

**ORDINANCE NO. 3599-22**

**ORDINANCE OF THE BOROUGH OF RUTHERFORD, COUNTY OF BERGEN, STATE OF NEW JERSEY, APPROVING THE APPLICATION OF, AND EXECUTION OF FINANCIAL AGREEMENT WITH 118 PARK URBAN RENEWAL LLC IN CONNECTION WITH THE REDEVELOPMENT OF 118 PARK AVENUE (BLOCK 73, LOT 20.02) (FORMERLY KNOWN AS 145 CHESTNUT ST (BLOCK 73, LOT 5.02), 149 CHESTNUT ST (BLOCK 73, LOT 6), 120 PARK AVE (BLOCK 73, LOT 20.01), 118 PARK AVE (BLOCK 73, LOT 22), 116 PARK AVE (BLOCK 73, LOT 22.01)), AND AN ADJACENT PORTION OF THE MAPLES REDEVELOPMENT AREA**

**WHEREAS**, the governing body (the “**Borough Council**”) of the Borough of Rutherford (the “**Borough**”) is authorized to determine whether certain property located within the Borough is in need of rehabilitation or redevelopment under the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (the “**Redevelopment Law**”); and

**WHEREAS**, the Borough Council previously designated the properties known as 131 Chestnut Street (Block 73, Lots 7.01, 9 and 10), 137 Chestnut Street (Block 73, Lot 7), 106 Park Avenue (Block 73, Lot 23) and 114 Park Avenue (Block 73, Lots 22.02 and 22.03) on the official tax maps of the Borough (collectively, the “**Maples Redevelopment Area**”) as an area in need of redevelopment pursuant to the Redevelopment Law; and

**WHEREAS**, the Borough Council previously adopted a redevelopment plan for the Maples Redevelopment Area (the “**Maples Redevelopment Plan**”); and

**WHEREAS**, Vango Holdings Rutherford, LLC (“**Vango**”) previously redeveloped a portion of the Maples Redevelopment Area with a mixed-use project consisting of 52 residential units and approximately 4,947 square feet of commercial/retail space (the “**Vango Project**”); and

**WHEREAS**, 118 Park Urban Renewal LLC (the “**Entity**”), an affiliate of Vango, proposed to redevelop property within the Maples Redevelopment Area and property directly adjacent to the Maples Redevelopment Area, by constructing a mixed-use project thereon consisting of 60 residential units, consisting of 51 market rate units (the “**Market Rate Units**”) and 9 units affordable to households of very low, low and moderate income (the “**Affordable Units**” and, together with the Market Rate Units, the “**Residential Component**”) and approximately 2,436 square feet of ground floor commercial space (the “**Retail Component**” and, together with the Residential Component, the “**Vango Phase 2 Project**”), that complements and adjoins the Vango Project; and

**WHEREAS**, toward that end, on May 24, 2021, the Borough Council, following the recommendation of the Borough Planning Board (the “**Planning Board**”), adopted Resolution Number 114-2021, designating the properties identified as 145 Chestnut Street (Block 73, Lot 5.02), 149 Chestnut Street (Block 73, Lot 6), 120 Park Avenue (Block 73, Lot 20.01), 118 Park Avenue (Block 73, Lot 22) and 116 Park Avenue (Block 73, Lot 22.01) on the Official Tax Maps of the Borough (collectively, the “**Park Avenue Phase 2 Redevelopment Area**”, now known,

together, as 118 Park Avenue, Block 73, Lot 22.02 and, together with the immediately adjacent portion of the Maples Redevelopment Area, the “**Project Area**”) as a non-condemnation area in need of redevelopment pursuant to the Redevelopment Law; and

**WHEREAS**, by Resolution Number 114-2021, the Borough Council authorized and directed the Planning Board to prepare a redevelopment plan for the Park Avenue Phase 2 Redevelopment Area; and

**WHEREAS**, at the direction of the Planning Board, Neglia Engineering Associates (“**Neglia**”) prepared a redevelopment plan for the Park Avenue Phase 2 Redevelopment Area entitled the “**Parker Phase 2 Redevelopment Plan Area Park Avenue & Chestnut Street**”, dated June 2021 (the “**Parker Phase 2 Redevelopment Plan**”); and

**WHEREAS**, in order to permit the construction of the Project, it was also necessary to amend the building/story height limit in the Maples Redevelopment Plan; and

**WHEREAS**, toward that end, Neglia also prepared an amendment to the Maples Redevelopment Plan, outlined in a letter dated June 14, 2021 (the “**Maples Redevelopment Plan Amendment**”); the Maples Redevelopment Plan, as amended by the Maples Redevelopment Plan Amendment and the Parker Phase 2 Redevelopment Plan are hereinafter referred to collectively, or individually as the context may require, as the “**Redevelopment Plan**”), amending the maximum building/structure height and maximum number of stories to the following:

- 52 feet/4 stories for Sub Area A (Park Avenue frontage)
- 58 feet/5 stories for Sub Area B (Chestnut Street frontage); and

**WHEREAS**, on July 26, 2021, by Ordinance Number 3564-21, the Borough Council adopted the Maples Redevelopment Plan Amendment for the Maples Redevelopment Area and the Parker Phase 2 Redevelopment Plan for the Park Avenue Phase 2 Redevelopment Area; and

**WHEREAS**, on November 1, 2021, the Borough and Entity entered into that certain redevelopment agreement (the “**Redevelopment Agreement**”), setting forth the rights and obligations of the Borough and the Entity with respect to the undertaking of the Project on the Project Area and pursuant to which the Entity agreed to, among other things, redevelop the Project Area by constructing the Project thereon; and

**WHEREAS**, despite the Entity’s investment of equity and borrowed funds, such amounts are insufficient to feasibly pay for all of the costs associated with the development and construction of the Project; and

**WHEREAS**, the provisions of the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. (the “**Long Term Tax Exemption Law**”) authorize the Borough to accept, in lieu of real property taxes, an annual service charge with respect to the Project; and

**WHEREAS**, the Entity submitted to the Mayor an application (the “**Application**”), which is on file with the Borough Clerk, for approval of a long term tax exemption for the Project; and

**WHEREAS**, the Entity also submitted to the Mayor a form of financial agreement (the “**Financial Agreement**”), a copy of which is attached as an exhibit to the Application, establishing the rights, responsibilities and obligations of the Entity; and

**WHEREAS**, pursuant to the terms of the Financial Agreement, in lieu of real property taxes on the Project, the Entity will pay an annual service charge (the “**Annual Service Charge**”) to the Borough; and

**WHEREAS**, the Mayor submitted the Application and Financial Agreement to the Borough Council along with his recommendation for approval, a copy of which recommendation is on file with the Borough Clerk; and

**WHEREAS**, the Borough Council has determined that the Project represents an undertaking permitted by the Long Term Tax Exemption Law, and hereby finds that the relative benefits of the Project justify the long term tax exemption requested in the Application,

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Borough Council of the Borough of Rutherford, County of Bergen, New Jersey, as follows:

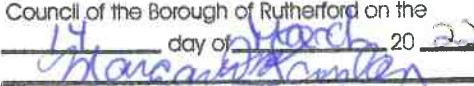
1. The Application and form of Financial Agreement are hereby approved.
2. The Mayor is hereby authorized and directed to execute the Financial Agreement with the Entity in substantially the same form as that contained within the Application, subject to minor modification or revision, as deemed necessary and appropriate after consultation with counsel.
3. Executed copies of the Financial Agreement shall be certified by and be filed with the Office of the Borough Clerk. The Clerk shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the Borough, and County Counsel and the Chief Financial Officer of Bergen County within ten (10) days of the execution of the Financial Agreement.
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.
5. This ordinance shall take effect in accordance with law.

**ATTEST:**

  
Margaret M. Scanlon, Borough Clerk

**BOROUGH OF RUTHERFORD**

  
Frank Nunziato, Mayor

I hereby certify that this is a true and exact copy of an ordinance adopted by the Mayor and Council of the Borough of Rutherford on the 17 day of March, 2020  
  
Margaret M. Scanlon  
Borough Clerk