

O-09-25

ORDINANCE OF THE BOROUGH OF WHARTON, IN THE COUNTY OF MORRIS, NEW JERSEY APPROVING AN APPLICATION FOR A LONG TERM TAX EXEMPTION AND AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH WHARTON DEVELOPMENTS A (URBAN RENEWAL) LP

WHEREAS, pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “Redevelopment Law”), the Borough Council (the “Borough Council”) of the Borough of Wharton, in the County of Morris, New Jersey (the “Borough”), pursuant to Resolution No. R-70-03, designated certain property then identified as Block 301, Lot 1.01, Block 801, Lot 3 and Block 903, Lots 2 and 2.03 as shown on the official tax maps of the Borough, along with all streets and rights of way appurtenant thereto, as a non-condemnation area in need of redevelopment (the “Redevelopment Area”); and

WHEREAS, the Borough Council previously adopted the L.E. Carpenter Site Redevelopment Plan Amendment dated on or about July 9, 2015, the Phase II Redevelopment Plan approved October 11, 2005, and the Redevelopment Plan for Phase I, Block 903, Lot 2 dated July 10, 2003 (collectively, the “Prior Redevelopment Plans”); and

WHEREAS, on June 13, 2022, the Borough Council adopted Ordinance No O-10-22, adopting the “L.E. Carpenter Redevelopment Plan” for the Redevelopment Area, prepared by J. Caldwell & Associates LLC Community Planning Consultants (Jessica Caldwell, P.P, A.I.C.P, Borough Planner, P.P. #5944), dated March 9, 2022 (the “Redevelopment Plan”), which supersedes and replaces the Prior Redevelopment Plans with regard to the Redevelopment Area; and; and

WHEREAS, Wharton Developments A (Urban Renewal) LP (the “Entity”) is the ground lessee of Block 903, Lot 2.03 as shown on the official tax maps of the Borough (the “Project Site”) pursuant to a long-term ground lease with an affiliate of the Entity, and has proposed to implement the Redevelopment Plan on the Project Site; and

WHEREAS, in order to effectuate the Redevelopment Plan, the Project (as defined herein) and the redevelopment of the Project Site, the Borough and the Entity shall enter into a Redevelopment Agreement (as may be amended from time to time, the “Redevelopment Agreement”); and

WHEREAS, the Redevelopment Agreement shall set forth the terms and conditions by which the Entity will undertake to redevelop the Project Site by the following actions: (i) design, develop, finance, construct, operate and maintain on the Project Site a multifamily residential development consisting of one (1) four-story building containing approximately one hundred eighty-two (182) residential rental units, including twenty-eight (28) residential rental Affordable Units (as defined in the Redevelopment Agreement) and one hundred fifty-four (154) residential rental market-rate units; (ii) design, develop, finance, construct, operate and maintain on the Project Site a minimum of 4,000 square feet of indoor amenity

space, which is anticipated to include a club room, yoga room and gym, and outdoor amenity space totaling approximately 10,000 square feet, which is anticipated to include a pool and patio areas; (iii) design, develop, finance, construct, operate and maintain on the Project Site approximately two hundred seventy-three (273) surface parking spaces; (iv) design, develop, finance, construct, operate and maintain on the Project Site associated site improvements including but not limited to lighting, landscaping, sidewalks, trash enclosures, signage, stormwater management, and other associated improvements; and (v) relocate a portion of the Wharton Rail Trail (all as more specifically set forth in the Redevelopment Agreement, the “Project”); and

WHEREAS, in order to improve the feasibility of the Project, the Entity submitted an application (the “Application”) to the Borough Council for a long term tax exemption pursuant to the Long Term Tax Exemption Law, *N.J.S.A. 40A:20-1 et seq.* (the “Exemption Law”); and

WHEREAS, pursuant to and in accordance with the provisions of the Exemption Law and the Redevelopment Area Bond Financing Law, constituting Chapter 310 of the Pamphlet Laws of 2001 of the State, and the acts amendatory thereof and supplemental thereto (the “RAB Law”, as codified at *N.J.S.A. 40A:12A-64 et seq.*, and together with the Redevelopment Law and the Exemption Law, the “Acts”), the Borough is authorized to provide for and accept, in lieu of real property taxes, an annual service charge paid by the Entity to the Borough; and

WHEREAS, the Mayor submitted the Application and the financial agreement on file in the office of the Borough Clerk and available for public inspection (the “Financial Agreement”) to the Borough Council with his recommendation for approval, a copy of which recommendation is on file with the Borough Clerk; and

WHEREAS, pursuant to the RAB Law, specifically *N.J.S.A. 40A:12A-68*, the Annual Service Charge (as such term is defined in the Financial Agreement) shall, upon the recordation of the Financial Agreement and this ordinance, constitute a municipal lien on the Project Site and the Project within the meaning of applicable law; and

WHEREAS, pursuant to and in accordance with the provisions of the RAB Law, specifically *N.J.S.A. 40A:12A-65* and *67(a)*, the Borough may issue bonds in order to finance certain costs in the Redevelopment Area (the “Bonds”) in accordance with the terms and provisions of a resolution authorizing the issuance of such Bonds (the “Bond Resolution”), to be adopted by the Borough Council; and

WHEREAS, pursuant to the terms of the Financial Agreement, the Pledged Annual Service Charge (as defined in the Financial Agreement), shall be pledged to the payment of the principal and redemption premium, if any, of and interest due on the Bonds; and

WHEREAS, prior to, and as conditions precedent to, the issuance of any and all of the Bonds and in accordance with all applicable law, including without limitation, *N.J.S.A. 40A:12A-29(a)(3)* and *N.J.S.A. 40A:12A-67(g)*, (i) the Local Finance Board in the Division of

Local Government Services in the Department of Community Affairs (the “Local Finance Board”) will have issued all necessary statutory findings and approvals, pursuant to a resolution duly adopted at a meeting of the Local Finance Board, and (ii) the Borough Council will have adopted the Bond Resolution; and

WHEREAS, the Entity has represented, and the Borough has determined, that the assistance provided to the Project pursuant to this Agreement will be a significant inducement for the Entity to proceed with the Project and that based on information set forth in the Application, the Project would not be feasible without such assistance; and

WHEREAS, the Borough Council has determined that the Project represents an undertaking permitted by the Exemption Law; and

WHEREAS, the Borough and the Entity have reached agreement with respect to, among other things, the terms and conditions relating to the Annual Service Charge, and desire to execute the Financial Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF WHARTON, IN THE COUNTY OF MORRIS, NEW JERSEY AS FOLLOWS:

Section 1. The recitals to this ordinance are incorporated herein as if set forth in full.

Section 2. The Borough Council hereby approves the Application for tax exemption and the Financial Agreement. The Borough Council hereby further approves the findings set forth in the Financial Agreement, consisting of the benefits of the Project versus costs, and the importance of the long term tax exemption.

Section 3. The Mayor is hereby authorized to execute the Financial Agreement substantially in the form on file in the office of the Borough Clerk and available for public inspection, subject to modification or revision as deemed necessary and appropriate after consultation with counsel to the Borough.

Section 4. The Borough Clerk 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 township upon such document.

Section 5. The Borough Clerk shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the Borough in accordance with Section 12 of the Exemption Law.

Section 6. In accordance with P.L. 2015, c. 247, within ten (10) calendar days following the later of the effective date of this ordinance or the execution of the Financial Agreement by the Entity, the Borough Clerk also shall transmit a certified copy of this

ordinance and the Financial Agreement to the chief financial officer of Morris County and to the Morris County Counsel for informational purposes.

Section 7. The Mayor and Borough Clerk are hereby authorized to take such action and to execute such other documents, on behalf of the Borough, in consultation with counsel, as is necessary to effectuate the terms of the Financial Agreement.

Section 8. 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 9. This ordinance shall take effect in accordance with applicable law.

First Reading: May 12, 2025
Second Reading: June 16, 2025

BOROUGH OF WHARTON

ATTEST:

Gabrille Evangelista,
Borough Clerk

WILLIAM J. CHEGWIDDEN,
MAYOR