

CITY OF VINELAND

RESOLUTION NO. 2017-79

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BY AND BETWEEN NEWCOMB MEDICAL ALLIANCE CENTER, LLC, NORTH HALEDON, NEW JERSEY AND THE CITY OF VINELAND FOR THE RECORDING OF AN ALL-INCLUSIVE DEED COMBINING LOTS 1.04 AND 1.05 OF BLOCK 4216 IN ACCORDANCE WITH PLANNING BOARD RESOLUTION 6193

WHEREAS, Newcomb Medical Alliance Center, LLC, a New Jersey Limited Liability Company with its principal place of business at 12 Crest Court, North Haledon, New Jersey, (Redeveloper) is the owner and Redeveloper of property located at 65 S. State Street, formally known as Newcomb Hospital (Property); and

WHEREAS, the Planning Board adopted resolution 6158, approving a subdivision of the Property into 5 lots, provided, however, that a fire code compliant barrier wall along the common property line of the proposed lot 1.04 and 1.05 be constructed; and

WHEREAS, subdivision deeds creating the separate 5 parcels have been reviewed and approved by the planning division, but they have not been released in as much as construction of the fire code compliant barrier wall is a precondition of the release of the approval of the subdivision deeds for recording; and

WHEREAS, the redeveloper cannot construct the fire code compliant barrier wall in as much as it is unsure whether one of the lots to be created, separated by said wall, will be owned by the City of Vineland; and

WHEREAS, in order to accommodate the Redeveloper and the City, the Planning Board has adopted Resolution 6193, which allows the Redeveloper to enter into an agreement with the City of Vineland which will permit the subdivision deeds to be recorded, however, in the event the City of Vineland chooses not to take ownership of said Lot, the 2 deeds creating lots 1.04 and 1.05, shall be joined by way of an all-inclusive deed.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Vineland that the Mayor and Council are hereby authorized to execute an agreement by and between Newcomb Medical Alliance Center, LLC, North Haledon, New Jersey and the City of Vineland affecting and potentially requiring the combination of Lots 1.04 and 1.05 and Block 4216 on the tax map of the City of Vineland in the form and substance substantially similar to the agreement attached hereto and made a part hereof.

Adopted:

\_\_\_\_\_  
President of Council

ATTEST:

\_\_\_\_\_  
City Clerk

PREPARED BY:

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MICHAEL J. GRUCCIO, ESQ.

AGREEMENT AFFECTING AND POTENTIALLY REQUIRING  
COMBINATION OF LOT 1.04 AND LOT 1.05  
IN BLOCK 4216 CITY OF VINELAND TAX MAP

THIS AGREEMENT made effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and among NEWCOMB MEDICAL ALLIANCE CENTER, L.L.C., a New Jersey Limited Liability Company, having its principal place of business at 12 Crest Court, North Haledon, NJ 07508 (hereinafter “Newcomb Medical Alliance”), and the PLANNING BOARD OF THE CITY OF VINELAND, a Municipal Planning Board organized pursuant to Ordinance and the Municipal Land Use Law of the State of New Jersey, N.J.S.A. 40:55D-1 et. seq., and the CITY OF VINELAND, a Municipal Corporation of the State of New Jersey, the principal location of which is situate in Vineland City Hall located at 640 E. Wood Street, P. O. Box 1508, Vineland, NJ 08362-1508 (hereinafter “Planning Board”).

RECITALS

The parties recite the following material facts and circumstances for purposes of this Agreement.

1. Newcomb Medical Alliance is the owner of property located at 65 S. State Street, designated as Lot 1 in Block 4216 on the Tax Map of the City of Vineland (hereinafter the “Property”).

2. The Property has been determined, and designated, by the City of Vineland to be in need of redevelopment, and in conjunction with that determination, Newcomb Medical Alliance has been designated and appointed, by the City, acting by and through its governing body Vineland City Council, as the Redeveloper of the Property.

3. As memorialized by a Resolution of Findings and Conclusions and Decision of the City of Vineland Planning Board, Resolution No. 6158, adopted on May 11, 2016, Newcomb Medical Alliance has obtained approval to subdivide the property to create five (5) lots, to be designated as Lots 1.01, 1.02, 1.03, 1.04 and 1.05.

4. Approved Lot 1.04 and approved Lot 1.05 are contiguous and share a common boundary line, specifically the westerly property line of Lot 1.04 which is in common with the easterly property line of Lot 1.05.

The common property line transects an existing building on the Property.

5. The portion of the existing building located on Lot 1.04 is intended by Newcomb Medical Alliance to be redeveloped for, and conveyed to, the City of Vineland to accommodate a new Emergency Medical Services Facility (hereinafter "EMS").

6. A condition of approval of the subdivision of the Property, as established by the Planning Board, and as set forth in Planning Board Resolution No. 6158, requires Newcomb Medical Alliance to fully construct, with all necessary regulatory permits, approvals and inspections, a Fire Code Compliant barrier wall along the common property line of Lot 1.04 and Lot 1.05 before Subdivision Deeds to create Lot 1.01, Lot 1.02, Lot 1.03, Lot 1.04 and Lot 1.05, as separate parcels, are released by the City of Vineland Planning Division to the Developer for recording in the Office of the Clerk in Cumberland County.

7. Subdivision Deeds creating the separate parcels have been reviewed and approved, as has a perfected subdivision plan, determined to be in conformity with the technical requirements of Planning Board Resolution No. 6158.

8. However, the approved Subdivision Deeds have not been released by the Planning Division for recording because, in part, the barrier wall separating Lot 1.04 and Lot 1.05 along the common boundary line of those two parcels has not yet been constructed, and, thus, has not been inspected for final approval in accordance with all construction-related codes and requirements.

9. Constructing the wall, as a precondition of, and for, release of the approved Subdivision Deeds for recording presents practical difficulty and undue hardship for two principal reasons.

a. Construction of the wall to separate Lot 1.04 and Lot 1.05, and, in fact, the creation of Lots 1.04 and 1.05, as separate and distinct parcels, are necessary if, and only if, the City of Vineland ultimately approves Lot 1.04~~5~~ as a suitable location, ~~from the standpoint based on appropriate logistical considerations and final considerations.~~ A final determination by the City as to whether, and under what circumstances, redevelopment of Lot 1.04~~5~~ to accommodate EMS has not been rendered and may not be rendered for some appreciable period of time.

b. Redevelopment of Lot 1.04 to accommodate EMS depends upon, among a number of material considerations, the ability of Newcomb Medical Appliance to preserve, in the exercise and employment of sound practices, applicable to the construction industry, to preserve the existing structure on Lot 1.05 intact during demolition of other structures on other locations on the Property, including old, out of service hospital buildings, at least one of which is attached to, or located immediately next to, the structure on Lot 1.04, proposed to be preserved for EMS.

10. As a result, and in recognition, of the circumstances which implicate practical difficulty and undue hardship, Newcomb Medical Alliance is interested in retaining relief from the requirement set forth in Planning Board Resolution No. 6158, which requires that the separation wall along the common boundary line of Lot 1.04 and Lot 1.05 be constructed before, and as a condition of, the release by the Vineland Planning Division of the Subdivision Deeds before recording.

11. Newcomb Medical Alliance has, accordingly, offered a more suitable alternative to the existing Subdivision Deed release condition imposed by the Planning Board as set forth in Resolution No. 6158.

12. The alternative offered by Newcomb Medical Alliance is that, in exchange for the Planning Division's release of all Subdivision Deeds for the Property, including, but not limited to, separate deeds creating Lot 1.04 and Lot 1.05, Newcomb Medical Alliance shall delivery to the Planning Division a fully executed Deed, suitable for recording, which combines Lot 1.04 and Lot 1.05 into one all-inclusive parcel (hereinafter "Combination Deed") to be held by the Planning Division, pending decisionmaking on the part of the City as to whether or not to locate EMS on Lot 1.04~~5~~ and pending completion of demolition on the Property, the completion of which will determine whether or not the structure currently existing on Lot 1.04~~5~~ remains sufficiently in place and to accommodate the EMS Project.

13. Another alternative offered by Newcomb Medical Alliance also includes the consideration that in the event EMS does not go forward in respect to the establishment of its facility on Lot 1.04, for any reason, the City shall be entitled to release, from escrow, and record Newcomb Medical Alliances Combination Deed.

14. The alternative, as proposed by Newcomb Medical Alliance, has been reviewed and has been pronounced acceptable by the Solicitor of the Planning Board and the Code Enforcement Official of the City of Vineland, and has been reviewed and determined to be

acceptable by the City Supervising Planner, provided that a mechanism be set in place to ensure that sufficient funds are made available by Newcomb Medical Alliance to the City to defray the cost of recording the Combination Deed with the Clerk of Cumberland County and that another mechanism be set in place to ensure that either Lot 1.04 or Lot 1.05, or both, are not placed into two separate ownership, so as to defeat, or prevent, the City's combination of the two lots into one parcel, by recording the Combination Deed.

15. In response to the considerations articulated by the City Supervising Planner, Newcomb Medical Alliance has proposed the following:

a. To make a deposit of \$250.00 with the City of Vineland, to be held in escrow, along with the Combination Deed. The funds so deposited shall be used by the City to record the Combination Deed, if the recording of the instrument becomes necessary, based upon a determination by the City that EMS shall not be located on Lot 1.04. Any excess funds, following recording, shall be returned to Newcomb Medical Alliance.

b. To enter an agreement with the City, in recordable form, which provides that:

i. Newcomb Medical Alliance shall not convey Lot 1.04, Lot 1.05, or both lots, to different parties, so as to create disparate ownership, until authorized, or otherwise permitted, to do so, by the City.

ii. The City and Newcomb Medical Alliance shall enter into and mutually execute a Release, likewise in recordable form, which shall rescind and cancel the Agreement prohibiting different ownership of Lot 1.04 and Lot 1.05, which Release shall be readily available to Newcomb Medical Alliance for recording in the Office of the Clerk of Cumberland County in the event that the City determines, after thorough and proper decisionmaking, by its governing body, to proceed forward with a project involving development of EMS on Lot 1.04.

In recognition and in consideration of all of these Recitals, Terms and Conditions, the Parties wish to enter into this Agreement, and do hereby enter into this Agreement, to memorialize the understanding they have reached with one another.

#### AGREEMENT

1. All of the foregoing Recitals are incorporated herein and are expressly made a part of this Agreement.

2. As soon as may be practicable, following the execution of this Agreement by both parties, Newcomb Medical Alliance shall deposit the sum of Two Hundred and Fifty Dollars (\$250.00) with the City of Vineland, by delivery of a check in that amount to the Vineland Planning Division (hereinafter "Planning Division").

3. When delivering payment, Newcomb Medical Alliance shall also deliver to the Planning Division a Deed, in recordable form, and in substantially the form of the instrument attached to this Agreement as Schedule "A", containing a sealed metes and bounds description, prepared by a New Jersey Licensed Land Surveyor, defining the area constituting Lot 1.04 and the area constituting Lot 1.05 into one all-inclusive parcel. The description included in the Deed ("Combination Deed") shall be in form, and shall contain content, approved by, and acceptable to, the City of Vineland Professional Staff and to the City of Vineland Solicitor of the Planning Board.

4. The funds so deposited by, and the Combination Deed so delivered by Newcomb Medical Alliance shall be held in escrow by the Planning Division, on behalf of the City, until such time as the City determines whether or not to proceed with the development of an EMS Facility on Lot 1.04.

5. In the event that a final determination is rendered by the City that development of an EMS Facility on Lot 1.04 is not going to proceed, the Planning Division shall promptly arrange for the recording of the Combination Deed with the Clerk of Cumberland County, utilizing the funds deposited into escrow by Newcomb Medical Alliance to pay all costs associated with the recording of the instrument. All excess monies shall be returned to the Newcomb Medical Alliance pending recordation of the Combination Deed and after completion of all necessary administrative and governmental steps by the City, and all of its interested officials and instrumentalities, required to justify return of the excess funds to Newcomb Medical Alliance.

6. In the event a final determination is rendered by the City to develop an EMS Facility on Lot 1.04, and upon physical construction of a Code Compliance separation wall along the common property line of Lot 1.04 and Lot 1.05, completed with all required permits, approvals and inspections, the entire sum of \$250.00 so deposited into escrow by Newcomb Medical Alliance and the Combination Deed shall be released and otherwise returned to

Newcomb Medical Alliance, as soon as may be practicable following a determination by the City to establish an EMS Facility on Lot 1.04.

7. This Agreement shall be recorded in the Office of the Clerk of Cumberland County. In the event that recordation of the Combination Deed shall not become necessary, by reason of the City's determination to develop an EMS Facility on Lot 1.04, and in the further event that the Code Compliant separation wall along the common boundary line of Lot 1.04 and Lot 1.05 is fully completed and constructed with all necessary permits, approvals and inspections, the parties shall execute and Newcomb Medical Alliance shall, at its sole cost and expense, record in the Office of the Clerk of Cumberland County an instrument formally releasing and canceling this Agreement. The form of release and cancellation shall be substantial in the form of the instrument attached to this Agreement as Schedule "B".

8. For such time as this Agreement shall remain in effect, neither Newcomb Medical Alliance nor the heirs, successors and assigns of Newcomb Medical Alliance, shall place Lot 1.04 in ownership different from ownership of Lot 1.05. In essence, and, in other words, for as long as this Agreement shall be of record, the same parties shall be in ownership of both Lot 1.04 and Lot 1.05, so as to preserve the efficacy of the Combination Deed, should recording of the Combination Deed ever be required under the circumstances described above.

9. Upon the deposit of the sum of Two Hundred and Fifty Dollars (\$250.00), delivery of the Combination Deed in form approved by the City Professional Staff and by the Planning Board Solicitor, and upon compliance with all conditions of subdivision approval, as set forth in Planning Board Resolution No. 6158, with the exception of the condition requiring Newcomb Medical Alliance to complete actual construction of the separation wall along the common boundary line of Lot 1.04 and Lot 1.05, the Planning Board, through the Planning Division, shall release to Newcomb Medical Alliance, for recording in the Office of the Clerk of Cumberland County, the Subdivision Deeds, which have received approval as to form and content, by City Professional Staff and by the Planning Board Solicitor, for Lot 1.01, Lot 1.02, Lot 1.03, Lot 1.04 and Lot 1.05.

10. Newcomb Medical Alliance shall provide proof of recording of the Subdivision Deeds for Lot 1.01, Lot 1.02, Lot 1.03, Lot 1.04 and Lot 1.05, and proof of recording of this Agreement, as soon as may be practicable after recording of the respective instruments have been accomplished. Similarly, Newcomb Medical Alliance shall provide proof of the recording

of the Combination Deed, or, as the case may be, the Release and Cancellation of Agreement, as may soon as be practicable following the process to record.

11. The recitals, terms, conditions and covenants set forth in this Agreement shall run with the land and shall bind, or as the case may be, inure to the benefit of the parties and to their heirs, successors and assigns.

12. Exhibits attached to, and made a part of this Agreement, as Schedules "A" and "B" in the instrument, are as follows:

a. Schedule "A" – Form of Deed Combining Lot 1.04 and Lot 1.05 Block 4216 City of Vineland Tax Map.

b. Schedule "B" – Form of Release and Cancellation of Agreement Affecting and Potentially Requiring Combination of Lot 1.04 and Lot 1.05 in Block 4216 City of Vineland Tax Map.

IN WITNESS WHEREOF, NEWCOMB MEDICAL ALLIANCE CENTER, L.L.C., a New Jersey Limited Liability Company, the PLANNING BOARD OF THE CITY OF VINELAND, a Municipal Planning Board, and the CITY OF VINELAND, a Municipal Corporation of the State of New Jersey, have hereunto set their hands and seals the date first above written.

ATTEST/WITNESSED BY:

NEWCOMB MEDICAL ALLIANCE  
MEDICAL CENTER, L.L.C.,  
A New Jersey Limited Liability Company

\_\_\_\_\_

BY: \_\_\_\_\_  
ANGELO J. DANZA, Managing Member

ATTEST/WITNESSED BY:

PLANNING BOARD OF THE CITY OF  
VINELAND, A Municipal Planning Board

\_\_\_\_\_  
YASMIN RICKETTS,  
Secretary

BY: \_\_\_\_\_  
DAVID MANDERS  
City of Vineland



ATTEST/WITNESSED BY:

THE CITY OF VINELAND, A Municipal Corporation of the State of New Jersey

\_\_\_\_\_  
KEITH PETROSKY  
Clerk

BY: \_\_\_\_\_  
ANTHONY FANUCCI,  
Mayor

STATE OF NEW JERSEY  
COUNTY OF CUMBERLAND: ss:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
before me, a Notary Public, personally appeared ANGELO J. DANZA as the Managing Member  
of Newcomb Medical Alliance Center, L.L.C., a New Jersey Limited Company, personally came  
before me and stated to my satisfaction this person (or if there is more than one, each person):

- (a) was a maker of this Agreement; and
- (b) executed this Agreement as the act of Newcomb Medical Alliance Center, L.L.C.,  
a New Jersey Limited Liability Company; and
- (c) made the instrument as the voluntary act and deed of the Newcomb Medical  
Alliance Center, L.L.C., a New Jersey Limited Liability Company, for the uses and purposes  
expressed herein.

\_\_\_\_\_

STATE OF NEW JERSEY,  
COUNTY OF CUMBERLAND ss:

I CERTIFY that on \_\_\_\_\_, YASMIN RICKETTS personally came  
before me and stated under oath to my satisfaction that:

- (a) this person is the secretary of the City of Vineland Planning Board named in this  
Agreement as a maker of the instrument;
- (b) this person is the attesting witness to the signing of this instrument by David  
Manders, the proper officer who is Chairperson of the Vineland Planning Board;
- (c) this Agreement was signed and delivered as its voluntary act of the Planning  
Board duly authorized by a proper resolution of the makers of the Planning Board; and

(e) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on \_\_\_\_\_, 20\_\_ .

\_\_\_\_\_  
YASMIN RICKETTS, Secretary

STATE OF NEW JERSEY,  
COUNTY OF CUMBERLAND ss:

I CERTIFY that on \_\_\_\_\_, KEITH PETROSKY personally came before me and stated under oath to my satisfaction that:

(a) this person is the Municipal Clerk of the City of Vineland, named in this Agreement as a maker of the instrument;

(b) this person is the attesting witness to the signing of this instrument by the proper official of the City of Vineland, Anthony Fanucci, who is the Mayor of the Municipal Corporation;

(c) this Agreement was signed and delivered by the municipal corporation as its voluntary act duly authorized by a proper resolution of its governing body, Vineland City Council;

(d) this person knows the proper seal of the municipal corporation which was affixed to this Agreement; and

(e) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on \_\_\_\_\_, 20\_\_ .

\_\_\_\_\_  
KEITH PETROSKY