

BOROUGH OF DUNELLEN
ORDINANCE # 2024- 18

The following ordinance was Introduced for first reading on May 20, 2024. A second reading, public hearing and adoption is being held at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey, on June 3, 2024, and copies of this Ordinance have been posted on the public bulletin board prior to the date for second reading and final passage and copies of this Ordinance have been available at the Office of the Borough Clerk for any interested members of the public.

**AN ORDINANCE TO APPROVE A LONG-TERM TAX EXEMPTION AND
FINANCIAL AGREEMENT BETWEEN THE BOROUGH OF DUNELLEN AND 405-
415 NORTH AVENUE URBAN RENEWAL LLC**

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., as amended from time to time (the “Redevelopment Law”) authorizes municipalities to determine whether certain parcels of land in a municipality constitute areas in need of redevelopment or rehabilitation, and to adopt a redevelopment plan for such areas, pursuant to which redevelopment projects are to be undertaken; and

WHEREAS, the municipal council (“Borough Council”) of the Borough of Dunellen (“Borough”) adopted a resolution designating certain properties within the downtown area of Borough as areas in need of redevelopment in accordance with the Redevelopment Law (the “Redevelopment Area”); and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, Borough Council adopted by ordinance on August 9, 2004, the Dunellen Downtown Redevelopment Plan, Phase 1, which was thereafter amended, most recently on July 3, 2023 pursuant to Ordinance #2023-20 (as amended, the “Redevelopment Plan”) in accordance with the Redevelopment Law; and

WHEREAS, 405-415 North Avenue Urban Renewal LLC (“Entity”) has purchased certain real property within the Redevelopment Area known and identified on the official tax maps of Borough as Block 66, Lots 12 and 13 and Block 66, Lot 14, more commonly known as 405 North Ave and 415 North Ave, respectively (collectively, the “Property”); and

WHEREAS, Borough Council shall pass a resolution authorizing the execution and delivery of that certain Redevelopment Agreement (the “Redevelopment Agreement”), which sets forth the respective obligations for Borough and Entity with respect to the redevelopment of the Property in accordance with the Redevelopment Plan; and

WHEREAS, Redeveloper proposes to construct a three-story mixed-use rental project consisting of 2,765 square feet of commercial space, parking, lobby, and other ancillary components on the ground floor along with two (2) studio residential units, twenty-four (24) one-bedroom residential units, twenty-one (21) two-bedroom residential units, three (3) three-bedroom residential units (seven (7) of which shall be Affordable Units, including one (1) one-bedroom Affordable Unit, four (4) two-bedroom Affordable Units and two (2) three-bedroom Affordable

Units, located on the second and/or third floors) and related improvements (collectively, the “Project”) on the Property which is consistent with the Redevelopment Plan; and

WHEREAS, the Project as set forth in the Redevelopment Agreement conforms to the Redevelopment Plan and the master plan of Borough; and

WHEREAS, pursuant to the Redevelopment Law, improvements to property located within an area in need of redevelopment may qualify for long term tax exemptions under the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. (the “LTTE Law”); and

WHEREAS, Entity is authorized to do business as an urban renewal entity under the laws of the State of New Jersey pursuant to the provisions of the LTTE Law; and

WHEREAS, despite Entity’s substantial investment of equity and borrowed funds, such amounts are insufficient to pay for all of the costs associated with the development and construction of the Project; and

WHEREAS, the provisions of the Redevelopment Law and such other statutes as may be sources of relevant authority, if any, authorize Borough to accept, in lieu of real property taxes, an annual service charge paid by Entity to Borough as set forth in such laws; and

WHEREAS, in order to enhance the economic viability of and opportunity for a successful project, Entity has submitted an application for the approval of a long term tax exemption for the Project (the “Exemption Application”), attached hereto as Exhibit A, and a form of financial agreement (the “Financial Agreement”), attached hereto as Exhibit B, to Borough, all in accordance with the LTTE Law; and

WHEREAS, the mayor of Borough has provided his recommendations with respect to the Exemption Application to Borough Council; and

WHEREAS, upon review of the proposed Project, the Exemption Application and the Financial Agreement, Borough has made the following findings with respect to the Project pursuant to N.J.S.A. 40A:20-11:

1. The development and construction of the Project, including infrastructure improvements as set forth in the Redevelopment Agreement and the Redevelopment Plan will be beneficial to the overall community; will achieve the goals and objectives of the Redevelopment Plan; will help revitalize the Property; will improve the quality of life for the community; will serve as a catalyst for further private investment in areas surrounding the Property; will facilitate the remediation of environmental contamination and the revitalization and productive reuse of land currently in a blighted, stagnant, unproductive and fallow condition; will enhance the economic development of Borough by alleviating existing blight conditions of the Property; and will further Redevelopment Plan objectives and contribute to the economic growth of Borough in general and specifically the Property;
2. The Project will result in the creation of at least seven (7) units of affordable housing;
3. The aforesaid benefits of the Project exceed the cost, if any, associated with

granting the tax exemption provided by the Financial Agreement;

4. The Financial Agreement is a material inducement to Entity to undertake the Project in Borough and facilitate the redevelopment of the Property; and

WHEREAS, Borough is agreeable to granting a long term tax exemption to Entity for the Project and, in connection therewith; and

WHEREAS, in accordance with the provisions of the Redevelopment Law and the LTTE Law, Borough desires to approve the Project, the Exemption Application and the Financial Agreement.

NOW THEREFORE, BE IT RESOLVED BY BOROUGH COUNCIL OF THE BOROUGH OF DUNELLEN, NEW JERSEY AS FOLLOWS:

Section 1. The Recitals are incorporated by reference as if set forth in full.

Section 2. The Exemption Application submitted by Entity is hereby approved in accordance with Section 8 of the LTTE Law.

Section 3. The Mayor, in consultation with counsel to Borough, is hereby authorized to execute the Financial Agreement following the execution thereof by Entity and prepare, amend or execute any other agreements necessary to effectuate this ordinance, subject to modification or revisions, as deemed necessary and appropriate, with such execution to occur only simultaneous with the full execution of a redevelopment agreement for the Project.

Section 4. The Clerk of Borough is hereby authorized and directed, upon execution of the Financial Agreement by the Mayor, to attest to the signature of the Mayor and to affix the corporate seal of Borough upon such document.

Section 5. An exemption from taxation as set forth in the Financial Agreement is hereby granted to Entity, with respect to the Project for the term set forth in the Financial Agreement; provided that in no event shall the term of the Financial Agreement exceed the earlier of (i) thirty-five (35) years from the date of execution of the Financial Agreement or (ii) thirty (30) years from the Annual Service Charge Start Date, as said term is defined in the Financial Agreement, and only so long as Entity remains subject to and in compliance with the Financial Agreement and the LTTE Law.

Section 6. The executed copy of the Financial Agreement shall be certified by and filed with the Office of the Borough Clerk. Further, the Clerk shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the Borough and the Director of the Division of Local Government Services with the Department of Community Affairs, in accordance with Section 12 of the LTTE Law. Further, the Borough Clerk shall, within ten (10) days of the later of (i) the effective date of this Ordinance, or (ii) execution of the Financial Agreement, transmit certificated copies of this Ordinance and the Financial Agreement to the chief financial officer of, and legal counsel for, Middlesex County, New Jersey.

Section 7. The Project shall conform with all federal, state and Borough laws, ordinances, regulations, the Redevelopment Plan and the Redevelopment Agreement relating to its construction and use.

Section 8. Entity shall, in the operation of the Project, comply with all laws so that no person of race, religious principles, color, national origin or ancestry will be subject to discrimination.

Section 9. Without limiting the terms of the Financial Agreement, Entity shall submit Auditor's Reports to Borough in accordance with Article 6 of the Financial Agreement.

Section 10. This ordinance shall take effect in accordance with all applicable laws.

Approved June 3, 2024

EXHIBIT A TO ORDINANCE

Exemption Application (excluding Financial Agreement)

[Attached]

EXHIBIT B TO ORDINANCE

Financial Agreement

[Attached]