

**BOROUGH OF BERNARDSVILLE**  
Mayor & Borough Council Meeting Agenda  
August 29, 2022 – 7:00 p.m.

1. **CALL MEETING TO ORDER**

Mayor Mary Jane Canose  
Council Member Jay Ambelang  
Council Member Diane Greenfield  
Council Member Jena McCredie  
Council Member Chad McQueen  
Council Member Al Ribeiro  
Council Member Christine Zamarra

2. **STATEMENT OF PRESIDING OFFICER**

Notice of this meeting was provided to the Bernardsville News, Courier News and the Star Ledger, filed with the Municipal Clerk and posted on the Municipal Bulletin Board on August 9, 2022.

3. **PLEDGE OF ALLEGIANCE**

4. **RESOLUTIONS**

**#22-172      APPROVING AN APPLICATION FOR A LONG TERM TAX  
EXEMPTION PURSUANT TO THE LONG TERM EXEMPTION  
LAW, N.J.S.A. 40A:20A-1 ET SEQ., FOR THE PROPERTIES  
LOCATED AT 18 MOUNT AIRY ROAD (BLOCK 124, LOT 1),  
MINE BROOK ROAD (BLOCK 80, LOT 15.38) AND 63  
BERNARDS AVENUE (BLOCK 102, LOT 12)**

I move that Resolutions #22-172 be adopted:

Second:

Roll call vote:

5. **ORDINANCES (Public Hearing)**

*Spoken comments will be limited to three minutes per speaker.*

Mayor to open public hearing on Ordinance #2022-1931, **APPROVING THE APPLICATION AND FINANCIAL AGREEMENT FOR A TAX EXEMPTION PURSUANT TO THE LONG TERM TAX EXEMPTION LAW OF MINE BROOK ROAD URBAN RENEWAL ASSOCIATES, LP FOR THE CONSTRUCTION OF A RESIDENTIAL PROJECT LOCATED AT 18 MOUNT AIRY ROAD (BLOCK 124, LOT 1), MINE BROOK ROAD (BLOCK 80, LOT 15.38) AND 63 BERNARDS AVENUE(BLOCK 102, LOT 12)**

Mayor to close public hearing

I move to pass Ordinance #2022-1931 on final reading and adopt as published:

Second:

Roll call vote:

6. **OPEN SESSION (FOR ITEMS NOT LISTED FOR A PUBLIC HEARING)**

*To make a comment or ask a question during the meeting, please raise your hand using one of the following alternatives:*

1. *Windows or Mac platform: Click on “Participants” at the bottom of the screen, then click on “raise hand.” (Windows shortcut: Alt+Y; Mac shortcut: Option+Y).*

2. *Android or iOS device: Click on “raise hand” in the bottom left corner of your screen.*

3. *Telephone: Press \*9.*

*The host will be notified that you have raised your hand. When it is your turn to speak, you may be prompted to unmute yourself. While unmuted, your profile picture and name will be displayed to the host and panelists (or a portion of your phone number if participating by telephone) but you will not be visible.*

*In lieu of speaking at the meeting, members of the public may email their questions or comments to the Borough Clerk at [asuriano@bernardsvilleboro.org](mailto:asuriano@bernardsvilleboro.org). Written questions or comments must be submitted by noon the Wednesday preceding the meeting.*

*Spoken comments will be limited to three minutes per speaker. Any written questions or comments received prior to noon on the Wednesday preceding the meeting will be read or summarized on the record after all spoken comments have been made.*

*Comments unrelated to a governmental issue, or comments containing offensive, profane or indecent language or language constituting hate speech, will not be accepted.*

*If providing a comment or asking a question in writing, include your name, address, and the subject of your comment or question.*

*Please note that the “chat” and “Q&A” functions will be disabled during the meeting.*

**7. ADJOURNMENT**

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**RESOLUTION #22-172**

**APPROVING AN APPLICATION FOR A LONG TERM TAX  
EXEMPTION PURSUANT TO THE LONG TERM EXEMPTION  
LAW, N.J.S.A. 40A:20A-1 ET SEQ., FOR THE PROPERTIES  
LOCATED AT 18 MOUNT AIRY ROAD (BLOCK 124, LOT 1),  
MINE BROOK ROAD (BLOCK 80, LOT 15.38) AND 63  
BERNARDS AVENUE (BLOCK 102, LOT 12)**

**WHEREAS**, on April 5, 2018, the Borough of Bernardsville (the “Borough”) issued a request for proposals/request for qualifications seeking a developer to develop and construct municipally sponsored scattered site affordable housing projects consisting of 100 percent affordable units; and

**WHEREAS**, RPM Development, L.L.C., predecessor in interest to Mine Brook Road Urban Renewal Associates, L.P., a New Jersey urban renewal entity qualified to do business under the provisions of the Long Term Tax Exemption Law (hereinafter, the “Redeveloper”), submitted a proposal to be designated by the Borough as developer/redeveloper for the properties located at 18 Mount Airy Road (Block 124, Lot 1), Mine Brook Road (Block 80, Lot 15.38) and 63 Bernards Avenue (Block 102, Lot 12) (collectively, the “Project Area”), upon which the Redeveloper intends to develop and construct a family rental project consisting of 100 percent affordable units (the “Project”); and

**WHEREAS**, the Borough accepted the Redeveloper’s proposal and designated Redeveloper as redeveloper of the Project Area; and

**WHEREAS**, in furtherance of the development and construction of the Project, the Borough and Redeveloper entered into that certain Development Agreement dated September 30, 2020; and

**WHEREAS**, pursuant to and in accordance with N.J.S.A. 40A:20-8, the Redeveloper submitted to the Borough Mayor an application for the approval of a long term tax exemption and the execution of a Financial Agreement pursuant to the Long Term Exemption Law (the “Application”); and

**WHEREAS**, by letter dated \_\_\_\_\_, a copy of which is annexed hereto, the Mayor recommended to the Borough Council that the Application be approved.

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council as follows:

1. Pursuant to and in accordance with N.J.S.A. 40A:20-8 of Long Term Tax Exemption Law, the Borough Council accepts the Mayor’s recommendation and hereby approves the Application for a long term tax exemption.

2. The Borough Council shall adopt an ordinance authorizing the execution of a Financial Agreement with Mine Brook Road Urban Renewal Associates, L.P. in accordance with and pursuant to the Long Term Exemption Law.

I, Anthony Suriano, Borough Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Borough Council at a duly convened meeting held of August 29, 2022.

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**BOROUGH OF BERNARDSVILLE  
ORDINANCE #2022-1931**

**APPROVING THE APPLICATION AND FINANCIAL AGREEMENT FOR A TAX  
EXEMPTION PURSUANT TO THE LONG TERM TAX EXEMPTION LAW OF  
MINE BROOK ROAD URBAN RENEWAL ASSOCIATES, LP FOR THE  
CONSTRUCTION OF A RESIDENTIAL PROJECT LOCATED AT 18 MOUNT  
AIRY ROAD (BLOCK 124, LOT 1), MINE BROOK ROAD (BLOCK 80, LOT 15.38)  
AND 63 BERNARDS AVENUE(BLOCK 102, LOT 12)**

**WHEREAS**, pursuant to the provisions of the Long Term Tax Exemption Law of 1992, N.J.S.A. 40A:20-1 et seq., as amended and supplemented, the Borough of Bernardsville (the **“Borough”**) is permitted to enter into Long Term Tax Exemption Financial Agreements for qualified projects; and

**WHEREAS**, Mine Brook Road Urban Renewal Associates, LP (the **“Entity”**) is a duly formed urban renewal entity qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, N.J.S.A. 40A:20-1 et seq., as amended and supplemented, and approved by the Department of Community Affairs; and

**WHEREAS**, the Entity will be the contract purchaser of the property from the Borough identified on the Tax Maps of the Borough as Block 291, Lot 15.01 and Block 292, Lot 2 (the **“Property”**), commonly known as 18 Mount Airy Road (Block 124, Lot 1), Mine Brook Road (Block 80, Lot 15.38) and 63 Bernards Avenue(Block 102, Lot 12); and

**WHEREAS**, N.J.S.A. 55:14K-37 provides that, “The governing body of any municipality in which a housing project financed or to be financed by the [New Jersey Housing and Mortgage Finance] Agency is or is to be located may by ordinance or resolution, as appropriate, provide that such project shall be exempt from real property taxation, if the housing sponsor enters into an agreement with the municipality for payments to the municipality in lieu of taxes for municipal services.” ; and

**WHEREAS**, in furtherance of the development and construction of the Project, the Borough and Developer entered into that certain Development Agreement dated September 30, 2020; and

**WHEREAS**, pursuant to and in accordance with N.J.S.A. 40A:20-8, the Developer submitted to the Borough Mayor an application for the approval of a long term tax exemption and the execution of a Financial Agreement pursuant to the Long Term Exemption Law (the **“Application”**); and

**WHEREAS**, the Entity submitted an application to the Borough for the approval of an exemption for the Project pursuant to the Long Term Tax Exemption Law (the **“Application”**), which Application is attached hereto; and

**WHEREAS**, the Application contains certified project costs and revenue projections for the Project, that set forth the total gross revenue to be received and costs to be expended by the Developer from the operation of the Project, as estimated by the Entity; **WHEREAS**, the

Borough has made the following findings with respect to the Project:

- A. Relative Benefits of the Project: The Project will result in the creation of 60 units of affordable housing in accordance with the Borough's Housing Element and Fair Share Plan.
- B. Assessment of the Importance of the Tax Exemption: The Tax Exemption is important for development of the Project and influencing the locational decisions of probable occupants. Without the exemption, the Project would not be economically viable.

**WHEREAS**, based on the relative benefits of the Project and the importance of the tax exemption, the Borough Administrator and the Chief Financial Officer (the "Borough Administration") have reviewed and submitted the Application and Financial Agreement to the Borough Committee with a recommendation of approval (the "**Borough Administration's Recommendation**"), which recommendation is attached hereto; and

**WHEREAS**, the Borough Council has reviewed the Application, Financial Agreement, and the Borough Administration's Recommendation, and has determined that it is in the best interest of the Borough to grant a tax abatement to the Entity pursuant to the terms set forth in the Financial Agreement attached hereto;

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Committee of the Borough of Bernardsville:

1. An exemption from property taxation in accordance with the Long Term Tax Exemption Law of 1992, N.J.S.A. 40A:20-1 et seq., as amended and supplemented, pursuant to the terms set forth in the Financial Agreement, attached hereto, is hereby granted to the Entity, with respect to the Project;
2. The term of the Financial Agreement is thirty (30) years from substantial completion of the Project;
3. The Entity shall, from the time the Annual Service Charge becomes effective under the Financial Agreement, pay the Annual Service Charge based on the following schedule:
  - a. The Annual Service Charge for the initial fifteen (15) years of the Financial Agreement shall be an amount equal to 6.28 percent of the Annual Gross Revenue, or the Minimum Annual Service Charge, whichever is greater.
  - b. The Annual Service Charge for years sixteen (16) through nineteen (19) of the Financial Agreement shall be equal to the greater of (i) 6.28 percent of the Annual Gross Revenue; (ii) twenty (20%) percent of the amount of taxes otherwise due on the value of the Land and Improvements; or (iii) the Minimum Annual Service Charge, whichever is greater;
  - c. The Annual Service Charge for years twenty (20) through twenty-

- three (23) of the Financial Agreement shall be equal to the greater of (i) 6.28 percent of the Annual Gross Revenue; (ii) forty (40%) percent of the amount of taxes otherwise due on the value of the Land and Improvements; or (iii) the Minimum Annual Service Charge, whichever is greater;
- d. The Annual Service Charge for years twenty-four (24) through twenty-seven (27) of the Financial Agreement shall be equal to the greater of (i) 6.28 percent of the Annual Gross Revenue; (ii) sixty (60%) percent of the amount of taxes otherwise due on the value of the Land and Improvements; or (iii) the Minimum Annual Service Charge, whichever is greater;
  - e. The Annual Service Charge for years twenty-eight (28) through thirty (30) of the Financial Agreement shall be equal to the greater of (i) 6.28 percent of the Annual Gross Revenue; (ii) eighty (80%) percent of the amount of taxes otherwise due on the value of the Land and Improvements; or (iii) the Minimum Annual Service Charge, whichever is greater. Thereafter, the Project would be taxed as a regular assessment pursuant to applicable law.
  - f. In no event shall the Annual Service Charge, excluding taxes on the Land, in any year after the Annual Service Charge Start Date be less than the Minimum Annual Service Charge. The Minimum Annual Service Charge shall not be reduced through any tax appeal on Land and/or Improvement during the period the Agreement is in force and effect.
4. The Entity is required to pay both the Annual Service Charge and the Land Tax Payments. The Entity is obligated to make timely Land Tax Payments in order to be entitled to a Land Tax credit against the Annual Service Charge for the subsequent year. The Entity shall be entitled to a credit for the amount, without interest, of the Land Tax Payments made in the last four preceding quarterly installments against the Annual Service Charge. In any year that the Entity fails to make any Land Tax Payments if and when due and owing, such delinquency shall render the Entity ineligible for any Land Tax Payment credits against the Annual Service Charge for that year. No credit will be applied against the Annual Service Charge for partial payments of Land Taxes. In addition, the Borough shall have, among this remedy and other remedies, the right to proceed against the Property pursuant to the Tax Sale Law and/or to declare a Default.
5. Payment of the Annual Service Charge shall be paid to the Borough on a quarterly basis on February 1, May 1, August 1, and November 1 after the Annual Service Charge Start Date, subject, nevertheless, to adjustment for over or underpayment within thirty (30) days after the close of each calendar year. In the event that the Entity fails to timely pay any installment, the amount past due shall bear the rate of interest permitted under applicable New Jersey law and then being assessed by the Borough against other delinquent taxpayers in the case of unpaid taxes or tax liens on the land until paid.



6. The Borough shall pay 5% of the Annual Service Charge to the County of Somerset pursuant to N.J.S.A. 40A:20-12;
7. The Mayor and/or Borough Administrator, in consultation with the Borough Attorney, are hereby authorized to execute the Financial Agreement in substantially the form attached hereto as Exhibit C and any other agreements or documents necessary to effectuate this ordinance;
8. 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;
9. The Borough Clerk shall forward a copy of the Financial Agreement, after execution by the Entity, to the Director of the Division of Local Government Services in the Department of Community Affairs;
10. Within ten (10) calendar days following the later of the effective date of the ordinance or the execution of the Financial Agreement by the Entity, the Borough Clerk shall transmit a certified copy of the ordinance and financial agreement to the Chief Financial Officer of the County of Somerset and the County Counsel for informational purposes, pursuant to N.J.S.A. 40A:20-12;
11. 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, and the Financial Agreement;
12. This ordinance shall take effect in accordance with all applicable laws.

**EXHIBIT A**

Borough Administration's Recommendation

**EXHIBIT B**

Application for Long Term Tax Exemption by Mine Brook Road Urban Renewal Associates, LP

**EXHIBIT C**

Financial Agreement

## Borough Administration's Recommendation

## EXHIBIT A



## **EXHIBIT B**

## Financial Agreement

### **EXHIBIT C**