

Bill No. 8499-14

No. 16-14-OR

AN ORDINANCE

An Ordinance, amending Ordinance No. 41-09-OR enacted November 17, 2009, as amended, approving the sale of certain real property owned by the County of Allegheny, Pennsylvania known as 3333 Forbes Avenue and identified as Block and Lot 28-J-97 to an ownership/development group for the sale price of \$4,900,000.00, for the purpose of restating the scope of the proposed development on the property.

Whereas, the County of Allegheny, Pennsylvania (the "County") was the owner in fee simple of certain real property located in the 4th Ward of the City of Pittsburgh, identified as Block & Lot Number 28-J-97 and known as 3333 Forbes Avenue, Pittsburgh, Pennsylvania 15213 ("the Property"); and

Whereas, by Ordinance No. 41-09-OR enacted November 17, 2009 (the "Ordinance"), the County was given authority to sell the Property to a then as yet unnamed development group then comprised of the following local real estate development firms: Massaro Properties LLC; Langholz Wilson Ellis, Inc.; and Kratsa Properties and local architecture firm Tasso Katselas Associates, Inc. (the "Development Group"), for the purchase price of \$4,900,000.00 (the "Sale"); and

Whereas it was contemplated at the time the Ordinance was enacted that the Development Group would demolish the existing building located on the Property and construct a new development thereon, which would have included a multi-use development limited to a hotel, an office building containing classroom space for Carlow University, and a parking garage which would also include retail space (the "Project"); and

Whereas, the County and the Development Group, which was subsequently organized and registered as MWK Forbes LLC, a Delaware limited liability company, entered into a sales agreement dated April 1, 2013 (the "Sales Agreement") reflecting the terms of the Ordinance including the scope of the Project as set forth in the Ordinance; and

Whereas, due to economic factors, the composition of the Development Group set forth in the Ordinance changed so that MWK Forbes LLC, was restated to consist of, in part, the principals of the aforesaid entities: David Massaro of Massaro Properties LLC; Gary Wilson of Langholz Wilson Ellis, Inc.; Tasso Katselas of Tasso Katselas Associates, Inc.; and such other participants/entities that may join the Development Group or that it may represent as an agent, as a result of current or future economic and financing considerations and opportunities; and

Whereas, it also was contemplated under the Sales Agreement that the Property would be subdivided into two parcels to accommodate separate aspects of the Project and to enhance

the financing therefore and that the Development Group would act as an agent for the owner of one of the parcels; and

Whereas, County Council adopted Ordinance No. 01-14-OR on February 4, 2014, (“the First Amendment”), which, among other things, amended the Ordinance by restating the principals in the Development Group and by restating the scope of the Project to permit the Development Group to use the Property for (a) two of the following three alternative uses: (i) a hotel, (ii) an office building, which may include classrooms, or (iii) a multi-family housing facility or an apartment-hotel (which can include apartments or units for occupancy by students and school related staff) and (b) a parking facility which may partially consist of surface parking, together with related ancillary facilities such as restaurant and retail; and

Whereas, on or about February 28, 2014 the Property was conveyed to the Development Group for \$4,900,000 subject to the Development Group developing the Property as set forth in the scope of the Project previously approved by Ordinance; and

Whereas, due to continuing fluctuating economic and financing conditions, the Development Group has again requested that the County allow it to change the scope of the Project from what is described in the Ordinance as modified by the First Amendment to now provide that the Development Group may develop the Property into: (a) one or any combination of the following uses: (i) apartment units (which may include apartments or units for occupancy by students and school related staff); (ii) office space; and (iii) a hotel, and (b) a parking facility which may include surface parking and all of the foregoing may include related ancillary commercial facilities, such as retail and restaurant uses(the “Intended Development”); and

Whereas, a subdivision may or may not be necessary to accommodate the Intended Development; and

Whereas, the Council of Allegheny County deems it advisable to again amend the Ordinance in order to allow the Development Group to change the scope of the Project to provide that the Property shall be developed into the Intended Development.

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Incorporation of Preamble and Terms Defined Therein.

A. The provisions set forth in the Preamble to this Ordinance are incorporated by reference in their entirety herein.

B. The terms defined in the Preamble to this Ordinance are incorporated by reference in their entirety herein.

SECTION 2. Change of the Scope of the Project

The scope of the Project as set forth originally in the Ordinance and as restated in the First Amendment is hereby deleted and the following is substituted in its place:

The Development Group may develop the Property into: (a) one or any combination of the following uses: (i) apartment units (which may include apartments or units for occupancy by students and school related staff); (ii) office space; and (iii) a hotel, and (b) a parking facility which may include surface parking, and all of the foregoing may include related ancillary commercial facilities such as retail and restaurant uses(the "Intended Development"). The appropriate County officers and officials are authorized to take any and all such actions, including executing any documents, as are deemed necessary to carry out the purposes of the authorization granted herein,

SECTION 3. **Remaining Provisions of Ordinance and First Amendment**

All other provisions of the Ordinance and the First Amendment shall remain in full force and effect.

SECTION 4. **Effective Date.**

This Ordinance shall enter into effect immediately.

SECTION 5. **Severability.** *If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.*

SECTION 6. **Repealer.** *Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.*

SUMMARY OF LEGISLATION

Second Amendment of Ordinance No. 41-09-OR, as Amended by Ordinance No. 01-14-OR

On November 17, 2009 Ordinance No. 41-09-OR (the “Ordinance”) was enacted granting authority to the County to convey certain real property owned by the County and located in the 4th Ward of the City of Pittsburgh, identified as Block & Lot Number 28-J-97 and known as 3333 Forbes Avenue, Pittsburgh, Pennsylvania 15213 (the “Property”), to a then unnamed development group comprised of local real estate development firms: Massaro Properties LLC; Langholz Wilson Ellis, Inc.; and Kratsa Properties and local architecture firm Tasso Katselas Associates, Inc. (the “Development Group”).

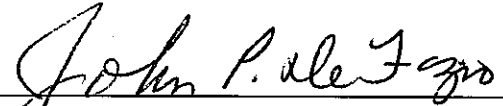
Subsequently, on February 4, 2014, County Council adopted Ordinance No. 01-14-OR, (“the First Amendment”), which, among other things, amended the Ordinance by restating the principals in the Development Group [then known as MWK Forbes LLC] and by restating the scope of the Project to permit the Development Group to use the Property for (a) two of the following three alternative uses: (i) a hotel, (ii) an office building, which may include classrooms, or (iii) a multi-family housing facility or an apartment-hotel (which can include apartments or units for occupancy by students and school related staff) and (b) a parking facility which may partially consist of surface parking, together with related ancillary facilities such as restaurant and retail.

The Property was then conveyed to the Development Group on or about February 28, 2014 for \$4,900,000 subject to the Development Group developing the Property as set forth in the scope of the Project previously approved by Ordinance.

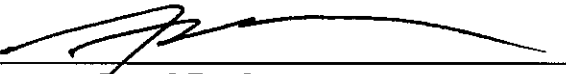
Due to continuing fluctuating economic and financing conditions, the Development Group has again requested that the County allow it to change the scope of the Project from what was described in the Ordinance as modified by the First Amendment to now provide that the Property can be developed into: (a) one or any combination of the following uses: into (i) apartment units; (ii) office space and (iii) a hotel, and (b) a parking facility which may include surface parking, as well as related ancillary commercial facilities (the “Intended Development”).

Enacted in Council, this 7th day of October, 2014

Council Agenda No. 8499-14



John DeFazio
President of Council

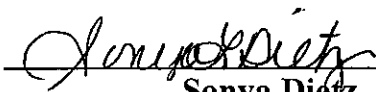
Attest: 

Jared Barker
Chief Clerk of Council

Chief Executive Office November 13, 2014

Approved: 

Rich Fitzgerald
Chief Executive

Attest: 

Sonya Dietz
Executive's Secretary