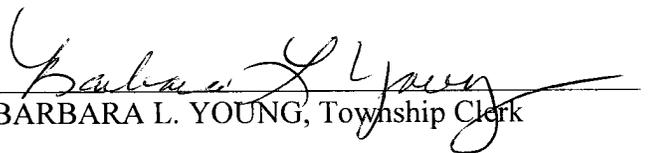
Newspaper(s): The Press of Atlantic City

Second Reading and Public Hearing: April 25, 2016

Final Adoption: April 25, 2016

Final Publication Date: April 28, 2016

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on April 25, 2016, and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on April 28, 2016.


BARBARA L. YOUNG, Township Clerk