

BOROUGH OF WANAQUE
COUNTY OF PASSAIC
STATE OF NEW JERSEY

ORDINANCE #16-0-16

AN ORDINANCE APPROVING A TWELVE YEAR ANNUAL SERVICE CHARGE PROGRAM FOR THE RESIDENTIAL PROJECT AS PART OF THE LAKESIDE MANOR REDEVELOPMENT PLAN TO BE CONSTRUCTED IN THE BOROUGH OF WANAQUE BY GREENTREE REDEVELOPMENT LLC, A QUALIFIED URBAN RENEWAL ENTITY, OR A RELATED ENTITY.

WHEREAS, on July 11, 2016 the Borough Council of the Borough of Wanaque adopted Ordinance Number 15-0-16 establishing a Redevelopment Plan, after the appropriate referral to the Wanaque Planning Board, for the Lakeside Manor Redevelopment Area of the Borough Wanaque; and

WHEREAS, Greentree Redevelopment, LLC, as designated redeveloper, or a similarly formed entity having the same principal members (the "Entity") is an urban renewal entity, formed and qualified to do business under the provisions of the Long-Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq.; and

WHEREAS, because the Lakeside Manor Redevelopment Plan includes forty seven condominium units (townhomes) the necessity may exist for forty seven separate Entities, as defined in the Redevelopment Plan, to be formed and thereby be granted an annual service charge ("ASC") by the Borough with the consent of the Borough explicit thereto. Pursuant to N.J.S.A. 40A:20-10, a sale of the project to purchasers in fee simple of units in an individual condominium (townhome) if the project or any portion thereof, has been devoted to condominium (townhome) ownership, and to their successors, assigns, all owning (in the case of any residential housing unit) no other condominium unit located in a redevelopment project located within the Borough subject to an ASC at the time of the transfer, and that, upon assumption by the condominium unit purchaser of the transferor's obligations under this ordinance, the annual service charge applicable to the project buildings and improvements and, to the extent authorized pursuant to N.J.S.A 40A:20-12, land, shall continue and inure to the unit purchaser, his respective successors or assigns. Further, the Borough hereby consents to a sale of the Project Premises, or any portion thereof, including any condominium unit (townhome) devoted to fee simple ownership and to their successors, assigns, all owning (in the case of any residential housing unit) no other fee simple unit of a project located in the Borough subject to an ASC at the time of the transfer, and that, upon assumption by the fee simple unit purchaser of the transferor's obligations under this ordinance, the annual service charge applicable to the Project Premises and of the project buildings and improvements and, to the extent authorized pursuant to N.J.S.A. 40A:20-12, land, shall continue and inure to the fee simple unit purchaser, his respective successors or assigns. The provisions of this paragraph shall not be construed to authorize the sale of a project between an urban renewal entity (including an individual owner in fee simple organized or included in an Entity) and a for-profit developer; and

WHEREAS, the Borough of Wanaque Council has simultaneously to this ordinance adopted Ordinance Number 17-0-16 a Bond Ordinance "PROVIDING FOR INFRASTRUCTURE IMPROVEMENTS IN AND BY THE BOROUGH OF WANAQUE, IN THE COUNTY OF PASSAIC, NEW JERSEY, AS PART OF THE WANAQUE LAKESIDE MANOR REDEVELOPMENT PLAN, APPROPRIATING \$1,850,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,850,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING SUCH APPROPRIATION", the "Bond Ordinance", said improvements to be made to public infrastructure such as storm water collection systems, sanitary sewers and road work or infrastructure upon right of ways directly impacting public areas; and

WHEREAS, the Entity owns certain parcels of property known as Tax Block 200.20, Lots 1 through and inclusive of Lot 47 as shown on the official Tax Maps of the Borough of Wanaque such property is hereinafter referred to as the "Project Premises"; and

WHEREAS, the Project Premises are located within the Lakeside Manor Redevelopment Area as permitted by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5(g) and the redevelopment of these parcels of property is controlled by the terms and conditions of the aforementioned instruments within the Borough Wanaque; and

WHEREAS, the Entity has made a request for an annual service charge to enable the construction and financing of the redevelopment project consisting of approximately forty seven (47) residential units and, further, the Borough desires to use the annual service charge to help defray the cost of such infrastructure improvements; and

WHEREAS, Pursuant to the provisions of N.J.S.A. 40A:12A-66 a. a municipality that has designated a redevelopment area may establish an annual service charge without establishing minimums or maximums or staged increases if the project is financed in whole or in part with bonds or notes issued by the Borough pursuant to N.J.S.A. 40A:12A-64 et seq., N.J.S.A. 40A:12A-1 et seq. ; and

WHEREAS, Greentree Redevelopment, LLC, as designated redeveloper, or its related Entity, has agreed to pay an annual service charge ("ASC") upon substantial completion of each residential unit located in the redevelopment project at a minimum of 60% of the annual traditional taxes otherwise to be paid on the Project Premises thereto with staged increases to the ASC being applicable as stipulated in Section 3 hereof. Further, that each individual residential unit may be transferred in fee simple with the ASC also being transferred and applicable to the subsequent residential unit owner provided the terms of this ordinance are complied with.

NOW, THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Wanaque that the preamble to this ordinance, specifically the "whereas" clauses, are incorporated as though they are part of the operational portion of this ordinance and are in full force and effect.

BE IT FURTHER ORDAINED,

Section 1. The benefits of this important redevelopment project, after giving due consideration to the annual service charge, include the following facts:

1. The assessed value of the forty seven (47) tax parcels had a 2014/2015 assessment of only \$2,940,000 and paid approximately \$95,873 in property (real estate) taxes on the Project Premises for the tax year 2015.
2. The assessed value of the new Project Premises, to be redeveloped, is estimated to be \$11,750,000, representing an average per unit assessed value of \$250,000, covering forty seven completed residential units.
3. The Annual Service Charge as estimated will generate the approximate amount of revenue of two hundred twenty nine thousand dollars (\$229,830) per annum to the Borough of Wanaque. ($\$383,050 \times .60 = \$229,830$.)
4. The additional ASC revenue generated to the Borough over current taxes is estimated at \$133,957. ($\$229,830 - \$95,873 = 133,957$.)
5. The new (additional) annual service charge revenues will be used to help pay for the infrastructure costs, in the estimated amount of \$1,850,000 financed by the aforesaid redevelopment Bond Ordinance Number 17-0-16.
6. This redevelopment project and infrastructure program will stabilize and contribute to the quality of life and economic stability of this area of the Borough of Wanaque.
7. This Redevelopment Project will further the overall redevelopment objectives of the Borough of Wanaque.

Section 2. The Borough of Wanaque hereby determines that the annual service charge is critical to the development of the Project Premises by improving the property conditions of the neighborhood and influencing the location decisions of probable households for the following reasons:

-The relative stability and predictability of the annual service charge will make the project financially viable to the designated redeveloper and to subsequent fee simple owners, if any, upon the individual residential units being transferred (sold) in fee simple. This cost stabilization program will end at the termination of the annual service charge; and

-The relative stability and predictability of the annual service charge will allow both the Borough and the Entity to stabilize their operating budgets and allow for a significant investment in the Project Premises, especially to the much needed infrastructure improvements financed by Ordinance Number 17-0-16; and

-The necessary and required infrastructure improvements will be installed as part of the project. The infrastructure improvements shall be determined by the Borough Administrator and Borough Engineer in cooperation with the designated redeveloper. The infrastructure shall be completed upon public property or right(s) of way or immediately adjacent strips of property where connections must be made to facilitate such improvements.

-Said infrastructure improvements made shall be limited to the amount stipulated in the aforesaid bond ordinance, a maximum of \$1,850,000, inclusive of engineering, surveying, and legal fees. An infrastructure project map shall be required to be on file with the Borough Administrator on or before August 31, 2016 or as soon thereafter as the Borough Engineer shall prepare same.

-The aforesaid Bond Ordinance is intended, but not required, to be paid off within the next fifteen years, or within twelve years (plus one year for final payment (loan maturity)).

Section 3. BE IT FURTHER ORDAINED, that the Financial Agreement between Greentree Redevelopment, LLC or related Entity formed and qualified to do business under the provisions of N.J.S.A. 40A:20-1 et seq; and the Borough of Wanaque shall be on file in the office of the Borough Clerk upon adoption of this ordinance, for Tax Block 200.20, Lots 1 through 47.

The Financial Agreement is hereby approved and such approval is granted based on the entire contents of this ordinance and that the Mayor is hereby authorized to execute an annual service charge-Financial Agreement-which shall include at a minimum the following terms and conditions:

Term: A term of twelve full years (12) from the date of "Substantial Completion" of each residential unit located within the Project Premises. Substantial Completion is defined as any certificate of occupancy issued for each individual residential unit located in the Project Premises.

ASC: "Annual Service Charge" (also referred to as payments in lieu of taxes) shall be established for this Redevelopment project and shall be calculated at a minimum of sixty percent (60%) percent of the traditional taxes otherwise paid on each residential unit, using the year 2016 as the base year for calculation of said ASC amount of which an assessed value of \$250,000 per residential unit is estimated. The amount of the assessed value per unit may be more or less depending upon final sales price (including differences in the type of townhome units).

The ASC applicable to the Lakeside Manor Redevelopment Area shall have four staged increases:

1-Beginning with the tax year of 2021 (the year following an estimated three full years from completion of the entire project) each individual residential unit shall have their ASC increased by two percent (2%) annually. This 2% annual increase shall only be applicable for years 4, 5, 6, 7 and 8 (a total of five years having a two percent annual increase) following substantial completion. For the remaining years under the ASC program the ASC shall be increased according to the following paragraphs.

2-Upon completion of eight full years (2026 as an example) following the date of substantial completion of each individual residential unit the minimum ASC shall be 65% of the traditional taxes to be levied upon the property (land and improvements) during that pertinent tax year, using 2016 as the base tax year for assessment, or property valuation, purposes multiplied by the current year (2025 as an example) total tax rate. In no event shall the amount of the ASC be less than the prior year's ASC (year 8, or 2025 as an example).

3-Further, upon completion of ten full years (2028 as an example) following the date of substantial completion the minimum annual service charge ("ASC") shall be 80% of the then traditional taxes to be levied upon the property (land and improvements) during the pertinent tax year, using either 2016 or 2027 {tax year} for assessment, or property valuation, purposes whichever is LESS multiplied by the applicable year's (2027 as an example) total tax rate. In no event shall the amount of the ASC be less than the prior year's ASC (year 9, or 2027 as an example).

4-Further, after completion of eleven full years following the date of substantial completion the minimum annual service charge shall be 90% of the then traditional taxes to be levied upon the property (land and improvements) during the pertinent tax year, using the prior year's assessment, or property valuation, as the base tax year. This property assessment (per \$100 of assessed value) shall be multiplied by the applicable year's (2028 as an example) total tax rate for the purpose of calculating the annual tax amount.

Conclusion-Expiration Date: Upon completion of twelve full years following the date of substantial completion the properties in the Redevelopment Plan area shall be assessed and pay annual taxes using traditional methods and the annual service charge shall be terminated (expire). After the date of termination, all restrictions and limitations upon the Entity, if any such restrictions remain, shall terminate and be concluded.

ASC Payment Schedule: The ASC shall be paid to the Borough on a quarterly basis in the same manner as the Borough's regular tax collection schedule.

Tax Appeals: Upon completion of two years following substantial completion of each residential unit (townhome) the residential unit owner in fee simple (or the Entity as may be applicable) may appeal their tax assessment to the Passaic County Board of Taxation, or the State of New Jersey Tax Court, provided that the property owner first notifies the Borough Clerk in writing that the ASC (as may be included in a Financial Agreement not inconsistent with this ordinance) is terminated and is no longer in force and effect.

Transfers (Sales) of Units Generally Permitted: Pursuant to N.J.S.A. 40A:20-14 pertaining to condominium (townhouse) units there is expressly excluded from the calculation of net profit as set forth in subsections a. and c. of N.J.S.A. 40A:20-3 for the purpose of determining compliance with any gain, or profit, realized by the property owner or Entity on the sale of any condominium unit in fee simple, whether or not taxable under federal or State law.

The Financial Agreement: shall be substantially in the form on file in the office of the Borough Clerk, subject to such negotiated modifications as the Mayor or Borough Administrator deems appropriate or necessary but NOT inconsistent with this ordinance.

BE IT FURTHER ORDAINED, that all ordinances and parts of ordinances inconsistent herewith are hereby repealed and that this ordinance shall take effect in the manner provided by law.

Dated: 7/11/16

Katherine J. Falone, RMC, CMC
Municipal Clerk

BOROUGH OF WANAQUE
COUNTY OF PASSAIC
STATE OF NEW JERSEY

ORDINANCE #16-0-16

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was Introduced at a Regular Meeting of the Mayor and Council of the Borough of Wanaque, Passaic County, New Jersey, held on the 11th day of July 2016, and passed on first reading, and the same was then ordered to be published according to law; and that such Ordinance will be further considered for final passage at a meeting of said Mayor and Council to be held in the Municipal Building, 579 Ringwood Avenue, Wanaque, New Jersey, on August 16, 2016 at 7:00 P.M., at which time and place or at any time and place to which said meeting shall be from time to time adjourned, all persons interested will be given an opportunity to be heard concerning said Ordinance.

BY ORDER OF THE MAYOR AND COUNCIL OF THE BOROUGH OF
WANAQUE.

DATED: July 11, 2016

Katherine J. Falone, RMC, CMC
Municipal Clerk

BOROUGH OF WANAQUE
COUNTY OF PASSAIC
STATE OF NEW JERSEY

ORDINANCE #16-0-16

BE IT RESOLVED that an Ordinance entitled:

AN ORDINANCE APPROVING A TWELVE YEAR ANNUAL
SERVICE CHARGE PROGRAM FOR THE RESIDENTIAL
PROJECT AS PART OF THE LAKESIDE MANOR
REDEVELOPMENT PLAN TO BE CONSTRUCTED IN THE
BOROUGH OF WANAQUE BY GREENTREE
REDEVELOPMENT LLC, A QUALIFIED URBAN RENEWAL
ENTITY, OR A RELATED ENTITY

pass first reading, and that said Ordinance be further considered for final passage and adoption at a Special Meeting of the Borough Council to be held on the 16th day of August 2016, at the Municipal Building in the Borough of Wanaque, at 7:00 P.M., and that at such time and place all persons interested be given an opportunity to be heard concerning said Ordinance.

AND BE IT FURTHER RESOLVED that the Borough Clerk be instructed to publish in the manner provided by law a copy of said Ordinance, together with introduction thereof and notice when same will be considered for final passage and adoption.

Passed: 7/11/16

Filed: 7/11/16

Approved: 7/11/16

Katherine J. Falone, RMC, CMC
Municipal Clerk