

ORDINANCE NO. 06-2018

**BOROUGH OF ROSELAND
COUNTY OF ESSEX, STATE OF NEW JERSEY**

**ORDINANCE OF THE BOROUGH OF ROSELAND,
COUNTY OF ESSEX, NEW JERSEY APPROVING THE
APPLICATION FOR A LONG TERM TAX EXEMPTION
AND AUTHORIZING THE EXECUTION OF A FINANCIAL
AGREEMENT WITH 85 LIVINGSTON URBAN
RENEWAL, L.L.C.**

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**”), provides a process for municipalities, such as the Borough of Garwood (the “**Borough**”), to participate in the redevelopment and improvement of areas in need of redevelopment; and

WHEREAS, the municipal council of the Borough (“**Borough Council**”) directed the Borough planning board (“**Planning Board**”) to investigate whether that certain area of the Township commonly known as Block 30.1, Lot 14 on the tax maps of the Borough, constitutes as an “area in need of redevelopment” as defined in the Redevelopment Law (“**Study Area**”); and

WHEREAS, on January 23, 2017, the Planning Board conducted an investigation and prepared a study and map of the boundaries of the Township and made a recommendation to the Municipal Council to designate the Study Area as an area in need of redevelopment; and

WHEREAS, based upon the recommendation of the Planning Board, the Municipal Council on February 28, 2017 adopted a resolution to designate the Study Area as an “area in need of redevelopment” in accordance with the Redevelopment Law (the “**Redevelopment Area**”); and

WHEREAS, in accordance with the Redevelopment Law, a redevelopment plan prepared by the Borough’s Planner entitled “Redevelopment Plan for Block 30.1, Lot 14 also known as 85 Livingston Avenue, Borough of Roseland, Essex County, New Jersey” (the “**Redevelopment Plan**”) for the Redevelopment Area was referred to the Planning Board for its review and recommendation by the Municipal Council; and

WHEREAS, in accordance with the Redevelopment Law, the Planning Board of the Borough reviewed the Redevelopment Plan and recommended its adoption; and

WHEREAS, after reviewing the Planning Board’s recommendation, the Borough Council adopted the Redevelopment Plan by Ordinance #12-2017 on August 15, 2017; and

WHEREAS, pursuant to the Redevelopment Law, specifically *N.J.S.A. 40A:12A-4*, the Borough is designated as the Redevelopment Entity as such term is defined at *N.J.S.A. 40A:12A-3*, for the Redevelopment Area, with full authority to exercise the powers contained in the Redevelopment Law to facilitate and implement the development of the Redevelopment Area; and

WHEREAS, 85 Livingston Urban Renewal, L.L.C., (the “**Entity**”) is the owner of the property comprising the Block 30.1, Lot 14 of the Redevelopment Area (the “**Project Site**”) and will construct a four (4)-story residential apartment building with up to 140 units, with one hundred twelve (112) market rate units consisting of eight (8) studio units, thirty four (34) one (1) bedroom units and seventy (70) two (2) bedroom units, twenty eight (28) units would be affordable to low and moderate income households, together with surface and structured parking for the residential uses providing approximately 274 parking spaces (the “**Project**”); and

WHEREAS, the Project will conform to all applicable municipal zoning ordinances as amended by the Redevelopment Plan and will be in conformance with the master plan of the Borough; and

WHEREAS, the Entity filed (1) the application attached hereto as Exhibit A (the “**Application**”) seeking a tax exemption and approval of an urban renewal project and (2) a form of Financial Agreement (the “**Financial Agreement**”), pursuant to the Long Term Tax Exemption Law, *N.J.S.A. 40A:20-1 et seq.* (the “**LTTE Law**”); and

WHEREAS, the Borough has made the following findings:

1. The Project Site is currently not developed to its maximum potential. The annual real estate taxes currently generated by the under-utilized Project Site are approximately \$352,031.25. In contrast, the estimated Annual Service Charge (as defined in the Financial Agreement), to be generated upon completion of the Project would pay an annual service charge upon lease-up and stabilization of approximately \$390,944 per year, with the additional *ad valorem* taxes generated by the anticipated hotel and restaurant to also be constructed at the Project Site. Upon expiration of the exemption, the Project will be fully assessed and conventionally taxed;

2. In light of market conditions and other factors currently impacting investment risk, it is not financially feasible to undertake the development of the Project in the absence of the tax exemption provided by this Agreement;

3. The Project will result in the creation of 120 construction jobs at its peak and four (4) permanent jobs; and

4. Given the scale of the Project and the risks associated with new construction development, without the exemption, the Entity would likely not have developed the Project in New Jersey; and

5. The Project is consistent with the Redevelopment Plan, will further its objectives, and will contribute to the economic growth of the Borough.

WHEREAS, pursuant to authorization provided by the Borough Council resolution adopted on March 27, 2018 the Borough and the Entity entered into a redevelopment agreement for the development of the Project (the “**Redevelopment Agreement**”); and

WHEREAS, in order to enhance the economic viability of and opportunity for a successful project, the Borough seeks to enter into the Financial Agreement in the form attached hereto as Exhibit B which shall govern the terms of the tax exemption for the Project and the Annual Service Charge to be paid to the Borough in lieu of conventional taxation; and

WHEREAS, the Borough Council has determined that the Project represents an undertaking permitted by the LTTE Law, and has further determined that the Project is an improvement made for the purposes of clearance, replanning, development or redevelopment of an area in need of redevelopment within the Borough, as authorized by the LTTE Law; and

WHEREAS, the Mayor has submitted the Application and Financial Agreement to the Municipal Council with his recommendation for approval (the “**Mayor’s Recommendation**”), a copy of which recommendation is on file with the Borough Clerk.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Roseland, County of Essex, New Jersey:

1. An exemption from taxation as set forth in the Application is hereby granted to the Entity, with respect to the Project on the Project Site for the term set forth in the Financial Agreement; provided that in no event shall the tax exemption exceed twenty (20) years from the Entity’s receipt of a Certificate of Occupancy for the Project or phase thereof and only so long as the Entity remains subject to and complies with the Financial Agreement and the LTTE Law and any other agreement related to the Project or the Project Site; and provided further, that in no event shall the Annual Service Charge, for every year the property tax exemption is in effect, be less than the total taxes levied against the Project Site in the last full tax year it was subject to taxation.

2. The Mayor and/or the Mayor’s designee, in consultation with counsel to the Borough, are hereby authorized to execute and/or amend, modify or make such necessary changes to the Application, the Mayor’s Recommendation, the Financial Agreement and any other agreements or documents necessary to effectuate this ordinance and the Financial Agreement.

3. The executed copy of the Financial Agreement and this ordinance shall be certified by the Borough Clerk and filed with the Tax Assessor for the Borough and the Director of the Division of Local Government Services.

4. The Project shall conform to all federal and state law and ordinances and regulations of the Borough relating to its construction and use, including the Redevelopment Plan.

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

6. The Entity shall, from the time the Annual Service Charge becomes effective, pay the Annual Service Charge as set forth in the Financial Agreement.

7. The following occurrences are express conditions to the grant of this tax exemption, to be performed by the Entity:

(a) The Entity shall not, without prior consent of the Borough as set forth in the Financial Agreement, convey, mortgage or transfer all or any part of the Project which would sever, disconnect or divide the improvements being tax exempted under the Financial Agreement from the land underlying the exempted improvements.

(b) The Entity shall complete the Project within the timeframes set forth in the Redevelopment Agreement.

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

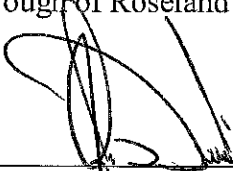
DATE OF INTRODUCTION: March 27, 2018

Motion to Introduce by: Councilman Smith
 Motion Seconded by: Councilman Jacobs
 Introduction Approved: 3-2 Voice Vote (Tolli absent)

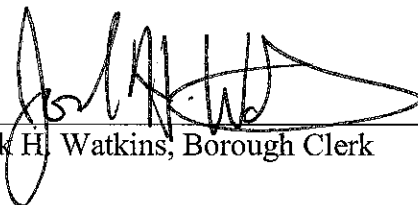
DATE OF ADOPTION: April 17, 2018

COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	RECUSE	ABSENT
Councilman Bardi			X				
Councilman Jacobs		X	X				
Councilman Leonard				X			
Councilman Smith	X		X				
Council President			X				
Councilman Tsilionis			X				
Mayor Duthie (In case of tie)							
VOTE:			5	1			

I hereby certify that the above Ordinance was duly adopted by the Mayor and Council of the Borough of Roseland at a meeting of Borough Council held on the 17th day of April 2018.



 John Duthie, Mayor



 Jock H. Watkins, Borough Clerk

Date of Publication: April 23, 2018, the Star Ledger

EXHIBIT A

Application for Long Term Tax Exemption

EXHIBIT B

Financial Agreement