

BOROUGH OF RED BANK

COUNTY OF MONMOUTH

RESOLUTION NO. 11-89

**A RESOLUTION WAIVING AND AUTHORIZING REFUND OF PARKING
CONTRIBUTIONS IMPOSED UPON LINCOLN SQUARE @ RED BANK, L.L.C.,
247 BRIDGE AVENUE, BLOCK 75.01, LOTS 76.01, 90, 90.01, 91, 92 and 93.**

Mr. Murphy offered the following resolution and moved its adoption:

WHEREAS, in an effort to redevelop properties located at block 75.01, Lots 76.01, 90, 90.01, 91, 92 and 93 Lincoln Square @ Red Bank, LLC (the "Developer") made applications to the Zoning Board of Adjustment of the Borough of Red Bank (the "Board") for site plan and variance relief; and

WHEREAS, the regulations controlling development in various zone districts within the Borough require off-street parking in accordance with Section 25-8.21 of the Revised General Ordinances of the Borough of Red Bank; and

WHEREAS, those regulations require that if off-street parking requirements are not met, the developer must obtain a variance subject to the provisions of Subsection 25-8.21(p) and to make a contribution to the Borough's Municipal Parking Utility Capital Improvement Fund (the "Parking Fund") in an amount established by the Parking Deficiency Schedule set forth in the regulations applicable to each particular zone district; and

WHEREAS, the Developer submitted application No. Z9305 to the Board for the construction of certain interior renovations and occupancy of the existing mixed use building located at block 75.01, Lot 76.01 for occupancy as landscape/design warehouse by Siciliano Landscaping Company ("Siciliano"); and

WHEREAS, in connection with application No. Z9305, the Developer proposed 41 parking spaces, where 60 spaces were required by Ordinance, creating a 19 space parking deficiency that required the Developer to post a contribution in the amount of \$23,000 to the Parking Fund; and

WHEREAS, the calculation of the Developer's Parking Contribution payment was based in part on the fact that 33 employees were proposed for Siciliano's business; however, the Board specifically found as a conditional of approval that 30 of Siciliano's so-called field employees were expressly prohibited from driving to work or otherwise bringing a vehicle to the Bridge Avenue Site; and

WHEREAS, the Board found that the parking proposed at the site was sufficient for all of the approved uses at the site and therefore concluded that a parking variance would not cause substantial detriment to the public good; and

WHEREAS, despite those findings and conclusions, the Board was required by the prevailing Ordinance to impose a parking deficiency fee of \$23,000 to the Borough's Parking Fund; and

WHEREAS, the Developer submitted a subsequent application to the Board, No. Z-9055, for Preliminary and Final Major Subdivision and Site Plan approval with respect to Lots 90, 90.01, 91, 92 and 93; and

WHEREAS in connection with Application No. Z9055, the Board found that there was a parking deficiency that would require an additional payment of \$6,000 to the Parking Fund (the

“Additional Parking Contribution”); and

WHEREAS in order to satisfy the condition of the Use Variance Approval and Resolution approving Application Z9305 regarding the parking deficiency, the Developer made payment to the Parking Fund in the amount of \$23,000 on or about June 7, 2010 (the “Developer’s Parking Contribution Payment”); and

WHEREAS, Ordinance No. 2004-21 provides that the Governing Body may waive the parking deficiency contributions contained in the Borough’s Planning and Development Regulations, and Borough Ordinance Section 25-8.2.e further provides that in certain instances the uniqueness of a proposal may require waiver of some of the standards and requirements for development; and

WHEREAS, the Mayor and Council find that this matter presents a unique set of circumstances that justifies and warrants that the Developer’s parking contribution requirements be waived in substantial part because the parking deficiency for this Developer was based upon Siciliano having 33 employees, 30 of which, however, are prohibited from driving a vehicle to the site; as such the Governing Body finds that it would be unfair and unreasonable to impose the entire parking deficiency contribution required by ordinance for these applications;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Red Bank that pursuant to Ordinance No. 2004-21, the parking deficiency fee that the Board was required to impose under the applicable Ordinance is hereby waived in part and that the Borough shall refund to the Developer the sum of \$17,250 from the Developer’s Parking Contribution Payment; and

BE IT FURTHER RESOLVED that for the aforesaid reasons, the Developer’s Additional Parking Contribution is hereby waived; and

BE IT FURTHER RESOLVED that the Chief Financial Officer and the Director of Planning and Zoning are authorized and requested to take any appropriate steps to implement this resolution; and

BE IT FURTHER RESOLVED that the Borough Clerk shall forward certified true copies of this resolution to the applicant Lincoln Square @ Red Bank, L.L.C.

Seconded by Ms. Lee and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Ms. Lewis	(x)	()	()	()
Mr. Zipprich	(x)	()	()	()
Mr. DuPont	()	()	(x)	()
Ms. Horgan	(x)	()	()	()
Ms. Lee	(x)	()	()	()
Mr. Murphy	(x)	()	()	()

Dated: April 26, 2011