

**ORDINANCE OF THE TOWNSHIP OF LAKEWOOD,
COUNTY OF OCEAN, STATE OF NEW JERSEY,
AUTHORIZING THE EXCHANGE OF CERTAIN
MUNICIPAL LANDS KNOWN AS BLOCK 351 LOT 3
(VACANT LAND IN THE AREA OF HATFIELD AVENUE
AND JAMES STREET) FOR CERTAIN LANDS KNOWN AS
BLOCK 445 LOT 6 (VACANT LAND NO ASSIGNED
ADDRESS IN THE AREA OF BLANCHE AVENUE AND
COLUMBUS AVENUE) IN THE TOWNSHIP OF
LAKEWOOD, COUNTY OF OCEAN, STATE OF NEW
JERSEY, PURSUANT TO N.J.S.A. 40A:12-16 ET SEQ.**

WHEREAS, the Township of Lakewood is the owner of real property known as Block 351, Lot 3 in the Township of Lakewood, County of Ocean, State of New Jersey, and said land is vacant land with dimensions of approximately 80 ft. by 100 ft. in the M-1 zone; and

WHEREAS, Diamond Triumph Properties LLC is the owner of real property known as Block 445, Lot 6 in the Township of Lakewood, County of Ocean, State of New Jersey, and said land is vacant land with dimensions of approximately 40 ft. by 100 ft. in the RM zone; and

WHEREAS, Diamond Triumph Properties LLC has agreed to exchange its parcel for the Township property located at Block 351 Lot 3; and

WHEREAS, the Assessor of the Township of Lakewood has determined the lands to be so exchanged are of equal or substantially equal value and that such exchange will confer added benefit to the Township lands by virtue of the ability to utilize said property as part of a proposed park; and

WHEREAS, the Township Committee of the Township of Lakewood, County of Ocean, State of New Jersey, has determined that the Township Lot to be exchanged with the Diamond Triumph Properties Lot does not hold any intrinsic value for public use; and this exchange of the Property will return the Township Lot to the tax rolls of the Township of Lakewood; and it is in the best interests of the Township of Lakewood to exchange these parcels; and

WHEREAS, N.J.S.A. 40A:12-16 permits the exchange of certain lands where the exchanged properties are at least of equal value and the acquisition is more advantageous to the municipality for public use than the lands or rights or interests to be conveyed by the municipality and that it is in the public interest of such exchange of lands be consummated; and

WHEREAS, the Township Committee of the Township of Lakewood does, in fact, find that the requirements of the statute are met by this exchange.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Lakewood, County of Ocean, State of New Jersey as follows:

SECTION 1. The Township of Lakewood in the County of Ocean is the owner of the Block 351, Lot 3 located within the Township of Lakewood.

SECTION 2. Diamond Triumph Properties LLC is the owner of real property known as Block 445, Lot 6 in the Township of Lakewood, County of Ocean, State of New Jersey.

SECTION 3. The Township Committee has determined it to be in the public interest to exchange these parcels pursuant to *N.J.S.A. 40A: 12-16* as set forth above.

SECTION 4. The following conditions for the exchange of the properties shall apply:

(a) The exchange of the Property is being made subject to the terms, conditions, restrictions and limitations of a Contract of Sale that shall be entered into between the parties in the form annexed hereto which shall include but not be limited to the following terms and conditions:

- 1) The properties being exchanged are being sold in an “AS IS” WHERE-IS” condition. Both the municipality and Diamond Triumph Properties LLC are responsible for conducting any and all inspections and testing of the property at their own cost and expense.
- 2) The properties being exchanged are subject to existing zoning; however, Diamond Triumph Properties LLC should be aware that the Township has adopted a Smart Growth Plan which could require future changes in zoning for the Property. A copy of the Smart Growth Plan can be reviewed in the office of the Township Clerk.
- 3) The property being transferred to Diamond Triumph Properties LLC, to wit Block 351, Lot 3 shall be consolidated with adjoining properties owned by Diamond Triumph Properties, LLC.
- 4) Diamond Triumph Properties LLC shall bear the burden of paying any and all required sewer service and/or connection fees associated with the use of the property.
- 5) Diamond Triumph Properties LLC shall pay prorated real estate taxes for the balance of the current year as of the date of closing of title.

- 6) Diamond Triumph Properties LLC shall bear the burden of obtaining any and all approvals from the appropriate municipal, county or government agency, if applicable. Diamond Triumph Properties shall also bear the burden of obtaining and paying for any and all necessary permits, connections and/or arrangements to provide for water, electric, sewer, or solid waste disposal.
- 7) The closing of this land exchange is made "TIME OF THE ESSENCE" and must take place within 30 days of the execution of the proposed Contract attached hereto.
- 8) Each party shall pay the cost of recording fees.
- 9) Each party shall pay any and all realty transfer taxes that may be assessed in connection with this transaction.
- 10) With respect to this land exchange, NO real estate commission is owed.
- 11) No representation is made by the Township as to the utility, usability or environmental condition of the property being transferred to Diamond Triumph Properties LLC.

(e) This transfer must satisfy any requirements and meet any terms and conditions of the Contract of Sale. Diamond Triumph Properties LLC will execute the Contract upon adoption of this Ordinance. To execute the Contract, Diamond Triumph Properties, LLC shall properly execute the Contract in the signature spaces at the end. Failure to execute the Contract properly shall not affect the obligation of Diamond Triumph Properties LLC or the validity of the exchange. The deed given by Lakewood Township for the Property will be a quit claim deed. No title contingencies or conditions are permitted.

(f) The exchange shall be subject to adjournment or cancellation by the Township Committee.

(g) The property being exchanged by the Township is being sold "AS IS" "WHERE IS." The property thus being exchanged is subject to existing encumbrances, liens, easements, zoning ordinances, other restrictions of record, such facts as an accurate survey would reveal and any present or future assessments for the construction of improvements benefiting the Property. A survey of the property may be conducted by Diamond Triumph Properties LLC at its discretion, as part of its due diligence.

(h) It is suggested and recommended that Diamond Triumph Properties LLC perform title searches and/or last owner and lien searches on the property being transferred by the municipality prior to execution of the Contract. It is further

suggested and recommended that Diamond Triumph Properties LLC exercise due diligence with respect to every state of facts including open permits, local fines, penalties, taxes, assessments, etc., which may not be of record but which may nonetheless affect the use and enjoyment of the property or properties. The Township of Lakewood shall not be responsible for the costs associated with such searches in the event that the Township of Lakewood is unable to convey title.

(i) Lakewood Township shall perform title searches and/or last owner lien searches on the property being transferred by Diamond Triumph Properties LLC.

SECTION 5. That all Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 6. If any section, subsection, paragraph, sentence or any part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance not directly involved in the controversy in which such judgment shall have been rendered.

SECTION 7. This Ordinance shall take effect upon final passage and publication in accordance with law.

NOTICE

PUBLIC NOTICE is hereby given that the foregoing Ordinance was introduced at a meeting of the Township Committee of the Township of Lakewood, in the County of Ocean and State of New Jersey on **June 21, 2018**, and was then read for the first time. The said Ordinance will be further considered for final passage by the Township Committee in the Town Hall at 7:30 p.m. on **July 12, 2018**. At such time and place or any time or place to which said meeting may be adjourned, all persons interested will be given an opportunity to be heard concerning said Ordinance.

Kathryn Hutchinson, RMC, CMC, CMR, RPPS
Township Clerk

CERTIFICATION

I, Kathryn Hutchinson, Township Clerk of the Township of Lakewood, do hereby certify the foregoing to be a true and exact copy of the ordinance which was adopted by the Township Committee of the Township of Lakewood at a meeting held on **July 12, 2018** at 7:30 P.M., at the Municipal Building, located at 231 Third Street, Lakewood, NJ 08701.

Kathryn Hutchinson, RMC, CMC, CMR, RPPS
Township Clerk