



**BOROUGH OF WOODCLIFF LAKE
MAYOR AND COUNCIL SPECIAL MEETING MINUTES
DECEMBER 6, 2022
7:00 PM**

CALL TO ORDER

Notice of this meeting, in accordance with the "Open Public Meetings Law, 1975, C. "231", has been posted at the Borough Hall and two newspapers, The Record and The Ridgewood News, have been notified.

ROLL CALL

Mayor Rendo asked for a roll call. Council members Falanga, Gadaleta, Higgins, Margolis and Schnoll were present. Borough Attorney John Schettino was present, as well as Borough Administrator Tomas Padilla and Borough Clerk Debbie Dakin. Also present were Jeffrey Zenn, Esq., and Elizabeth Leheny. Councilwoman Hayes was absent.

PLEDGE OF ALLEGIANCE

All present recited the Pledge of Allegiance.

DISCUSSION OF SETTLEMENTS, led by Jeffrey Zenn, Esq.

(Please see attached)

Councilman Schnoll stated that Mayor Rendo stated the facts well and that Mr. Zenn did a terrific job with all the details. From his prospective it is a win, win, win for all the parties involved, especially Woodcliff Lake. He really believes that this is in the best interest of the town.

PUBLIC COMMENT

MOTION to open to the public was made by Councilman Schnoll, second by Councilwoman Higgins and unanimously approved.

Richard Deutsch, Woodcliff Lake, stated that he had one basic question. There was a nice summary proposal. Where can the public get details of the entire settlement. Administrator Padilla stated that once it is executed it can be posted. There might be changes. Mr. Deutsch stated that the earlier proposals for 188 Broadway were rejected by the Zoning Board. There

were a lot of issues, including safety, greenery, and plantings. How much was rectified in the new proposal. Mr. Zenn replied that the Borough will negotiate and enter a Redevelopment Plan with the 188 site. It will be consistent with the concept plan. Mr. Deutsch asked if the public would have an opportunity to make their feelings known on the Redevelopment Plan. Mr. Zenn replied that the Redevelopment Plan will be subject to approval. During this, the developer will go in for site plan approvals. Mayor Rendo stated that we did incorporate some of the concerns in eliminating the back building on the property and demanding buffer zones and greenery along the property and along Broadway. Mr. Schettino stated that the height was addressed.

Craig Padover, Woodcliff Lake, thanked everyone and stated that the Borough is in a tough spot. Construction prices went up, Covid happened, and he was on that Committee years ago. Mr. Padover hopes that the Zoning Board will address traffic issues. Mr. Padover's suggestion is that this is piecemeal, but he really thinks that it is a giant miss opportunity for this town not to look at the entire area of North Broadway and invest the funds. We need a community that is walkable and take advantage of the train, shopping, and reservoir. Now is the opportunity to really put it all together. Mayor Rendo replied that we are looking at that.

Ann Marie Borrelli, Woodcliff Lake, thanked everyone for their hard work on this project. Ms. Borrelli stated that she wanted to clarify that there was still going to be construction in the back of 188 in the form of townhomes. Ms. Borrelli asked if the height will be raised and if the townhomes will be higher than the front building. Mayor Rendo stated that the height of the front building is staying the same and the townhomes will not be higher than 38 feet.

Donna Abene, Woodcliff Lake, stated that she has watched this from afar for many years. She believes that this is an incredible accomplishment by everybody that worked on this. There are many moving parts. From what it sounds like, it will eventually be a lovely project along Broadway.

Alex Couto, Woodcliff Lake, suggested that the mound of dirt from the front and make an entrance to the building from the street to the parking lot or the apartments. Mr. Couto stated that his other concern is the PILOT program and how many school students may live there.

Cynthia Drennan, Woodcliff Lake, stated that she is concerned about the increase in traffic on Broadway. As we all know, the intersection by the train station is the worst intersection in town. When a train is there in the morning, you cannot make a turn from Campbell Avenue onto Broadway. Is there any indication of what is going to happen with the other 2 empty buildings on Broadway. Mayor Rendo replied that there is no information on that yet. Ms. Leheny stated that traffic will increase because the building is vacant and has been for a few years. No matter what happens at that site traffic will go up from that site. The same is true for North Broadway because it is vacant land. There have been traffic experts at the previous Board meetings and one of the conclusions that they have were that multi-family housing generally generated fewer trips than if the site could be built out as office, retail, or a restaurant.

Ulises Cabrera, Woodcliff Lake, stated that it was mentioned that we wouldn't be building at the

VFW site because it was very close to the lake. Mr. Zenn stated that they want to build there but there are DEP permits that are required. They are not so easy to come by, but United Way has gotten them in the past from DEP and they believe that they had gotten them because of affordable housing that they are serving as opposed to being a fair market development contractor. Mayor Rendo stated that they are also challenged because of the topography. Mr. Cabrera asked why the PILOT program is so beneficial to us and is it the best outcome for all the residents of Woodcliff Lake. Mr. Zenn replied that the PILOT agreement is not set in stone right now but usually last for approximately 30 years and it starts to fade away after about 15 years.

Laura Jeffas, Woodcliff Lake, asked Mr. Zenn to explain the PILOT program. Mr. Zenn explained the affordable housing contribution of 188 and what a PILOT program is.

Gwenn Levine, Woodcliff Lake, stated that she believes this is amazing how the Borough got everything together. This is one of the first times that she has read agreements that she felt very excited about. She is an advocate for affordable housing. She strongly recommends that the Borough should make a walkway from Kinderkamack to Wooddale Park with the \$50,000 that the Borough will be receiving for open space and recreation. Ms. Levine stated that she has some concerns about the 9 townhomes behind the building.

Cheryl Dispoto, Woodcliff Lake, stated that she was on the original negotiating committee for fair share housing. It was said that as part of the settlement agreement there was a possibility for getting credits for the next round for what we are doing here. Are we holding Fair Share Housing to this? We should have this in writing in the agreement now because we have the leverage now while litigation is still open and to commit to giving us something for the future. What happens with Fair Share Housing is that they are coming back in 2025 and they are going to want more. We will be back to square one with our planner. We could be back into another situation where we are building more units and spending more money. Mr. Zenn explained that it depends on how many bedrooms we do at North Broadway too see if there is anything to carry over to the next round. Ms. Dispoto asked what is going on with the piece of property that the Borough owns on Woodcliff. If we hold it and don't develop it, come 2025 we are going to wind up putting affordable housing there. We need to think about the future.

Alex Couto, Woodcliff Lake, asked of United Way was financing the affordable housing project. Mr. Zenn replied that it was the plan. Councilman Falanga stated that just to be clear, if the cost is higher the Borough is responsible for it.

Ronnie Appelle, Woodcliff Lake, questioned the PILOT agreement and asked if the Woodcliff Lake schools were asked for input. The Mayor replied no. Ms. Appelle question that if 188 goes condo and the units are bought not rented what happens to the PILOT agreement. Mr. Zenn replied that if that happens the PILOT would be null and void since it is for rentals only.

MOTION to close to the public was made by Councilman Schnoll, second by Councilwoman Higgins and unanimously approved.

ORDINANCE

Introduction Ordinance 22-15
Ordinance Authorizing Ground Lease Agreement with BCUW/Madeline
Housing Partners, LLC for the Development of Affordable Housing Site

ROLL CALL:

Motion: Higgins
Second: Gadaleta
Ayes: Falanga, Gadaleta, Higgins, Margolis, Schnoll
Nays: None
Absent: Hayes
Abstain: None

RESOLUTIONS

Resolution No. 22-272 Resolution Approving an Amend Settlement with the Fair Share Housing
Center and Scheduling a Fairness Hearing

ROLL CALL:

Motion: Schnoll
Second: Gadaleta
Ayes: Falanga, Gadaleta, Margolis, Schnoll
Nays: Higgins
Absent: Hayes
Abstain: None

Resolution No. 22-273 Resolution to Enter into Memorandum of Understanding with 188
Broadway, LP to Resolve Outstanding Litigation

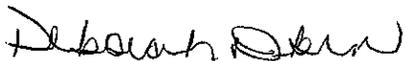
ROLL CALL:

Motion: Gadaleta
Second: Schnoll
Ayes: Falanga, Gadaleta, Higgins, Margolis, Schnoll
Nays: None
Absent: Hayes
Abstain: None

ADJOURNMENT

MOTION to adjourn was made by Council President Gadaleta, second by Councilwoman Margolis
and unanimously approved. Meeting adjourned at 8:45 PM.

Respectfully submitted,



Deborah Dakin, RMC, CMR
Borough Clerk

SUMMARY OF AMENDED SETTLEMENT AGREEMENT
WITH FAIR SHARE HOUSING

1. This is an Amended Settlement Agreement that amends the Settlement Agreement between the Borough and FSHC from November, 2017. Only changes will be highlighted.
2. The Borough will enter into an agreement with 188 Broadway Partners, LP resolving all the litigation with 188 Broadway allowing development of 46 units. In turn, the eight affordable units required to be constructed as part of the 188 Broadway project will be placed on the North Broadway site. The North Broadway site is to be developed with 24 total residential units which shall contain twenty family rental apartment units and four supportive units. Previously, North Broadway was to be a 16 family unit affordable housing development.
3. The Borough to adopt zoning for both developments by January 31, 2023.
4. The North Broadway site must pull permits for construction by June 1, 2024.
5. Construction of the North Broadway site to be completed by December 31, 2025.
6. The Developer of 188 North Broadway will make a payment to the Borough's affordable housing trust fund of \$300,000. One-half due upon receiving its first building permit and the remainder due upon its application for its for CO.
7. The Borough will need to amend its affordable housing set aside ordinance to provide a 20% set aside for all developments, whether for sale or for rent.
8. In connection with the VFW site, the Borough will enter into an agreement to provide for a due diligence by a third party to establish how many affordable units can be constructed on the site. It is currently designated for twelve affordable family housing units but the parties recognize that that may not be feasible. The Borough is only required to pay for the initial investigation as to what can be built there.
9. Upon approval of the Fair Share Amended Settlement, the Court will hold a Fairness Hearing to approve the settlement that is tentatively scheduled for January 20, 2023.

**SUMMARY OF TERMS OF MEMORANDUM OF UNDERSTANDING
BETWEEN BOROUGH OF WOODCLIFF LAKE AND
188 BROADWAY, L.P.**

1. This would resolve all outstanding litigation between the Borough of Woodcliff Lake and 188 Broadway, L.P. which involves the following:
 - a. State court suit against the ZBA for the denial in 2019.
 - b. Federal court litigation resulting from the ZBA denial is 2021.
 - c. Real estate tax appeals for several years relating to the property.
2. Borough of re-zone pursuant to a redevelopment plan to allow 46 total residential units on the 188 Broadway property consisting of 37 rental units in the existing building and 9 townhouse units behind that. The developer will not be required to construct any affordable units at the 188 Broadway site. Instead, the Borough will include the eight units that 188 Broadway was required to provide on the North Broadway site.
3. The developer and Borough will negotiate a redevelopment agreement which will have a long-term PILOT tax exemption for the 37 rental units and a five year abatement on the 9 townhouse units. That will generate more tax dollars than are currently being generated by the property.
4. The developer will make an in-lieu payment to the Borough of \$300,000 to be paid one-half upon issuance of building permits and the balance upon delivery of any certificate of occupancy.
5. The developer to implement reasonable streetscape improvements along the frontage of 188 Broadway as may be requested in addition to anything that may be contained in the redevelopment plan itself.
6. All litigation pending between Borough and 188 Broadway shall be dismissed with prejudice upon approval of site approval for the 188 Broadway property.
7. Developer to contribute \$50,000 for open space and recreation improvements within the Borough.

**SUMMARY OF GROUND LEASE AGREEMENT BETWEEN BOROUGH
OF WOODCLIFF LAKE AND BCUW/MADELINE HOUSING
PARTNERS**

1. Borough will lease the North Broadway site (Block 2602, Lots 1, 2 and 9) to BCUW on a long-term basis in order to develop, finance, construct, operate and maintain 20 affordable family housing units and 4 supportive housing units on the property. They are to take care of all development, construction, financing, operating and maintaining the project.
2. The term is for 45 years and the lease consideration is \$1.00.
3. The BCUW is required to file a site plan application by June 30, 2023 and to start construction by June 1, 2024, but no later than September 30, 2024. Completion of construction is required by December 31, 2025.
4. All pre-development costs and expenses including the environmental due diligence and remediation are to be paid by the Borough. That includes all expenses to obtain the approvals including architectural drawings, engineering plans, land use applications and reasonable legal fees.
5. BCUW's obligations are contingent upon its securing financing by June, 2024. If BCUW cannot secure financing, then the Borough is required to obtain and provide for the funding. This obligation arises from the settlement with Fair Share Housing. It is a continuation of the 2017 agreement that the Borough is ultimately responsible for getting the North Broadway site financed and constructed.
6. The BCUW agrees to work with Borough professionals including the Borough engineer and planner, on the architectural and design elements of the project. Once constructed, BCUW will operate it at its expense and maintain the affordability requirements.
7. At the end of the lease term, BCUW surrenders the lease and gives back the property in its then condition to the Borough.

BOROUGH OF WOODCLIFF LAKE

ORDINANCE NO. 22-15

**ORDINANCE AUTHORIZING GROUND LEASE AGREEMENT WITH
BCUW/MADELINE HOUSING PARTNERS, LLC FOR THE
DEVELOPMENT OF AFFORDABLE HOUSING SITE**

Hereto introduced on the 6th day of December, 2022 at 7:00 PM did pass on first reading and that said Ordinance be further considered for final passage at a meeting to be held on the 22nd day of December, 2022 at 7:00 PM or as soon thereafter as the matter can be reached at the regular meeting place of the Borough Council, and that at such time and place all persons interested be given an opportunity to be heard concerning said Ordinance, and that the Borough Clerk is hereby authorized and directed to publish said Ordinance according to law with a notice of introduction and passage on first reading and of the time and place when and where said Ordinance be further considered.

WHEREAS, the Borough entered into that certain settlement agreement with Fair Share Housing Center (“FSHC”) dated November 6, 2017 (the “FSHC Settlement”) which provided, inter alia, for the construction of sixteen affordable housing units on the property located at 230 Broadway, Woodcliff Lake, New Jersey, also known and designated as Lots 1, 2 and 9 in Block 2602 (the “North Broadway Property”); and

WHEREAS, after the execution of the FSHC Settlement, the Borough issued an RFP/RFQ for development of the North Broadway Property and had discussions with various developers and other interested parties in connection with development of the North Broadway Property but after selecting a developer, that developer elected not to proceed; and

WHEREAS, the Borough has been involved in several litigations with 188 Broadway, L.P., the owner of nearby property located at 188 Broadway, Woodcliff Lake, New Jersey (the “188 Property”); and

WHEREAS, the Borough is about to enter into a settlement agreement to resolve the outstanding litigation with 188 Broadway by allowing the development of up to 46 units on the 188 Property while all affordable units generated by that development would be developed on the North Broadway Property; and

WHEREAS, the Borough seeks to cause the rapid development of the North Broadway Property; and

WHEREAS, the Borough is about to enter into an amended settlement agreement with the FSHC dated December 22, 2022 (the “Amended FSHC Settlement”), subject to a Fairness Hearing that would allow the development of the 188 Property provided that 8 additional

affordable units are constructed on the North Broadway Property, as more particularly set forth in the Amended FSHC Settlement; and

WHEREAS, BCUW/Madeline Housing Partners, LLC is a developer of affordable housing and is experienced in obtaining funding, construction and management of affordable housing projects; and

WHEREAS, it is a recognized 501(c)(3) charitable organization by the Internal Revenue Service; and

WHEREAS, the Borough desires to enter into an agreement for the development of the North Broadway Property to consist of twenty family rental affordable units and four 1 or 2-bedroom supportive units, as more particularly set forth in that certain ground lease agreement dated December 22, 2022 attached hereto and subject to the terms of the Amended FSHC Settlement.

NOW, THEREFORE, IT IS HEREBY ORDAINED by the Municipal Council of the Borough of Woodcliff Lake, Bergen County, New Jersey that the Borough is hereby authorized and directed to execute the Ground Lease Agreement substantially in the form attached hereto between the Borough and BCUW/Madeline Housing Partners, LLC to provide for the financing, development, construction and operation of affordable housing on the North Broadway Property in accordance with its terms; provided that the Amended FSHC Settlement is approved by the court at a Fairness Hearing.

ROLL CALL:

Motion: Gadaleta
Second: Schnoll
Ayes: Falanga, Gadaleta, Margolis, Schnoll
Nays: Higgins
Abstain: None
Absent: Hayes

Attest: Deborah A. Dakin, RMC, CMR
Borough Clerk

Deborah A. Dakin



BOROUGH OF WOODCLIFF LAKE

188 PASCACK ROAD, WOODCLIFF LAKE, NEW JERSEY 07677

Carlos Rendo, Mayor
Tomas J. Padilla, Borough Administrator

Council Member	Motion	Second	Yea	Nay	Abstain	Absent
Falanga			X			
Hayes						X
Higgins				X		
Margolis			X			
Schnoll	X		X			
Gadaleta		X	X			
Mayor Rendo						

201-391-4977
Fax 201-391-8830

RESOLUTION APPROVING AN AMEND SETTLEMENT WITH THE FAIR SHARE HOUSING CENTER AND SCHEDULING A FAIRNESS HEARING

RESOLUTION NO. 22-272 DECEMBER 6, 2022

WHEREAS, the Borough filed an action in the Superior Court of New Jersey (“Court”), entitled In the Matter of the Application of the Borough of Woodcliff Lake, County of Bergen, Docket No. BER-L-6221-15 in response to the New Jersey Supreme Court’s decision In Re-Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) seeking a Judgment of Compliance and Repose approving its Affordable Housing Plan (as defined herein), in addition to related relief (hereinafter “DJ Action”); and

WHEREAS, on or about November 6, 2017, the Borough entered into an agreement with the Fair Share Housing Center (hereinafter “FSHC”) for the purposes of obtaining judicial confirmation in the DJ Action that its proposed affordable housing compliance plan properly addressed the Borough’s constitutional obligation to provide its fair share of the regional need for low and moderate cost housing (hereinafter the “FSHC Settlement”); and

WHEREAS, the FSHC Settlement was approved by the Court at a Fairness Hearing on or about December 13, 2017; and

WHEREAS, a developer designated by the Borough for the development of an all-affordable property located on North Broadway backed out and as a result of attempting to settle several litigations with the owner of 188 Broadway, the Borough and FSHC have agreed to amend the FSHC Settlement per the terms of an amended agreement dated December __, 2022 (the “Amended FSHC Settlement”) which will enable the Borough to meet its constitutional

obligations and resolve various other litigations that the Borough has with the owner of 188 Broadway; and

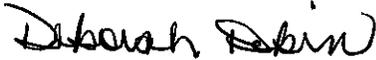
WHEREAS, the Amended FSHC Settlement will need to be approved by the Court at a properly noticed Fairness Hearing; and

WHEREAS, the Mayor and Council of the Borough of Woodcliff Lake deem it in the best interest of the Borough to execute the Amended FSHC Settlement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Woodcliff Lake that the Borough is hereby authorized and directed to execute the Amended FSHC Settlement in substantially the same form as provided to the Mayor and Council.

CERTIFICATION

I, Deborah Dakin, Municipal Clerk of the Borough of Woodcliff Lake in the County of Bergen, and the State of New Jersey, do hereby certify that the foregoing resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting of December 6, 2022.



**DEBORAH DAKIN, RMC, CMR
BOROUGH CLERK**



BOROUGH OF WOODCLIFF LAKE

188 PASCACK ROAD, WOODCLIFF LAKE, NEW JERSEY 07677

Carlos Rendo, Mayor
Tomas J. Padilla, Borough Administrator

201-391-4977
Fax 201-391-8830

Council Member	Motion	Second	Yea	Nay	Abstain	Absent
Falanga			X			
Hayes						X
Higgins			X			
Margolis			X			
Schnoll		X	X			
Gadaleta	X		X			
Mayor Rendo						

RESOLUTION TO ENTER INTO MEMORANDUM OF UNDERSTANDING WITH 188 BROADWAY, LP TO RESOLVE OUTSTANDING LITIGATION

RESOLUTION NO. 22-273

DECEMBER 6, 2022

WHEREAS, 188 Broadway, LP (“Developer”) is the owner of certain property containing approximately 3.544 acres of land located at 188 Broadway, Woodcliff Lake, New Jersey, also known and designated as Lot 3 in Block 2701 (the “188 Property”); and

WHEREAS, the Developer filed an application with the Woodcliff Lake Zoning Board of Adjustment (the “ZBA”) for a use variance, site plan and certain other variances for the construction of 60 residential units on the 188 Property which was denied by resolution of the ZBA dated August 27, 2019; and

WHEREAS, Developer filed suit against the ZBA in the Superior Court of New Jersey bearing docket number BER-L-6450-19 appealing the denial (the “188 State Court Litigation”) which remains pending; and

WHEREAS, the Developer subsequently filed an application with the ZBA for use variance, site plan and other variances to permit the construction of 53 apartment units on the 188 Property and was denied by resolution of the ZBA dated August 24, 2021 (the “ZBA 2021 Resolution”); and

WHEREAS, Developer filed suit against the ZBA, the Borough and other defendants in the United States District Court of New Jersey bearing case number 2:21-CV-16417-JSA in connection with the denial of its application memorialized by the ZBA 2021 Resolution alleging taking property without just compensation, violation of due process, legal malpractice and in lieu of

prerogative writs (the "188 Federal Court Litigation"); and

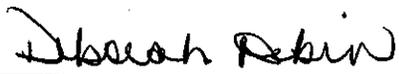
WHEREAS, the Developer has filed suit against the Borough challenging the real estate tax assessments on the 188 Property for the years 2018, 2020 and 2021 (the "RE Tax Litigation"); and

WHEREAS, the Borough has come to an agreement with the Developer to allow for the development on the 188 Property of 37 rental units in the existing building and 9 for sale townhouse units in the rear of the property provided the required affordable units would be constructed on the North Broadway project by the Borough and all litigation be dismissed, all as more particularly set forth in that certain Memorandum of Understanding ("MOU") attached hereto.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Woodcliff Lake that the Borough is hereby authorized and directed to execute the MOU with the Developer substantially in the form attached hereto to provide for the settlement and resolution of all existing litigation matters with the Developer and the Borough.

CERTIFICATION

I, Deborah Dakin, Municipal Clerk of the Borough of Woodcliff Lake in the County of Bergen, and the State of New Jersey, do hereby certify that the foregoing resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting of December 6, 2022.



**DEBORAH DAKIN, RMC, CMR
BOROUGH CLERK**