

**TOWNSHIP OF MAHWAH
ORDINANCE NO. 1687**

**AN ORDINANCE AMENDING CHAPTER XXIV OF THE
CODE OF THE TOWNSHIP OF MAHWAH TO CREATE A
NEW SECTION §24-20 ENTITLED "TRANSPORTATION
IMPROVEMENT DISTRICT" FOR BLOCK 26, LOTS 2, 10
AND 11 AND BLOCK 183, LOT 1.**

WHEREAS, the Mayor and Council of Mahwah Township find it in the interest of the community to create a Transportation Improvement District related to property located at the junction of Interstate Route 287 and NJ Route 17; and

WHEREAS, the land situated at the junction of the aforementioned highways totals in excess of 100 acres; and

WHEREAS, the Township has determined that, based upon the uses that are allowed in the proposed new Crossroads Town Center Overlay Zone, unique transportation impacts and associated needs for traffic improvements are necessary; and

WHEREAS, the basis for the need for a transportation improvement district related to this property is the site's size and its unique location at the junction of an interstate and state highway connecting the region; and

WHEREAS, the Township Planning Board recently updated its planning policies in a periodic Re-examination of the Master Plan in June 2007; and

WHEREAS, the Township's Planner and Engineer have reviewed a Traffic Impact Study prepared by Langan Engineering Environmental Services, Inc., dated September 22, 2010 (the "Traffic Study"), which Traffic Study was submitted by Crossroads Developers Associates, LLC, the proposed developer of the property located in the proposed new Crossroads Town Center Overlay Zone; and

WHEREAS, according to the Traffic Study, the proposed mix-use development (the "Crossroads Town Center") would consist of approximately 600,000 square feet of retail space, 150,000 square feet of office space and a 125-room hotel; and

WHEREAS, the Traffic Study describes the specific traffic and roadway improvements that need to be implemented in order to address the traffic impact from the proposed mixed-use development;

WHEREAS, the Township Council has determined that it is in the best interest of the Township to adopt an ordinance to ensure that the cost of reasonable and necessary off-tract improvements that are a potential consequence of the development of the Crossroads Town Center are paid by the developer.

NOW, THEREFORE BE IT ORDAINED by the Township Council of the Township of Mahwah, County of Bergen, State of New Jersey as follows:

Section 1: Chapter XXIV of the Township's Zoning Ordinance, is hereby amended to create a new section, §24-20 entitled "Transportation Improvement District" to read as follows:

24-20.1 Purpose and Intent

a. The purpose of this Ordinance is to ensure adequate off-tract road and related improvements are created so that necessary infrastructure is maintained and additional infrastructure created to accommodate development in the Township.

b. The Township of Mahwah's Transportation Improvement District (TID) is designed to achieve the following purposes:

1. To encourage safe and efficient traffic flow and to the extent appropriate, pedestrian movement, along the roadway systems serving the Township;

2. To maintain and, where possible, improve levels of traffic service throughout the Township during peak travel times;

3. To assess future development its fair share of the cost of reasonable and necessary off-tract improvements that are a potential consequence of such new development;

4. To raise revenues that will be managed and spent in such a manner that the Township and any development paying the fee will receive a benefit from the improved roads and related facilities;

5. To encourage development that is compatible with and, whenever possible, carries out the land use and circulation objectives of the Mahwah Township Master Plan and other regional planning documents that are aligned with the Township's goals;

6. To accomplish the foregoing through thoughtful and

cooperative planning between all levels of government and the private sector for the benefit of the residents and businesses in the Township.

24-20.2 Identification of the Transportation Improvement District

1. The Transportation Improvement District shall consist of the following blocks and lots: Block 26 Lots 2, 10 and 11, and Block 183 Lot 1.

2. Improvements associated with the TID shall include transportation improvements on any public road or right of way within the Township along New Jersey Highway Route 17 and any roadway that is arterial to New Jersey Highway Route 17 and its overpasses, ramps and intersections.

24-20.3 Roadway Improvements

Improvements to be made within the TID may include but are not limited to the construction or reconstruction of new or existing streets, rights-of-ways, acquisition, engineering, and other associated street or traffic improvements such as street widening, alignment, channelization of intersections, construction of barriers, new or improved traffic signalizations, signs, curbs, sidewalks, street drainage, road culverts, lighting, landscaping, utility relocation and the like.

24.20.4 Transportation Improvement District Impact Fees

1. The TID impact fees to be collected from a developer having an application for development within the TID shall be computed as follows:

a. Fees for retail development: Ten dollars per square foot of gross floor area of retail development, payable as follows:

1) Six dollars per square foot which shall not be subject to any adjustment;

2) Four dollars per square foot, subject to adjustment factors as set forth in §24-20.5 below.

b. Fees for office/hotel development: Five dollars per square foot for every square foot of

gross floor area of new office/hotel floor area, payable as follows:

- 1) Three dollars per square foot which shall not be subject to any adjustment;
- 2) Two dollars per square foot, subject to adjustment factors as set forth in §24-20.5 below.

2. Municipal buildings, uses and related facilities shall not be subject to the fees set forth in this ordinance.

3. No applicant shall be required to pay TID impact fees for a development if the applicant can demonstrate to the satisfaction of the Township and the approving authority that the traffic impact from such new development will be negligible (defined to mean less than ten (10) trips generated per a.m. and p.m. peak hour).

4. Where an applicant pays the amount determined as his share under protest, he shall institute a legal action within one (1) year of such payment in order to preserve the right to judicial determination as to the fairness and reasonableness of such amount. In the event such applicant fails to institute such legal action within one (1) year of such payment, such applicant shall have been deemed to waive any right to challenge such share.

5. No applicant shall be required to pay TID impact fees for a development for preliminary approval within a TID if the applicant can demonstrate to the satisfaction of the Township and the approving authority, that the traffic impact from such new development will be negligible (for the purposes of this subsection defined to mean less than ten (10) peak hour trips generated in the morning and afternoon peak hours).

24-20.5 Implementation of TID Impact Fees through Developer's Agreements.

1. Developers of approved projects within the TID shall be required to enter into a developer's agreement with the Township which, in addition to other issues governing development, shall provide for the payment of the required

TID impact fee. The approving authority in its deliberations with respect to any applications for preliminary approval of development located in a TID, shall make findings and recommendations as to items to be addressed by the developer's agreement. A condition to any approval shall be that the developer enter into the said agreement with the Township. The agreement shall be in proper form for recording and, once duly signed and acknowledged by all parties thereto, shall be recorded by the developer in the Bergen County Clerk's Office.

2. The agreement shall take into consideration the applicable Board's findings of fact, recommendations and conditions of approval and shall, at a minimum, provide for the following:

a. Payment of an impact fee representing the applicant's fair share of road and street improvements, inclusive of land acquisition costs, if any, in accordance with the standards set forth in this subsection. The TID impact fee shall be paid per the following schedule:

1) Thirty-Three One Third ($33\frac{1}{3}$) percent upon the issuance of a building permit for the development;

2) Thirty-Three One Third ($33\frac{1}{3}$) percent upon the issuance of a temporary certificate of occupancy for the development;

3) Thirty-Three One Third ($33\frac{1}{3}$) percent upon issuance of a final certificate of occupancy for the development.

b. Where the development is phased, an installment payment schedule, if requested by the developer, may be established. With any installment payment plan, full payment shall be required prior to the issuance of the final building permit for the project or phase thereof subject to such installment payments. The applicable Board may require that the developer posts a letter of credit or other appropriate financial guarantee to ensure the receipt of any such installment payments.

c. The limit of the developer's future off-tract traffic improvement liability upon full or partial payment of the TID impact fee.

d. A description of on-tract or off-tract road and related traffic improvements to be made by or at the expense of the developer, in lieu of a TID impact fee, contribution or some

combination thereof, if any, and the timing or sequencing of such installation.

e. Where the applicable Board, or the County or the State, as the case may be, requires a developer to construct an on-tract street improvement in excess of that required for or used exclusively by the particular development in order to benefit the general public and other future developers within the established TID, consideration shall be given to reducing the off-tract TID impact fee in an amount equal to the difference between the cost of the on-tract street improvement required by the development itself and the total cost of the on-tract street improvement required by such Board, the County or the State, as the case may be. The reduction, if any, shall be applied against the TID impact fee required under this subsection. The reduction, if any, shall be applied against the TID impact fee required under this subsection. An on-tract street improvement shall be deemed "in excess of that required for or used exclusively by the particular development" for purposes hereof if it exceeds the design standards established in the land development ordinances of the Township for such improvement. In order to receive a reduction of the TID impact fee required under this subsection, it shall be the responsibility of the developer to demonstrate to the satisfaction of the applicable Board, or the County or the State, as the case may be, that the on-tract street improvement exceeds the design standards established in the land development ordinances of the Township for such improvement. The cost of rights-of-way dedicated to the Township (or other governmental agency, if applicable) shall not be included in any calculation under this subsection. Notwithstanding anything to the contrary in this subparagraph, under no circumstances shall access related improvements, such as acceleration or deceleration lanes, towing lanes, signalization, roadside drainage and interim improvements receive a reduction of the developer's TID impact fee. Additionally, no reduction shall be given for on-tract improvements such as, but not limited to, curbing, detention or retention basins, overlay, sidewalks or crowns.

f. Such other matters as may be recommended by the applicable Board or the Township.

24-20.6 Improvements in Excess of TID Impact Fees.

Nothing herein shall be interpreted to release or otherwise diminish the obligations of any developer to construct or otherwise ensure the construction of such

improvements where such improvement costs exceed the limits of the TID impact fees. It is the specific intent of this Ordinance that the TID impact fee be a minimum standard imposed on any qualifying development.

24-20.7 Use of Funds Collected.

Any funds collected by way of the TID impact fee shall be maintained in a separate escrow account credited to the Township. Such funds shall be used only for improvements in the TID. The TID impact fee paid by the developer shall be non-refundable.

Section 2: All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of any inconsistencies.

Section 3: The provisions of this ordinance are severable. If any part of this ordinance is declared to be unconstitutional or invalid by any court, the remaining parts of this ordinance will remain in full force and effect.

Section 4: This ordinance shall take effect upon passage and publication in accordance with N.J.S.A. 40:49-2(d).

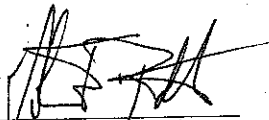
BE IT FURTHER ORDAINED that this ordinance shall become effective after final passage, adoption and publication according to law.

Ordinance No. 1687

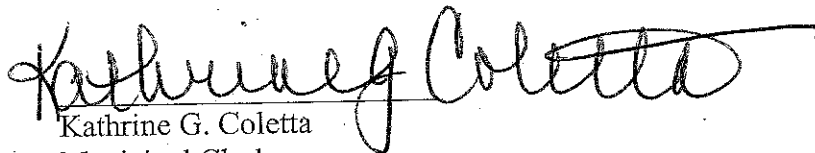
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Dated: July 21, 2011

Attest




John F. Roth
Council President



Kathrine G. Coletta
Municipal Clerk

I, Kathrine G. Coletta, Municipal Clerk of the Township of Mahwah, hereby certify that the within Ordinance was passed and adopted at a meeting of the Township Council held on the 31 day of March, 2011.



Kathrine G. Coletta, RMC/CMC/MMC
Municipal Clerk