

**AN ORDINANCE RESCINDING ORDINANCE 2021-18 AND APPROVING
THE APPLICATION AND AUTHORIZING A FINANCIAL AGREEMENT
FOR A LONG TERM TAX EXEMPTION BY AND BETWEEN THE
BOROUGH OF KENILWORTH AND KENILWORTH REDEVELOPERS
URBAN RENEWAL, LLC**

WHEREAS, the governing body of the Borough of Kenilworth (the "Borough Council") is responsible for implementing redevelopment plans and carrying out redevelopment projects pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "Redevelopment Law"); and

WHEREAS, Kenilworth Developers Urban Renewal, LLC (the "Redeveloper") is the contract purchaser of Block 183 Lot 9, located entirely within the Redevelopment Area; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-6, on February 26, 2020, pursuant to Resolution No. 8, the governing body of the Borough of Kenilworth (the "Borough") authorized and requested the Planning Board to undertake a preliminary investigation (the "Investigation") to determine whether the privately owned property Block 183, Lot 9 (the "Area of Investigation"), constitutes an area in need of redevelopment for non-condemnation purposes according to the criteria set forth under the Local Redevelopment and Housing Law ("LRHL"), specifically N.J.S.A. 40A:12A-5 and N.J.S.A. 40A:12A-3; and

WHEREAS, consistent with the requirements set forth in N.J.S.A. 40A:12A-6, the Planning Board specified and gave notice that on June 11, 2020 a hearing would be held for the purpose of hearing persons who are interested in or would be affected by a determination that the properties in the Area of Investigation constitute an area in need of redevelopment as that term is defined under the LRHL for non-condemnation purposes; and

WHEREAS, Kevin O'Brien, PP, AICP, Shamrock Enterprises, Ltd. publicly presented a Preliminary Investigation Report entitled "Planning Report Concerning the Determination of the Proposed Block 183, Lot 9 Study Area As a Non-Condemnation Area in Need of Redevelopment" for the designated Area of Investigation, including Block 183, Lot 9, dated December 10, 2020 (the "Investigation Report"); and

WHEREAS, on December 17, 2020, the Planning Board unanimously recommended that the governing body of the Borough designate the Area of Investigation, including Block 183, Lot 9, as a non-condemnation area in need of redevelopment due to the substantial evidence that the Area of Investigation meets the criteria enumerated in the Investigation Report, pursuant to N.J.S.A. 40A:12A-5; and

WHEREAS, on February 10, 2021, pursuant to Resolution No. 5, the Borough's governing body agreed with the Planning Board's findings that the properties within the Area of Investigation, including Block 183, Lot 9, met numerous criteria under N.J.S.A. 40A:12A-5, and therefore, determined and declared the properties as being in need of redevelopment for non-condemnation purposes; and

WHEREAS, at the direction of the Borough's governing body, Michael J. Mistretta, PP, LLA of Harbor Consultants Inc., has prepared a Redevelopment Plan entitled the "25 North 26th Street Redevelopment Plan" ("the Redevelopment Plan") dated March 2021

covering Block 183, Lot 9 to be in need of redevelopment for non-condemnation purposes; and

WHEREAS, the Borough Council on June 9, 2021, adopted Ordinance No. 2021-07 approving and adopting a redevelopment plan for the Redevelopment Area entitled the "25 North 26th Street Redevelopment Plan" (the "Redevelopment Plan") in accordance with the Redevelopment Law; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-4, the Borough is acting as the "redevelopment entity" (as such term is defined at N.J.S.A. 40A:12A-3 of the Redevelopment Law) for the Redevelopment Area; and

WHEREAS, pursuant to the executed Redevelopment Agreement dated December 8, 2021, the Redeveloper proposes to acquire the Redevelopment Area, and to develop, finance, and

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construct a four-story, inclusionary multi-family building containing a total of 165 units, 25 of which will be units affordable to very-low, low- and moderate-income households with a veteran's preference, garage and surface parking spaces, as well as certain other on-site and off-site improvements (the "Project"); and

WHEREAS, the Redeveloper is a limited-dividend, urban renewal entity created under the New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. (the "LTTE Law"), to own and undertake, or cause to be undertaken, the Project and related on-site and off-site infrastructure and related improvements to be more particularly set forth in the Redevelopment Agreement; and

WHEREAS, the Redeveloper submitted to the Borough Administrator an application for a long term tax exemption for the Project, pursuant to the LTTE Law, dated October 20, 2021 (the "PILOT Application"); and

WHEREAS, the Governing Body has reviewed the information provided in the PILOT Application and finds that the Project represents an undertaking permitted by the LTTE Law and constitutes improvements made for the purposes of clearance, re-planning, development or redevelopment of an area in need of redevelopment within the Borough, as authorized by the Redevelopment Law and the LTTE Law; and

WHEREAS, the filed application has been submitted to the Borough of Kenilworth by Kenilworth Developers Urban Renewal, LLC on October 20, 2021; and

WHEREAS, on November 10, 2021, the Governing Body passed Resolution No. 7 entitled "Resolution Designating Kenilworth Developers Urban Renewal, LLC as Redeveloper of the Property Known as Lot 9, Block 183 in the Borough of Kenilworth and Authorizing the Execution of a Redevelopment Agreement with Kenilworth Developers Urban Renewal, LLC; and

WHEREAS, said PILOT application was approved by the Governing Body of the Borough of Kenilworth by way of Ordinance 2021-18 that was introduced on November 10, 2021, and adopted on December 8, 2021; and

WHEREAS, a Financial Agreement concerning Kenilworth Developers Urban Renewal, LLC was attached to the PILOT application for a long-term tax exemption for the project, under the Long-Term Tax Exemption Law (LTTE) and was approved by the Governing Body, which authorized the Mayor to execute said Agreement, subject to minor modifications thereto; and

WHEREAS, a Financial Agreement was signed by the Mayor and Redeveloper, on or about, December 15, 2021; and

WHEREAS, both parties to said PILOT Agreement have agreed to renegotiate certain terms and conditions to said Financial Agreement; and

WHEREAS, the Governing Body now wishes to repeal Ordinance 2021-18 and adopt a new Financial Agreement consistent with the terms and conditions of the first Agreement, except for:

1. A modified Annual Service Charge schedule;
2. An acknowledgment that the redeveloper is not entitled to any offset, credit, or contribution from the Borough of Kenilworth for solid waste removal/pickup or recycling waste removal and pickup; and
3. The addition of a provision wherein the redeveloper shall reimburse the Borough for the Borough's prorated expenses associated with sanitary sewer services for the project during the life of the Financial Agreement.

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NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Kenilworth in the County of Union, New Jersey, as follows:

Section 1. Ordinance 2021-18 is hereby repealed.

Section 2. The PILOT Application of Kenilworth Developers Urban Renewal, LLC submitted on October 20, 2021, be and hereby is approved.

Section 3. The Financial Agreement concerning Kenilworth Developers Urban Renewal, LLC, attached to the PILOT Application, for a long term tax exemption for the Project, under the LTTE Law, be and is hereby approved, and the Mayor is hereby authorized to execute such Financial Agreement, subject to minor modification or revision, as deemed necessary, advisable and appropriate after consultation with counsel.

Section 4. The Borough Clerk be and 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 the Borough upon such document.

Section 5. The executed copy of the Financial Agreement shall be certified by and be filed with the Office of the Borough Clerk. Further, the Borough 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.

Section 6. If any part(s) of this ordinance shall be deemed invalid, such part(s) shall be severed and the invalidity thereby shall not affect the remaining parts of this ordinance.

Section 7. All ordinances and resolutions or parts thereof inconsistent with this Ordinance are hereby rescinded.

Section 8. This ordinance shall take effect in accordance with applicable law.



Linda Karlovitch, Mayor

ORDINANCE 2022-07

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| INTRODUCTION | | | | | | COUNCILPERSON | FINAL ADOPTION | | | | |
|---------------------------------|------|-----|--|------|----|--------------------|----------------|------|-----|-----|------|
| Moved | Sec. | Aye | Nay | Abs. | NP | | Moved | Sec. | Aye | Nay | Abs. |
| | | X | | | | KAY CECERI | | | X | | |
| X | | X | | | | MARK DAVID | | | | X | |
| | | X | | | | JOSEPH FINISTRELLA | X | | X | | |
| | | X | | | | JOHN ZIMMERMAN | | X | X | | |
| | X | X | | | | SCOTT PENTZ | | | X | | |
| | | X | | | | FRED PUGLIESE | | | X | | |
| | | | | | | MAYOR KARLOVITCH | | | | | |
| Introduced: May 4, 2022 | | | I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Kenilworth, County of Union, State of New Jersey on the aforementioned date. | | | | | | | | |
| Final Adoption: June 1, 2022 | | |  Kathleen Moschitta Acting Borough Clerk | | | | | | | | |