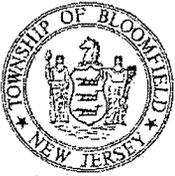


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Township Council
1 Municipal Plaza
Bloomfield, NJ 07003

Louise M. Palagano
Municipal Clerk

<http://www.bloomfieldtwpnj.com>

Meeting: 06/18/12 07:00 PM

12-44

2012 ORDINANCE AMENDMENT

ORDINANCE AUTHORIZING THE MAYOR AND TOWNSHIP COUNCIL OF THE TOWNSHIP OF BLOOMFIELD, IN THE COUNTY OF ESSEX, NEW JERSEY TO ENTER INTO AN AMENDMENT TO FINANCIAL AGREEMENT FOR CERTAIN PROPERTY WITHIN THE BLOCK 228, BLOCK 220 LOT 40 REDEVELOPMENT AREA

WHEREAS, on October 12, 2010, the Mayor and Council (the "Mayor and Council" of the Township of Bloomfield (the "Township")) adopted a resolution designating the properties then commonly known as Block 228, Lots 1, 4, 5, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, 19, 21, 24, 27, 28, 29, 30, 31, 33 & 35, and Block 220, Lot 40 on the tax map of the Township as an area in need of redevelopment (the "**Redevelopment Area**") in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., as amended and supplemented (the "**Local Redevelopment and Housing Law**"); and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, on February 7, 2011, the Mayor and Council adopted an ordinance approving and adopting a Redevelopment Plan for the Redevelopment Area dated December 23, 2010, as amended by ordinance adopted on February 21, 2012 (the "**Redevelopment Plan**"); and

WHEREAS, on February 22, 2011, the Mayor and Council adopted a resolution designating Bloomfield Center Urban Renewal, LLC, a Delaware limited liability company and an affiliate of the Entity (the "**Redeveloper**"), as the redeveloper of the properties consisting of all of the tax lots on Block 228, as well as portions of the Lackawanna Place and Washington Street Rights of Way, which portions are depicted in **Exhibit A** to the Financial Agreement (as defined herein) (the "**Additional Parcels**" and, together with the lots on Block 228, the

ED AS TO FORM AND PROCEDURE
ON BASIS OF FACTS SET FORTH

Brian J. Scora

Attorney of Law, Township Attorney

“**Original Project Site**”, which is depicted, collectively, in **Exhibit B** to the Financial Agreement and which Original Project Site, together with the Subsequently Vacated Rights-of-Way (as hereinafter defined), the “**Project Site**”); and

WHEREAS, the Township and the Redeveloper entered into a Redevelopment Agreement, dated March 8, 2011 (the “**Redevelopment Agreement**”), pursuant to which the Redeveloper agreed to redevelop the Project Site by constructing thereon a project consisting of: (i) (A) approximately 60,000 square feet of retail space, including approximately 10,000 square feet of restaurant space (the “**Retail Project**”) and (B) approximately 224 residential units (the “**Residential Project**”) and together with the Retail Project, the “**BCUR Project**”) on the portion of the Project Site depicted in **Exhibit C** to the Financial Agreement (the “**BCUR Project Site**”); and (ii) a parking garage (the “**Parking Garage**”) and, together with the BCUR Project, the “**Redevelopment Project**”) on the portion of the Project Site depicted in **Exhibit D** to the Financial Agreement (the “**Parking Garage Site**”); and

WHEREAS, the Parking Authority of the Township of Bloomfield (the “**Parking Authority**”) and the Redeveloper entered into a Land Swap Agreement, dated January 5, 2011, as amended by that certain First Amendment to Land Swap Agreement dated April 17, 2012 (as amended, the “**Land Swap Agreement**”), pursuant to which, among other things, the Parking Authority acquired portions of Block 228 previously owned by the Redeveloper and related affiliates, and is obligated to consolidate all of the lots of the Project Site into one parcel and thereafter subdivide the Project Site to create the BCUR Project Site and the Parking Garage Site; and

WHEREAS, the Parking Authority shall, pursuant to the Land Swap Agreement, convey the BCUR Project Site to the Redeveloper upon the satisfaction of certain conditions and at the time set forth therein and, thereafter, the Redeveloper shall construct the BCUR Project thereon; and

WHEREAS, on March 7, 2011, the Mayor and Council adopted Ordinance No. 11-8 providing for the vacation of the Township's right, title and interest in the Additional Parcels and, by operation of applicable law, unencumbered title to such property vested in the Parking Authority as the owner of the parcels adjacent thereto; and

WHEREAS, by Deed dated January 5, 2012, the Parking Authority consolidated all of the tax lots on Block 228, along with the Additional Parcels, into one new tax lot, known as Block 228, Lot 1; and

WHEREAS, on February 6, 2012, the Mayor and Council adopted Ordinance No. 12-3 providing for the vacation of the Township's right, title and interest in additional portions of the roadways surrounding Block 228 (as described more particularly in said ordinance, the "**Subsequently Vacated Rights-of-Way**") and, by operation of applicable law, unencumbered title to such Subsequently Vacated Rights-of-Way vested in the Parking Authority as the owner of the parcel adjacent thereto; and

WHEREAS, on May 2, 2011, the Mayor and Council adopted an ordinance entitled, "Ordinance of the Township of Bloomfield, County of Essex, New Jersey Approving the Application and Financial Agreement for Tax Exemption of Bloomfield Center Urban Renewal, LLC for the Construction of a Redevelopment Project Located in Block 228 Redevelopment Area", a copy of which is attached to the Financial Agreement as *Exhibit F*; and

WHEREAS, under the terms of a Financial Agreement by and between the Township and Bloomfield Center Urban Renewal, LLC, a New Jersey urban renewal entity (the "**Entity**"),

dated as of May 10, 2011 (the “**Financial Agreement**”), the Entity will (i) construct the BCUR Project on the BCUR Project Site and (ii) in lieu of paying property taxes associated with the BCUR Project and the BCUR Project Site, pay to the Township the Annual Service Charge (as defined in the Financial Agreement); and

WHEREAS, the Financial Agreement provides that the Annual Service Charge will be allocated between the Retail Annual Service Charge and the Residential Annual Service Charge (as such terms are defined therein); and

WHEREAS, on May 19, 2011, the Planning Board of the Township of Bloomfield (the “Planning Board”) approved (i) the site plan presented by the Redeveloper and the Parking Authority in connection with the Redevelopment Project (the “**Site Plan Approval**”) and (ii) the subdivision proposed by such parties dividing the Project Site into the BCUR Project Site and the Parking Garage Site (the “**Subdivision Approval**”), which approvals were both memorialized by resolution of the Planning Board adopted on June 14, 2011; and

WHEREAS, as a result of certain changes to the Redevelopment Project requested by the Redeveloper, and to clarify certain default provisions, the Redeveloper and the Township entered into that certain First Amendment to Redevelopment Agreement, dated _____, 2012 to modify the descriptions of the Project Site, the BCUR Project Site and the Parking Garage Site, and to modify certain default provisions set forth in the Redevelopment Agreement; and

WHEREAS, in order to incorporate the aforementioned changes into the Financial Agreement, the Township and the Entity have determined to enter into a First Amendment to Financial Agreement (“**First Amendment to Financial Agreement**”); and

WHEREAS, except as otherwise set forth in the First Amendment to Financial Agreement, all other terms and provisions of the Financial Agreement will remain the same; and

WHEREAS, on November 9, 2011, the Entity entered into an agreement with AvalonBay Communities, Inc. (“AvalonBay”), as amended by letter agreements dated February 8, 2012 and April 27, 2012, between BCUR and AvalonBay (as amended, “the BCUR-AvalonBay Contract”); and

WHEREAS, pursuant to the BCUR-AvalonBay Contract, among other things, a two-unit condominium comprised of the Retail Project and the Residential Project will be established which, together, will be administered by one condominium association; and

WHEREAS, pursuant to the BCUR-AvalonBay Contract, BCUR will convey the portion of the BCUR Project Site upon which the Residential Project will be constructed to AvalonBay (the “Residential Project Site”) and an urban renewal entity created by AvalonBay (the “AvalonBay Entity”) will construct the Residential Project; and

WHEREAS, BCUR will own and operate the Retail Project and the AvalonBay Entity will own and operate the Residential Project; and

WHEREAS, upon such conveyance by the Entity to the AvalonBay Entity, the Entity will be responsible for the Retail Annual Service Charge, and the AvalonBay Entity will be responsible for the Residential Annual Service Charge; and

WHEREAS, such a conveyance will constitute a sale of a portion of the Redevelopment Project under Article VIII of the Financial Agreement; and

WHEREAS, the Mayor and Council desire to authorize the execution of the First Amendment to Financial Agreement.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Township of Bloomfield, in the County of Essex, New Jersey, as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The Mayor is hereby authorized to execute the First Amendment to Financial Agreement substantially in the form on file with the Township Clerk, subject to minor modification or revision, as deemed necessary and appropriate after consultation with counsel.

Section 3. The Clerk of the Township is hereby authorized and directed, upon execution of the First Amendment to Financial Agreement by the Mayor, to attest to the signature of the Mayor and to affix the corporate seal of the Township upon such document.

Section 4. The executed copy of the First Amendment to Financial Agreement shall be certified by and be filed with the Office of the Township Clerk. Further, the Clerk of the Township shall file certified copies of this ordinance and the First Amendment to Financial Agreement with the Tax Assessor of the Township and the Director of the Division of Local Government Services with the Department of Community Affairs, in accordance with Section 12 of the Long Term Tax Exemption Law.

Section 5. Pursuant to Section 8.01 of the Financial Agreement, the Township hereby consents to the transfer of ownership, by the Entity to the AvalonBay Entity, of the Residential Project Site and of the Entity's interest in the Residential Project, subject to (i) AvalonBay's closing of title on the Residential Project Site in accordance with the BCUR-AvalonBay Contract and (ii) the execution, by the AvalonBay Entity, of a written agreement in which it fully assumes all of the obligations set forth in the Financial Agreement applicable to the Residential Project and the Residential Project Site.

Section 6. Upon the closing of title, by AvalonBay, on the Residential Project Site, the Mayor and Clerk are hereby authorized, without the need for further action, to execute (i) a conformed version of the Financial Agreement, by and between the Township and the Entity, limited to apply only to the Retail Project and the portion of the BCUR Project Site upon which the Retail Project will be constructed, and (ii) a conformed version of the Financial Agreement, by and between the Township and the AvalonBay Entity, limited to apply only to the Residential Project Site and the Residential Project. Such agreements shall be certified by and be filed with the Office of the Township Clerk. Further, the Clerk shall file certified copies of such agreements with the Tax Assessor of the Township and the Director of the Division of Local

Government Services with the Department of Community Affairs, in accordance with Section 12 of the Long Term Tax Exemption Law.

Section 7. 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 8. All ordinances and resolutions or parts thereof inconsistent with this Ordinance are hereby rescinded.

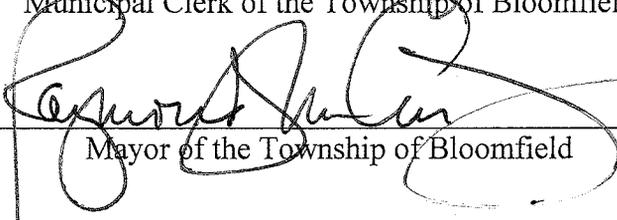
Section 9. This ordinance shall take effect in accordance with applicable law.

......*...*

I hereby certify that the above ordinance was duly adopted by the Mayor and Council of the Township of Bloomfield at a meeting of said Township Council held on .



 Municipal Clerk of the Township of Bloomfield



 Mayor of the Township of Bloomfield

✓ Vote Record - Ordinance 1875					
		Yes/Aye	No/Nay	Abstain	Absent
<input type="checkbox"/> Adopt	Elias Chalet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Deny	Nicholas Joanow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Withdrawn	Carlos Bernard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Table	Michael Venezia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Not Discussed	Peggy O'Boyle Dunigan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> First Reading	Bernard Hamilton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Table with no Vote	Raymond McCarthy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Approve					
<input type="checkbox"/> Veto by Mayor					

✓ Vote Record - Ordinance 1875					
		Yes/Aye	No/Nay	Abstain	Absent
<input checked="" type="checkbox"/> Adopt	Elias Chalet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<input type="checkbox"/> Approve					
<input type="checkbox"/> Veto by Mayor					