

ORDINANCE #29-2018

AN ORDINANCE TO RE-AUTHORIZE A PRIVATE SALE OF REAL PROPERTY SHOWN AS A PORTION OF BLOCK 528 LOT 2.03 ON THE TAX MAP OF THE CITY OF MARGATE TO THE CONTIGUOUS OWNER THERETO PURSUANT TO *N.J.S.A. 40A:12-13(b)(5)*

WHEREAS, the City of Margate City (hereinafter “the City”) owns the land shown as Block 528, Lot 2.03 on the City’s official tax map and located adjacent to 9401 Amherst Avenue; and

WHEREAS, the bulkhead which adjoins Block 528, Lot 2.03, as well as the balance of the bulkhead parallel to Amherst Avenue (hereinafter, “the Amherst Avenue bulkhead”), is owned by the City and believed to have been installed by the City in or around 1928 and has been in a state of disrepair for many years causing portions of the adjoining sidewalk to be undermined and rendered unsafe for pedestrians; and,

WHEREAS, in anticipation of the high taxpayer cost to replace the Amherst Avenue bulkhead, the City Commissioners are amenable to shifting the cost of such replacement to adjoining property owners when appropriate and possible; and,

WHEREAS, Ordinance 21-2018 adopted by the City’s Governing Body authorized the conveyance of a certain, defined portion of Block 528, Lot 2.03 (hereinafter the “Property”) to Barbary Coast Marina, LLC (hereinafter “Barbary Coast”) in exchange for Barbary Coast’s replacement of a 175-foot section of the Amherst Avenue bulkhead at Barbary Coast’s sole expense; and,

WHEREAS, the Property has dimensions of 70 feet by 25 feet and contains 1,750 square feet and constitutes only a portion of Block 528, Lot 2.03 and is depicted on the Land Conveyance Plan dated 6-28-18 and attached hereto as Exhibit A; and,

WHEREAS, in order to effectuate this conveyance the Property will be subdivided from Block 528, Lot 2.03 and the balance of Block 528, Lot 2.03 will remain in the City’s ownership, currently as public parking; and,

WHEREAS, the Property is contiguous to Barbary Coast’s Block 528, Lot 2.02; and,

WHEREAS, as the owner of at Block 528, Lot 2.02 Barbary Coast is the only contiguous land owner aside from the City; and,

WHEREAS, pursuant to Ordinance 21, 2018, the City entered into a written agreement to convey the Property with Barbary Coast and Barbary Coast completed the replacement of the 175-foot length of Amhurst Avenue bulkhead at its sole expense; and,

WHEREAS, prior to the replacement work performed by Barbary Coast, the capital improvements on the Property, consisting only of hardscape and painted lines which may have

been installed by a prior owner other than the City, were in such a deteriorated condition that they were of no value; and,

WHEREAS, Ordinance 21-2018 has been challenged by Harbor Vista Limited Homeowners Association, Inc. in an Action in Lieu of Prerogative Writ filed in the Superior Court of New Jersey under Docket No. ATL-L-2418-18; and,

WHEREAS, among other things, the Ordinance challenge alleged that the City Solicitor should not have participated in adopting Ordinance 21-2018 for reasons set forth in the referenced lawsuit; and,

WHEREAS, due to the significant benefits flowing to the taxpayers of the City of Margate and overriding concerns of the public's health, safety and welfare, and with representation by substitute legal counsel, the City's Governing Body wishes to re-affirm the decision embodied in Ordinance 21-2018; and,

WHEREAS, the Governing Body has carefully considered the need for parking in the area of the Property for residents, their guests and visitors; has taken into consideration the other private and public parking available in that area; has weighed the benefits which would be conferred upon taxpayers by using private funds to replace a deteriorated 175-foot length of bulkhead against the loss of 5 to 7 parking spaces; has concluded that the benefits to the public resulting from the replacement of the bulkhead by a private citizen substantially outweigh the loss of 5 to 7 parking spaces; and has ultimately decided that although the Property could be utilized for public parking, it has not been used in that manner for several years leading up to this proposed sale, but was used by the contiguous commercial property as private parking and therefore it is not needed for public use; and,

WHEREAS, the City's Governing Body is also mindful of Barbary Coast's plan to re-develop its marina property located on Block 528, Lot 2.02 in a manner which furthers the longstanding goal of revitalization of the City's Waterfront Special District as described in the City's Master Plan, and anticipates that Barbary Coast's plan will be a catalyst for additional redevelopment of the Bayfront and benefit the neighboring properties and the entire City; and,

WHEREAS, the City's Governing Body is aware that the tax assessment on the entirety of Block 528, Lot 2.03 is \$255,100 and this sale representing only a portion of Lot 2.03 (with a current ratio of assessed value to true value of 90.33%), and the cost to replace the bulkhead adjacent to Block 528, Lot 2.03 was projected by the Barbary Coast's engineer to cost \$443,681.70, thus the Commissioners are confident that the consideration received by the City exceeds the fair market value of the Property; and,

WHEREAS, in the judgment of the Board of Commissioners of the City of Margate, the 175 foot by 25 foot Property is not needed for public use and should be disposed of in accordance with *N.J.S.A. 40A:12-13(b)(5)* by sale to the contiguous landowner upon the terms and conditions set forth in the Agreement between the City and Barbary Coast signed by Mayor Becker on September 27, 2018;

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of the City of Margate, County of Atlantic and State of New Jersey as follows:

SECTION 1

The foregoing recitals are incorporated herein as findings of the City Commissioners as if each were set forth herein at length.

SECTION 2

The private sale to Barbary Coast, LLC pursuant to the provisions of *N.J.S.A.* 40A:12-13(b)(5) of the portion of Block 528, Lot 2.03 described in the legal description in a Land Conveyance Plan and legal description attached hereto as “Exhibit A” and made a part hereof, and upon its subdivision from Block 528, Lot 2.03 shall constitute a strip of land 70 feet by 25 feet, and containing a total of 1,750sq. feet, together with all appurtenant rights and privileges is hereby reauthorized. The property to be conveyed shall be subdivided from the remainder of Lot 528, Block 2.03 by the City prior to conveyance.

SECTION 3

The consideration for this sale is the replacement of approximately 175 linear feet of City owned bulkhead along Amherst Avenue by Barbary Coast, LLC, which work has been completed and includes Barbary Coast and its successors assuming the obligation to maintain the bulkhead.

SECTION 4

As recited above, the cost estimate to replace the bulkhead including 175’ of bulkhead, demolition, asphalt and concrete and miscellaneous expenses of public improvements is attached hereto as Exhibit B and amounts to a total \$443,681.70 which meets or exceeds the fair market value of the Property.

SECTION 5

The public shall have access along the waterfront as the new bulkhead will allow the City to construct a public pedestrian promenade or walkway along the waterfront.

SECTION 6

The contract with Barbary Coast dated September 27, 2018 and referenced in WHEREAS clause number 9 herein executed by the Mayor of the City of Margate and Barbary Coast incorporating the terms and conditions of the conveyance referenced herein is hereby authorized by the Governing Body and re-affirmed.

SECTION 7

The Mayor of the City of Margate shall execute and deliver to the City Clerk a Bargain and Sale Deed with Covenants Against Grantor's Acts in proper form for recording in accordance with the laws of the State of New Jersey, conveying the Property together with appropriate Affidavit of Title. The deed shall be held in escrow by the substitute legal counsel representing the City in the pending litigation until restraints imposed by the Court in the litigation filed in the Superior Court of New Jersey by Harbor Vista Limited Homeowners Association under Docket No. ATL-L-2418-18 have been lifted by Order of the Court.

SECTION 8

Settlement on conveyance of the Property shall occur at the Margate City Hall or such other place as agreed to by the parties.

SECTION 9

All ordinances or parts of ordinances inconsistent with any terms of this ordinance are hereby repealed to the extent of such inconsistency only.

SECTION 10

This ordinance shall take effect upon its final passage and publication as required by law.

SECTION 11

Terms and Conditions of Sale. It is acknowledged and understood as to specific terms and conditions, that an easement allowing pedestrian access shall be authorized

Mayor Michael Becker

Commissioner John Amodeo

Commissioner Maury Blumberg

Board of Commissioners of the City of
Margate City, New Jersey

Introduction: _____

Enactment: _____