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TOWN OF MORRISTOWN

ORDINANCE O-18 -2014

ORDINANCE APPROVING THE FINANCIAL AGREEMENT FOR LONG TERM TAX EXEMPTION BY AND BETWEEN THE TOWN OF MORRISTOWN AND SPEEDWELL CVS URBAN RENEWAL, LLC

WHEREAS, the Town Council of the Town of Morristown in its capacity as the municipal governing body (the "Town 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").

WHEREAS, the Town Council, pursuant to Resolution R-148-00, adopted on October 30, 2000, directed the Town Planning Board (the "Planning Board") to undertake a preliminary investigation in order to make recommendations as to whether certain parcels of property, including Tax Block 5803 and portions of Tax Blocks 5001 and 5702 (the "Study Area"), may be designated as an "area in need of redevelopment" pursuant to the Redevelopment Law.

WHEREAS, the Planning Board commissioned a study by Phillips Preiss Shapiro Associates to determine whether the Study Area may be designated as an "area in need of redevelopment" pursuant to the Redevelopment Law.

WHEREAS, Phillips Preiss Shapiro Associates prepared a report entitled "Redevelopment Study for Three Select Areas within the Town of Morristown, New Jersey," dated December 2002, which concluded that certain lots within the Study Area met the statutory criteria in the Redevelopment Law for designation as an "area in need of redevelopment."

WHEREAS, after public hearings held on April 28, 2003, May 22, 2003, July 24, 2003 and August 28, 2003, the Planning Board accepted the conclusions of Phillips Preiss Shapiro Associates and recommended to the Town Council, pursuant to a Planning Board resolution adopted on August 28, 2003, that the recommended lots within the Study Area be designated as an "area in need of redevelopment" pursuant to the Redevelopment Law.

WHEREAS, following the preliminary investigation conducted by the Planning Board, including the public hearing, the Governing Body designated the Study Area as "an area in need of redevelopment", by adoption of Resolution No. 31-04, on February 10, 2004, in accordance with the Redevelopment Law.

WHEREAS, the lots designated by the Town Council designated as an "area in need of redevelopment" in Resolution No. 31-04 included Tax Block 5803, Lots 1, 2, 3, 4, 5, 6, 7.01, 7.02, 7.03, 7.04, 7.05, 7.06, 7.07, 7.08, 7.09, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 44.01, 44.02 and 44.03; Tax Block 5702, Lots 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29; and Tax Block 5001 Lots 4, 5, 6, 7, 7.01, 8, 9, 10, 11 and 12, all as shown on the official Tax Maps of the Town of Morristown (the "Redevelopment Area").

WHEREAS, on August 8, 2007, pursuant to Ordinance O-30-07, the Town Council introduced a redevelopment plan relating to the Redevelopment Area entitled "Speedwell Avenue Redevelopment Plan", prepared by Phillips Preiss Shapiro Associates and dated August 2007 (hereinafter referred to as the "Original Redevelopment Plan").

WHEREAS, pursuant to the Redevelopment Law the Town Council referred the Original Redevelopment Plan to the Planning Board, which reviewed the Original Redevelopment Plan and recommended to the Town Council that it approve and adopt the Original Redevelopment Plan by adopting Ordinance O-30-07.

WHEREAS, the Town Council, in accordance with the Redevelopment Law and the Municipal Land Use Law, (i) adopted the Original Redevelopment Plan on September 18, 2007, pursuant to Ordinance O-30-07, (ii) subsequently amended the Original Redevelopment Plan on November 29, 2007, pursuant to Ordinance O-38-07, (iii) further amended the Original Redevelopment Plan on October 13, 2011, pursuant to Ordinance O-19-11, and (iv) further amended the Original Redevelopment Plan on November 29, 2012, pursuant to Ordinance O-41-12 (collectively, as amended, the "Redevelopment Plan"), which last amendment was adopted in order to, among other things, provide for certain amendments and modifications to Phase Four (which includes Lots 4, 5, 6, 7, 7.01, 8, 9, 10, 11 and 12, Block 5001) of the Redevelopment Plan and to address the Parties' agreement, including but not limited to (a) dividing Phase Four of the Redevelopment Plan into Phase 4.1 (including Lots 4, 5, 6, 7 and 7.01, Block 5001) (the "Project Premises"), and Phase 4.2 (including Lots 8, 9, 10, 11 and 12, Block 5001); and (b) provide the planning and design criteria for Phase 4.1 and Phase 4.2 of the Redevelopment Plan.

WHEREAS, First Hartford Realty Corp. (the "Redeveloper") is the contract purchaser of the Project Premises, and pursuant to Resolution R-62-14, the Redeveloper was designated the redeveloper of the Project Premises.

WHEREAS, the Redeveloper obtained preliminary and final site plan approval, as set forth in Resolution No. 12-12 of the Planning Board, adopted on February 28, 2013 (the "Site Plan Approval"), for an approximately 14,900 square foot retail pharmacy building with two (2) drive-thru lanes and approximately seventy nine (79) parking spaces to be constructed by the Redeveloper on the Project Premises in accordance with the provisions of the Redevelopment Plan and including (a) the acquisition of the Project Premises, (b) demolition of the existing structures on the Project Premises, (c) clearance of the Project Premises, (d) the environmental remediation of the Project Premises in accordance with applicable environmental laws, and (e) the construction and development of all project improvements and related on-site and off-site improvements, and utilities and infrastructure improvements, all in accordance with the Redevelopment Plan and as set forth in the Redevelopment Agreement (defined below) as more particularly described in the Site Plan Approval (collectively, the "Project").

WHEREAS, on March 19, 2014, the Town and First Hartford Realty Corp., as Redeveloper, entered into a redevelopment agreement, which was approved by the Town Council on March 13, 2014, pursuant to Resolution R-62-14 (the "Redevelopment Agreement").

WHEREAS, the Redevelopment Agreement sets forth the terms and conditions by which the Redeveloper will redevelop the Project on the Project Premises.

WHEREAS, the Redeveloper created the entity, Speedwell CVS Urban Renewal, LLC, a limited-dividend, urban renewal entity (the "Entity") under the New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. (the "LTTE Law") to undertake and own the Project and to seek a long term tax exemption for the Project under the LTTE Law.

WHEREAS, the Entity submitted to the Mayor of the Town (the "Mayor") an application for tax exemption, which is on file with the Town Clerk (the "Application"), requesting an exemption of the improvements constituting the Project pursuant to the LTTE Law.

WHEREAS, with the Mayor's recommendation for approval of the Application, a copy of which recommendation is on file with the Town Clerk, the Town Council accepted and approved the Application in Resolution R-__-2014, finding that Phase One of the Project represents an undertaking permitted by the

LTTE Law, and constitutes improvements made for the purposes of clearance, replanning, development or redevelopment of an area in need of redevelopment within the Town, as authorized by the Redevelopment Law and the LTTE Law.

WHEREAS, the Entity also separately submitted to the Mayor a form of financial agreement (the "Financial Agreement"), establishing the rights, responsibilities and obligations of the Entity under a tax exemption for the Project.

WHEREAS, the Mayor submitted the Financial Agreement to the Town Council with his recommendation for approval, a copy of which recommendation is on file with the Town Clerk.

WHEREAS, the Governing Body has reviewed the information provided in the Financial Agreement and has deemed it appropriate and acceptable.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Town of Morristown in the County of Morris, New Jersey, as follows:

Section 1. The Financial Agreement concerning Speedwell CVS Urban Renewal, LLC and the Long Term Tax Exemption of Phase 4.1 of the Speedwell Avenue Redevelopment Project attached hereto as **Exhibit A** is hereby approved, and the Mayor is hereby authorized to execute such Financial Agreement, subject to minor modification or revision, as deemed necessary and appropriate after consultation with counsel.

Section 2. The Clerk of the Town 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 3. The executed copy of the Financial Agreement shall be certified by and be filed with the Office of the Town Clerk. Further, the Clerk of the Town shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the Town and the Director of the Division of Local Government Services with the Department of Community Affairs, in accordance with Section 12 of the Long Tern Tax Exemption Law.

Section 4. 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 5. All ordinances and resolutions or parts thereof inconsistent with this Ordinance are hereby rescinded.

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

ATTEST:

Matthew Stechauner,
Clerk

ADOPTED:

Timothy P. Dougherty,
Mayor

Date: 5/15/2014