

SECTION 8 **LEGAL PROVISIONS**



LEGAL REQUIREMENTS
PLAN CONSISTENCY REVIEW
REDEVELOPMENT PLAN IMPLEMENTATION
SCHEDULE AND DURATION OF THE PLAN
OTHER PROVISIONS
EXHIBIT 136 ACQUISITION PLAN

Legal Requirements

Validity of the Plan

If any section, subsection, paragraph, division, subdivision, clause or provision of this Plan shall be deemed by the courts to be invalid, such adjudication shall only apply to the particular section, subsection, paragraph, division, subdivision, clause or provision in question, and the balance of the Plan shall be adjudged valid and effective.

Zoning Map Revisions

The Zoning Map of the City of Jersey City is hereby amended and shall be revised to show boundaries of the Bayfront I Redevelopment Area and identify the district as the "Area". In addition, the Zoning Map of the City of Jersey City is hereby amended and shall be revised to show boundaries of the Bayfront I Redevelopment Plan and all provisions of this plan shall apply. This Redevelopment Plan shall supersede all provisions of the Jersey City Zoning Ordinance that are specifically addressed herein. Any zoning related question that is not addressed herein shall refer to the Jersey City Zoning Ordinance for clarification. No variance from the requirements herein shall be cognizable by the Zoning Board of Adjustment. The Planning board alone shall have the authority to grant deviations from the requirements of this Plan, as provided herein. Upon final adoption of this Plan by the City Council of Jersey City, The Jersey City Zoning Map shall be amended to rezone the Redevelopment Area covered by this Plan as the Bayfront I Redevelopment Plan Area, and all underlying zoning will be voided.

Parcelization

The diagrams, images and other graphic representations provided in this Redevelopment Plan are intended to complement the written standards and regulations contained herein. Nothing in this Redevelopment Plan shall preclude the partial redevelopment of a block depicted in such diagrams, images or other graphic representations, provided that such subdivision or re-subdivision and partial redevelopment of a block is fully in conformance with the written standards, diagrams and regulations contained herein. (Such parcelization of any disposition parcel shall be subject to approval by the Planning Board and shall be reflected within the Redeveloper Agreements as may be executed between the Redevelopment Entity and such Redevelopers as may be designated by the Redevelopment Entity.)

Amendment to the Bayfront I Redevelopment Plan

The Bayfront I Redevelopment Plan may be amended from time to time upon compliance with the requirements of the law. Any proposed amendment to the Redevelopment Plan shall be by ordinance, formally adopted by the City Council after public hearing. Prior to such action by the City Council, the proposed amendment shall be referred to the Planning Board for review and recommendation by the Board pursuant to NJSA 40:12A-7.

As development occurs within the Area, development priorities and market demands may change. This Plan should have the adaptability to meet the changing needs of market demand, the City of Jersey City and its citizens. Amendments may be required in order to accommodate these changes.

An application to amend this Redevelopment Plan shall include any required modifications to the following sections:

- A. Illustrative Plan
- B. Circulation Plans
 - 1. Vehicular
 - 2. Pedestrian
- C. Street Sections and Associated Map
- D. Land Use Plan
- E. Building Typologies and Associated Map
- F. Building Frontage Map
- G. Parking Plan
- H. Landscape and Open Space Plan
- I. All related tables and charts

An application to amend this Redevelopment Plan shall include a Plan Consistency Review section, which examines the relationships between the development plan and the applicable regulatory documents, including the Master Plans of the City of Jersey City and surrounding municipalities, the Master Plan of Hudson County, and New Jersey State Development and Redevelopment Plan.

Any amendment to the Bayfront I Redevelopment Plan should adhere to the thoroughfare locations and typologies within the confines of the nature of the design character and intent set forth within this Plan, regardless of intended use.

Minor Variations in Site Plan Design

At the time of site plan review, the Planning Board may approve site plans reflecting minor modifications from the written standards, diagrams, images and other representations set forth herein in the interest of project implementation and in furtherance of this Plan and the standards set forth herein. Modifications from standards which are expressly stated to be "mandatory" under the Land Use Regulations of this Plan, including the allocation of uses and the breakdown of building areas among individual development blocks, may be approved by the Planning Board only by formal grant of a deviation as provided below.

Deviations

The Planning Board may grant deviations from the regulations contained within this Plan, where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions, pre-existing structures or physical features uniquely affecting a specific piece of property, the strict application of any area, yard, bulk or design objective or regulation adopted pursuant to this Plan, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property. The Planning Board may also grant a deviation from the regulations contained within this Plan related to a specific piece of property where the purposes of this Plan would be advanced by such deviation from the strict application of the requirements of this Plan; and the benefits of granting the deviation would outweigh any detriments. The Planning Board may grant exceptions or waivers from design standards, from the requirements for site plan or subdivision approval as may be reasonable and within the general purpose and intent of the provisions for site plan review and/or subdivision approval within this Plan, if the literal enforcement of one or more provisions of the plan is impracticable or would exact undue hardship because of peculiar conditions pertaining to the site. No deviations may be granted under the terms of this section unless such deviations can be granted without resulting in substantial detriment to the public good and will not substantially impair the intent and purpose of this Plan. No deviations may be granted which will result in permitting: (1) a use or principal structure in a district restricted against such use or principal structure, (2) an expansion of a non-conforming use, (3) an increase in height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district, (4) an increase in the permitted floor area ratio, (5) an increase in the permitted density.

An application requesting a deviation from the requirements of this Plan shall provide public notice of such application in accordance with the public notice requirements set forth in NJSA 40:55D-12.a. & b.

No deviations shall be granted which have any one of the following effects:

- A. Exceeding the maximum development capacity of either square footage or dwelling units, as required according to the Regulations and Standards and the Capacity Calculation sections of this Redevelopment Plan.
- B. Varying the minimum or maximum number of stories or their location as such story limitations are outlined and other requirements as outlined in the Height Plans, and the Frontage Plan, sections of this Plan;
- C. Increasing or decreasing story height from that which is specifically permitted in the Urban and Architectural Regulations;
- D. Varying in any way from the Use Standards Section of this Plan;
- E. Varying the grid-like pattern of the Thoroughfare Network Plan, as generally described in the text of the Mobility section of the Redevelopment Plan in relation to thoroughfare type, R-O-width, and pavement width beyond normal adjustments encountered during survey synchronization;
- F. Non-completion of minimum open space, parks, or other type of phased improvements required to be implemented;

Provided however that if the Planning Board shall find that in the context of a particular development application, a property owner would be denied the beneficial use and enjoyment of his or her property because of the application of a particular requirement of the redevelopment plan, the Planning Board shall also be authorized to grant a deviation from that portion of the plan.

Plan Consistency Review

Plan Consistency Review

In accordance with Section 40A:12A-7. Adoption of Redevelopment Plan, this plan will include:

(5) Any significant relationship of the redevelopment plan to (a) the master plans of contiguous municipalities, (b) the Master Plan of the county in which the municipality is located, and (c) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," P.L. 1985, c.398 (C.52.18A-196 et al).

In accordance with NJSA 40:12A-1 et seq., Chapter 79, Laws of New Jersey 1992, known as the "Local Redevelopment and Housing Law", the following statements are made:

- A. The Plan herein has delineated a definite relationship to local objectives as to the appropriate land uses, density of population and improved traffic and public transportation, public utilities, recreation and community facilities, and other public improvements using general regulations and the specific form based codes required in this Plan.
- B. The Plan has laid out various strategies needed to be implemented in order to carry out the objectives of the Plan.
- C. The Plan has set forth proposed thoroughfare layouts and standards, land uses and building requirements for the Redevelopment Plan

Relationship to the Master Plan of the City of Jersey City, Hudson County

The most recent Master Plan for Jersey City was adopted by the Jersey City Planning Board in August 2000. The Master Plan designated the Area and the immediate surrounding areas as Waterfront Planned Development. The Master Plan states that, "the Hackensack River portion of the Waterfront Planned Development district has considerable redevelopment potential but has experienced little actual redevelopment. It is distinguished by an incompatible and obsolete mix of uses".

The recent Area in Need of Redevelopment Report for Bayfront I, dated December 31, 2007, states: "The Master Plan does recognize the large planned residential development (i.e. Droyers Point lying just to the south of the Study Area) and the significant retail uses (i.e. Hudson Mall lying just to the north of the Study Area). However, these development areas stand in stark contrast to the conditions of the Study Area itself. Clearly the Master Plan's statement related to an incompatible and obsolete mix of uses,

and that the area has considerable redevelopment potential but has experienced little actual redevelopment is directly applicable to the Study Area."

The Master Plan recommends expanding the mix of complementary uses, eliminating incompatible industrial uses, encouraging residential development, improving the function of route 440, improving pedestrian, vehicular and mass transit access, developing a Riverfront Water Walkway and addressing the constraints to development caused by contaminated land.

Based on the above and other reviews the Plan is in compliance with the Jersey City Master Plan.

The Plan is also in compliance with the Master Plan of the County of Hudson.

Consistency of the Redevelopment Plan with the New Jersey State Development and Redevelopment Plan

On March, 2001, the State Planning Commission ("SPC") adopted the new State Development and Redevelopment Plan ("SDRP"). The SDRP establishes a proposed statewide planning framework that is designed to maintain and revitalize existing cities and towns and organizing new growth in "centers" – compact, mixed-use communities that provide a variety of choices in housing, employment opportunities, entertainment, services, transportation and social interaction. The Redevelopment Area is in Metropolitan Planning Area 1 (PA-1) in the SDRP. According to the State Plan, the intent of the Metropolitan Planning Area is to:

- Provide for much of the state's future development;
- Revitalize cities and towns;
- Promote growth in compact forms;
- Protect the character of existing stable communities.

The State Plan recommends adopting the principles of Smart Growth, Transit Oriented Development and maximizing Sustainability. The Plan for Bayfront I is consistent with the intent of the Metropolitan Planning Area as enunciated in the SDRP.

The Redevelopment Plan will advance the SDRP's objectives for physical and economic redevelopment, and improved quality of life. Therefore, the Bayfront I Redevelopment Plan is consistent with the goals and objectives of the 2001 SDRP.

Relationship with Zoning Ordinance

The current Jersey City Land Development Ordinance was adopted in April of 2001. The Land Development Ordinance is consistent with the recommendations of the Master Plan. The Study Area and the immediate surrounding area are zoned Waterfront Planned Development District. The purpose of the district states, "The purpose of the Waterfront Planned Development District is to identify areas where the redevelopment of water oriented commercial, residential and recreational uses has occurred and has the potential to occur." The permitted principal uses within the district are marinas, offices, townhouses and multi-family dwellings, retail sales of goods and services and theatres.

Consistency of the Redevelopment Plan with Master Plans of Municipalities Adjacent to Jersey City

No conflict is determined to exist between the Bayfront I Redevelopment Plan and the Master Plans of adjacent municipalities.

Redevelopment Plan Implementation

Master Plan

All redevelopers shall submit a Master Plan to the Planning Board identifying their specific project area within the overall Redevelopment Plan. The specific project submission for review and approval must identify bulk distribution, open spaces/parks and plazas, street improvements, building elevations, typical floor plans, and a program of uses. Utility location and capacity, detention, and landscape plans must also be presented. The Planning Board must be satisfied that the project meets the requirements and the goals and objectives of this Plan and the specific form based standards for streets and blocks, providing for a satisfactory diversity of type, size and use, height of buildings, designated landscape features and other amenities and the projected timing of same.

40A:12A-15. Implementation of Redevelopment Plan

In accordance with the provisions of a Redevelopment Plan adopted pursuant to section 7 of P.L. 1992, c.79 (C.40A:12A-7), a municipality or redevelopment entity may proceed with clearance, re-planning, conservation, development, redevelopment and rehabilitation of an area in need of redevelopment. With respect to a redevelopment project in an area in need of redevelopment, the municipality or redevelopment entity, upon the adoption of a redevelopment plan for the area, may perform any of the actions set forth in Section 8 of P.L. 1992, c.79 (C.40A:12A-8).

Redevelopment Agreement

No project shall be undertaken within the Area except pursuant to a redevelopment agreement approved by the Redevelopment Entity. The agreements will be constructed on a project by project basis. This requirement may be waived at the Redevelopment Entity's discretion for minor projects.

Acquisition Plan

There are nineteen (19) lots within the designated redevelopment area as illustrated in Exhibit 2. Within this area there two major property owners, Honeywell Corporation and the City of Jersey City which encompasses the Jersey City Municipal Utilities Authority and the Jersey City Incinerator Authority. These four entities own the vast majority of the property. One or more of the remaining parcels might be designated for acquisition in order to realize the Redevelopment Plan. See attached Acquisition Plan.

Development Review Process

Preliminary Design Review

All projects in the area shall be submitted to the Planning staff for a preliminary design review prior to submission of an application to the Planning Board. Applicants are required to attend a workshop meeting with the Planning staff or its designated design review professionals. The meeting(s) will be used to determine if the proposed redevelopment project is consistent with the Redevelopment Plan and conforms to the core design concepts, building requirements, and architectural design guidelines of the Bayfront I Redevelopment Plan and to provide an opportunity for comment and recommendations on the proposed project by the Redevelopment Entity and its professionals. Preliminary design review shall focus on how the proposed project relates to and coordinates other elements and phases of the Redevelopment Plan and how the streets, blocks, parks, plazas, building uses and typologies are integrated with and contribute to the quality and function of the layout and design as presented in the Redevelopment Plan. Prior to the approval of all or a portion of the redevelopment project by the Planning Board, the design review professionals shall provide findings and recommendations to the Planning Board regarding the extent to which the proposed project is consistent with the Bayfront I Redevelopment Plan and adequately addresses the design guidelines contained in the Plan.

Planning Board Review

Pursuant to N.J.S.A. 40A:12A-13, all development applications for development of sites governed by the Redevelopment Plan shall be submitted to the Planning Board of Jersey City for review and approval. The following provisions shall govern review of any proposed redevelopment and rehabilitation projects for these sites:

1. Prior to the commencement of: (a) any new construction; (b) reconstruction; (c) rehabilitation; or (d) any change in the use of any structure or parcel, a site plan for such shall be submitted by the developer or property owner to the Planning Board for review and site plan approval. No temporary or permanent Building Permit shall be issued for any work associated with (a). through (d). above, without site plan review and approval of such work by the Planning Board.

2. The Planning Board shall conduct site plan and subdivision review, if applicable, pursuant to N.J.S.A. 40:55d-1 et seq. and the City's Land Development Ordinance.
3. As part of the site plan approval, the Planning Board may require the redeveloper to furnish performance guarantees for on-tract street improvements and appurtenant utility improvements pursuant to N.J.S.A. 40:55D-53. The performance guarantees shall be in favor of the City of Jersey City and the City Engineer shall determine the amount of any performance guarantees.
4. Any subdivision of lots or parcels of land within the Redevelopment Plan shall be in compliance with the Redevelopment Plan and reviewed by the Planning Board pursuant to the LRHL and N.J.S.A. 40:55D-1 et seq.
5. Once a property has been redeveloped in accordance with the Redevelopment Plan, it may not be converted to any use not expressly permitted in this Redevelopment Plan. A use or structure not conforming to the requirements of this Redevelopment Plan may not be reconstructed in the event of its destruction. The Planning Board shall determine the issue of whether the non-conforming use or building structure has been "destroyed."
6. No variances, deviations, or waivers may be granted by the Planning Board which will result in permitting a use prohibited or not expressly permitted within this Redevelopment Plan or which will result in a density that exceeds the densities permitted in this plan.
7. The regulations and controls of this Redevelopment Plan shall be implemented, where applicable, by appropriate covenants, or other provisions, or through agreements for land disposition and conveyance between the redeveloper and municipality pursuant to N.J.S.A. 40A:12A-8 and 40A:12A-9.

8. Any and all definitions contained within the Redevelopment Plan shall prevail. In the absence of a definition, the definition found within the City's Land Development Ordinance shall prevail. Any and all definitions inconsistent with N.J.S.A. 40A:12-3 shall be invalid.
9. A redeveloper shall be required to pay all applicable escrow fees and other required charges in accordance with applicable provisions of the City's Land Development Ordinance and New Jersey law. Additionally, a redeveloper may be required to pay for their proportional share of the cost of any studies, plans, reports, or analysis prepared by the City or its design professionals as part of the Redevelopment Plan review. Any such payments are required to reimburse the City or the Redevelopment Entity.

The above provisions are all subject to approval by ordinance and/or resolution according to law. If a Court of competent jurisdiction finds any word, phrase, clause, section or provision of the Redevelopment Plan to be invalid, illegal, or unconstitutional, the word, phrase, clause, section, or provision shall be deemed severed, and the remainder of the Redevelopment Plan and implementing ordinances shall remain in full force and effect.

Revenue Allocation District

Pursuant to N.J.S.A. 52:27D-462, the entire Bayfront Redevelopment Area is hereby designated as a Revenue Allocation District, subject to the City Council taking all of the statutory steps required for the creation of such a Revenue Allocation District pursuant to the provisions of the Revenue Allocation District Financing Act, N.J.S.A. 52:27D-459 et seq.

EXHIBIT 136
ACQUISITION PLAN



Schedule and Duration of the Plan**Schedule for Performance**

Any site plan executed for purposes of implementing this Redevelopment Plan shall contain a schedule for performance for the construction of the improvements. In addition to a schedule for commencement of improvements, such plans shall include a schedule that indicates the approximate time period for property acquisition, development approvals, construction permits, relocation, etc. required prior to construction as well as a projected date for project completion. The Plan shall also set forth the interim uses for the property and the duration of the period during which such interim uses will be in place.

Duration of the Plan

The provisions of this Plan specifying the redevelopment of the project area and the requirements and restriction with respect thereto shall be in effect for a period of fifty (50) years from the date of approval of this Plan by City Council of the City of Jersey City.

Phasing

The Planning Board shall have the discretion to require a suitable mechanism to insure a balanced development of planned open space, commercial services and infrastructure to service the redevelopment plan area.

A. Phasing Plan:

Any applicant seeking to develop properties located within this redevelopment plan area shall be required to provide a Phasing Plan for review and approval by the Jersey City Planning Board, which shall establish the parameters under which public improvements which are the subject of the application for site plan approval shall be constructed in conjunction with permitted residential, retail and commercial development. "Public Improvement" is defined as any and all of the following: 1) the mandatory improvements identified in Landscape Plan; 2) the Waterfront Walkway; and 3) the mandatory improvements identified in the Mobility Plan. The Plan shall set a schedule for completion of Public Improvements within the property owned or controlled by the applicant in which the percentage of completion of public improvements is approximately equal to or greater than the percentage of completion of all other development on property owned or controlled by the applicant. At a minimum, the Board shall impose construction of the waterfront walkway linked and phased to a percentage of the redevelopment project area constructed.

B. Additional Requirements:

The Public open space improvements shall be constructed contemporaneously with any development of the surrounding Blocks.

Certificates of Completion and Compliance

Upon the inspection and verification by the Redevelopment Entity that the redevelopment of a parcel has been completed, a Certificate of Completion and Compliance shall be issued to the redeveloper as such parcel shall be deemed no longer in need of redevelopment. At the discretion of the Redevelopment Entity, the redeveloper may submit a final Certificate of Occupancy for approval by the Redevelopment Entity to serve as the Certificate of Completion.

The Redevelopment Plan, as it may be amended from time to time, shall be in full force and effect upon its adoption by ordinance by the City Council of the City of Jersey City. The redeveloper agreement may include provisions for a certificate of project completion in accordance with the Redevelopment Plan.

Other Provisions**Non-Discrimination Provision**

No covenant, lease, conveyance or other instrument shall be affected or executed by the City Council of the City of Jersey City or by a developer or any of its successors or assigns, whereby land within the redevelopment area is restricted by the City Council of the City of Jersey City, or the developer, upon the basis of race, creed, color, or national origin in the sale, lease, use or occupancy thereof. There shall be no restrictions of occupancy or use if any part of the redevelopment area on the basis of race, creed, color or national origin.

Affordable Housing

Affordable housing and workforce housing shall be provided in accordance with the following guidelines: (a) ten percent (10%) of the residential units shall be affordable or workforce units, to be provided as follows: (b) fifty percent (50%) of the affordable or workforce units shall be provided on site and the remaining fifty percent (50%) of the affordable or workforce unit requirements may be met by making a payment in lieu of providing on site affordable or workforce units; (c) of the affordable or workforce units which are provided on site, the mix of low income, moderate income and workforce on site units, as well as the location, size, fixtures, number of bedrooms and other attributes of the on site affordable or workforce units shall be mutually agreeable to the City and the Redeveloper; (d) with respect to the fifty percent (50%) of the required affordable or workforce units for which a payment may be made in lieu of construction of on site units, the maximum contribution required shall be \$150,000 per affordable or workforce unit; (e) for the administration of the on site affordable units for their rental, lease, purchase or occupancy, the regulations of the New Jersey Council on Affordable Housing and the New Jersey Mortgage Finance Agency shall apply, but such regulations shall not apply to the number of affordable units required, to the maximum contribution required for a payment in lieu of the provision of on site units and to the mix of unit types, location, size, fixtures, number of bedrooms and other attributes of the on site affordable units, all of which shall be in accordance with the foregoing provisions.

Project Signs and Advertising

In order to facilitate the overall redevelopment of the Area, and to encourage further investment in the surrounding area and the City of Jersey City in general, all advertising, signage, renderings and other promotion of the development and redevelopment of the Study Area shall contain references to the proposed project's location in Jersey City, so as to promote the positive aspects of the project, the Bayside I Redevelopment Plan and the City of Jersey City.

SECTION 9 **ACKNOWLEDGEMENTS**



ACKNOWLEDGEMENTS

Acknowledgements

Jersey City Mayor:

Jerramiah T. Healy

Municipal Council:

Mariano Vega, Jr.	Council President
Peter Brennan	Councilman-at-Large
Willie Flood	Councilwoman-at-Large
Michael Sottolano	Ward A (Greenville) Councilman
Mary Spinello	Ward B (West Side) Councilwoman
Steve Lipski	Ward C (Journal Square) Councilman
William Gaughan	Ward D (The Heights) Councilman
Steven Fulop	Ward E (Downtown) Councilman
Viola Richardson	Ward F (Bergen/Lafayette) Councilwoman

Jersey City Planning Board:

Michael Ryan	Chairman
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Jersey City Division of City Planning:

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