

**BOROUGH OF DEMAREST**

**COUNTY OF BERGEN**

**ORDINANCE 1154-25**

**AN ORDINANCE AUTHORIZING THE ACQUISITION OF REAL PROPERTY COMMONLY KNOWN AS 100 LANGER PLACE, IN THE BOROUGH OF WESTWOOD AND DESIGNATED ON THE OFFICIAL TAX MAP OF THE BOROUGH OF WESTWOOD AS BLOCK 1104 LOT 1**

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**STATEMENT OF PURPOSE:** This ordinance is being proposed to authorize the acquisition of real property in the Borough of Westwood (the "Borough") in order to satisfy the State of New Jersey, Department of Environmental Protection's Green Acres Program ("Green Acres") requirement concerning the Borough's tree replacement obligation.

**WHEREAS,** pursuant to N.J.S.A. 40A:12-4 and N.J.S.A. 40A:125, the Borough has the power to acquire, by ordinance, any real property by purchase, gift, devise, lease, exchange, condemnation or installment purchase agreement; and

**WHEREAS,** the New Jersey Department Of Environmental Protection ("DEP") previously cited the Borough with DEP violations, beginning with an initial Notice of Violation, EA ID# PEA200002-131860, dated May 7, 2020, relating to the Borough's operation of its composting facility (the "DEP Violations") designated on the Borough's Official Tax Map as Block 99 Lot 1 (the "Site"); and

**WHEREAS,** Green Acres visited the Site and determined that the compost facility had been expanded upon beyond the original approval which resulting in the unauthorized clearing of trees; and

**WHEREAS,** Green acres required the Borough to hire a DEP certified forester to perform a forensic study of the Site to determine the approximate number of trees that had been cleared; and

**WHEREAS,** it was determined that the improperly cleared Basal Area (defined as the cross-sectional area of a tree measured at 4.5 feet above ground level) was approximately 40 sq. ft./acre (or 5,760 sq. in./acre); and

**WHEREAS**, it was further determined that 1.56 acres of previously forested area was cleared so the Green Acres tree replacement requirement is  $1.56 \text{ Acres} * 5,760 \text{ sq. in./acre} = 8,985.6 \text{ sq. in.}$  of trees to be planted which equates to 2,860 trees if using typical 2" planting stock while the Site can only accommodate a maximum of approximately 400 trees; and

**WHEREAS**, as an alternative to planting trees on the Site, Green Acres will allow the Borough to offset the tree replacement requirement using replacement land which will require placing a deed restriction on unrestricted forested land; and

**WHEREAS**, Magnum Property, LLC is the owner of real property commonly known as 100 Langer Place, in the Borough of Westwood, State of New Jersey and designated as Block 1104, Lot 1 of the Official Tax Map of the Borough of Westwood (the "Property"); and

**WHEREAS**, Christopher Arp, having an address at PO Box 724, Alpine, New Jersey 07620, (the "Buyer") has entered into a contract and addendum to contract (collectively referred to as the "Contract") with Magnum Property, LLC to purchase the Property at a purchase price of Seventy Seven Thousand and 00/100ths (\$77,000.00) Dollars (the "Purchase Price"); and

**WHEREAS** pursuant to paragraph sixteen (16) of the addendum to contract, the Buyer is permitted to assign the Contract of Sale; and

**WHEREAS**, the Buyer is desirous of donating the Property to the Borough; and

**WHEREAS**, an initial evaluation of the Westwood property by the Borough's Engineer, Colliers Engineering & Design, suggests that the Property would be an acceptable location to offset the tree replacement requirement using replacement land; and

**WHEREAS**, it is in the best interest of the Borough to enter into an agreement with the Buyer whereby the Buyer assigns the Contract to the Borough and the Buyer shall remain liable to pay the Purchase Price to Magnum Property, LLC thereby resulting in the Borough's acquisition of the Real Property by way of donation and at no cost to the Borough, other than attorney's fees incurred in connection with the transfer of title; and

**WHEREAS**, the Borough's acquisition of the Real Property shall be subject to all the terms and conditions set forth in the Contract including but not limited to the Borough's completion of its due diligence investigation which may include but not be limited to a Phase I environmental investigation, site inspection, and/or other further investigation and review; and

**WHEREAS**, it is in the best interest of the Borough to accept the donation from the Buyer and acquire the Property.


**NOW, THEREFORE, BE IT ORDAINED** by the Borough of Demarest, Bergen County, New Jersey that the Borough is hereby authorized to accept the donation of the Property and to acquire the Property with the intention of utilizing the Property to offset the Borough's tree replacement requirement as declared by Green Acres; and

**BE IT FURTHER ORDAINED**, that the Mayor and Acting Clerk of the Borough of Demarest are hereby authorized to execute all necessary documents to acquire said Property.

Attest:

  
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Julie Falkenstern  
Acting Borough Clerk

Approved:

  
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Brian Bernstein, Mayor

Introduction: February 24, 2025

Adoption:

3/10/25