

ORDINANCE NO. 24-2083
BOROUGH OF HIGHLAND PARK
COUNTY OF MIDDLESEX, STATE OF NEW JERSEY

**ORDINANCE OF THE BOROUGH COUNCIL OF THE
BOROUGH OF HIGHLAND PARK, COUNTY OF
MIDDLESEX, NEW JERSEY, APPROVING THE
APPLICATION FOR A LONG-TERM TAX EXEMPTION
AND AUTHORIZING THE EXECUTION OF A FINANCIAL
AGREEMENT WITH DL URBAN RENEWAL LLC
(GROCERY STORE)**

WHEREAS, the Borough of Highland Park, a public body corporate and politic of the State of New Jersey (the “**Borough**”) is authorized pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq. (the “**Redevelopment Law**”) to determine whether certain parcels of land within the Borough constitute an area in need of rehabilitation; and

WHEREAS, on September 6, 2022, the Borough Council of the Borough (the “**Borough Council**”) adopted Resolution No. 9-22-221 authorizing the Borough Planning Board (the “**Planning Board**”) to conduct a preliminary investigation of Block 3002, Lots 1, 2, 3, 4, 5, 6, 7, 8, 30, 34, 35 and 37 (the “**Study Area**”) to determine whether the Study Area met the statutory criteria for designation as a non-condemnation area in need of redevelopment pursuant to the requirements and criteria set forth by the Redevelopment Law; and

WHEREAS, the Planning Board received a report from LRK, Inc., (“**LRK**”), the Borough’s planning consultant, setting forth the basis for the investigation, entitled, “Preliminary Investigation of a Non-Condemnation Area in Need of Redevelopment Stop & Shop Site” dated November 2022, concerning the determination of the Study Area, as an area in need of redevelopment (the “**Study**”); and

WHEREAS, on December 8, 2022, the Planning Board reviewed the Study, heard testimony, conducted a public hearing during which members of the general public were given an opportunity to present their own evidence and/or to cross-examine representatives from LRK, and to address questions to the Planning Board and its representatives, concerning the potential designation of the Study Area as an area in need of redevelopment; and

WHEREAS, the Planning Board voted to adopt and accept the recommendation contained in the Study, and recommended that the Study Area be declared a non-condemnation area in need of redevelopment, in accordance with the Redevelopment Law for the reasons set forth in the Study; and

WHEREAS, on December 20, 2022, the Borough Council adopted Resolution No. 12-22-289, accepting the findings and recommendations of the Planning Board, and formally designated the Study Area as a “non-condemnation area in need of redevelopment”, including Block 3002, Lot 36 (the “**Redevelopment Area**”); and

WHEREAS, pursuant to Resolution No. 9-22-222, LRK was authorized to prepare a

redevelopment plan for the Study Area, entitled the “420-424 Raritan Avenue Redevelopment Plan” (the “**Redevelopment Plan**”); and

WHEREAS, the Borough Council referred the Redevelopment Plan to the Planning Board for its review and recommendation pursuant to the Redevelopment Law; and

WHEREAS, on May 16, 2023, the Borough Council adopted Ordinance No. 23-2071, formally adopting the Redevelopment Plan; and

WHEREAS, on September 19, 2023, the Borough Council adopted Resolution No. 9-23-207, authorizing LRK to amend the Redevelopment Plan to include Block 3002, Lots 1, 2, and 7; and

WHEREAS, DL Urban Renewal, LLC (the “**Entity**”) shall undertake to redevelop a portion of the Redevelopment Area, specifically Block 3002, Lots 3, 4, 5, 6, 8, 30 and 37 (the “**Project Site**”) by gutting and reconstructing an approximately 24,875 square foot single story supermarket including a dairy cooler, meat cooler, meat freezer, produce cooler, produce preparation area, butcher preparation area, delicatesses section freezers, shelving, and additional improvements (the “**Project**”); and

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

WHEREAS, the provisions of the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 *et seq.* (the “**Long Term Tax Exemption Law**”) authorize the Borough to accept, in lieu of real property taxes, an annual service charge with respect to the Project; and

WHEREAS, the Entity submitted to the Mayor an application (the “**Application**”), which is on file with the Borough Clerk, for approval of a long term tax exemption for the Project; and

WHEREAS, the Entity also submitted to the Mayor a form of financial agreement (the “**Financial Agreement**”), a copy of which is attached as an exhibit to the Application, establishing the rights, responsibilities and obligations of the Entity; and

WHEREAS, the Financial Agreement shall also be the redevelopment agreement for the Project as described in the Redevelopment Law; and

WHEREAS, pursuant to the terms of the Financial Agreement, in lieu of real property taxes on the Project, the Entity will pay an annual service charge (the “**Annual Service Charge**”) to the Borough; and

WHEREAS, the Mayor submitted the Application and Financial Agreement to the Borough Council along with his recommendation for approval, a copy of which recommendation is on file with the Borough Clerk; and

WHEREAS, the Borough Council has determined that the Project represents an undertaking permitted by the Long Term Tax Exemption Law, and hereby finds that the relative benefits of the Project justify the long term tax exemption requested in the Application; and

WHEREAS, the Borough has made the following findings with respect to the Project:

- A. Relative benefits of the Project when compared to the costs:
- i. Relative benefits of the Project to the area greatly outweigh cost of tax exemption through the (a) benefit to the overall community, (b) achievement of certain goals and objectives of the Redevelopment Plan, (c) revitalization of the Redevelopment Area, (d) improvement of the quality of life for the community, (e) enhancement of the economic development of the Borough, and (f) anticipation that the development of the Project will create approximately 20 construction jobs over the duration of the construction of the Project, as well as create approximately 35 full time positions, 15 part time positions, and sales tax revenue of approximately six hundred and eighty thousand dollars (\$680,000.00) per annum.
- B. Assessment of the importance of the tax exemption in obtaining development of the Project:
- i. The relative stability and predictability of the Annual Service Charge associated with the Project will make it more attractive to financial institutions whose participation is necessary in order to finance the Project;
 - ii. The Annual Service Charge improves the economic viability of the Project and allows the Project to compete on equal footing with comparable projects of the same size and scope; and
 - iii. The Project provides the Borough with a competitive alternative to the other locations being considered by the operators/owners of the Project without which the Project would not be undertaken. This Agreement is critical to the decision of the owner/operator of the Project to place such facility in the Borough.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE BOROUGH OF HIGHLAND PARK AS FOLLOWS:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. The Application and form of Financial Agreement are hereby approved.

Section 3. The Mayor is hereby authorized and directed to execute the Financial Agreement with the Entity in substantially the same form as that contained within the Application, subject to minor modification or revision, as deemed necessary and appropriate after consultation with counsel.

Section 4. Executed copies of the Financial Agreement shall be certified by and be filed with the Office of the Borough Clerk. The Clerk shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the Borough, the County Counsel and the Chief Financial Officer of Middlesex County within 10 days of the execution of the Financial Agreement.

Section 5. 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 6. This ordinance shall take effect in accordance with law.

Introduced on first reading by title: March 19, 2024

ADOPTED:

ATTEST:

APPROVED:

Jennifer Santiago, Borough Clerk

Elsie Foster, Mayor