Resolution
Township of South Orange Village
Planning Board
In the Matter of 101 South Orange Avenue Urban Renewal, LLC
Application #253
101 South Orange Avenue
Block 1007, Lot 25
Approval of Settlement of Litigation

WHEREAS, by Resolution adopted September 7, 2017, the Planning Board of the Township of South Orange Village (the "Board") approved an application by 101 South Orange Ave. Urban Renewal LLC for preliminary and final site plan approval with variances for property located at 101 South Orange Avenue, also known as Lot 25, Block 1007, with Application Number 253; and

WHEREAS, the foregoing approval was the subject of an action in lieu of prerogative writ filed by way of a Complaint filed in the Superior Court of New Jersey, Law Division, Essex County, by plaintiff Wainco South Orange, LLC and entitled Wainco South Orange, LLC v. Planning Board of the Township of South Orange Village, Docket Number ESX–L-7352–17 (the "Action"), by which plaintiff challenged the aforementioned approval; and

WHEREAS, the parties to the Action have negotiated an agreement to settle the Action and have drafted a Settlement Agreement to set forth the terms of that settlement ("Settlement Agreement"); and

WHEREAS, on May 24, 2018, the Board conducted a hearing pursuant to the mandate of Whispering Woods v. Middletown Township, 220 N.J. Super. 161 (App. Div. 1987), by which the Board was informed, through testimony by counsel for the Township of South Orange Village, of the terms of the proposed settlement; and

WHEREAS, the aforesaid public hearing was the subject of a public notice and the public was provided with an opportunity to comment at the public hearing.

NOW, THEREFORE, the Board makes the following findings of fact and conclusions of law based upon the evidence presented at its public hearing, at which a record was made.

1. By Resolution memorialized September 7, 2017, the Board granted an application for preliminary and final site plan approval with variances to 101 South Orange Avenue Urban Renewal LLC for property located at 101 South Orange Avenue, South Orange, New Jersey, also known as Lot 25, Block 1007 on the tax map of the Township of South Orange Village.

2. The aforementioned approval was challenged by Wainco South Orange LLC by way of the Action.

3. Steven Rother, Esq., counsel for the Township of South Orange Village explained that the parties to the Action have agreed upon the terms of a settlement of that Action. Mr. Rother explained that, in consideration for a dismissal with prejudice of

the Action, the Village and the South Orange Parking Authority ("SOPA") agreed to work with the business community to improve the supply of employee and customer parking in the Village. The Village and SOPA also agreed that additional employee parking will be provided in three lots as follows: a) twelve metered spaces in the Village Hall lot will be converted to employee permit parking; b) twelve metered spaces in the Taylor Place lot will be converted to employee permit parking; and c) a minimum of 25 employee parking spaces will be allowed in the Church Street gravel lot.

4. Mr. Rother concluded that these terms do not alter any terms of the Board Resolution of September 7, 2017.

5. Based upon the foregoing testimony, the Board agrees that the terms of the Settlement Agreement do not alter the Resolution of September 7, 2017 and do not require any further review by the Board.

6. Based on the foregoing, the Planning Board of the Township of South Orange Village approves the settlement under the terms set forth in the Settlement Agreement and authorizes the Chairman of the Planning Board to execute that agreement on behalf of the Board.

IN WITNESS WHEREOF, the Board has caused this Resolution to be executed by its Secretary on the 4th day of June, 2018.

Ojetti Davis, Secretary

Vote on Action Taken by the Board:

BOARD MEMBER	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
BUSCH-VOGEL			X			
COLTON-MAX (Ch.)			X			
HARRIS (1ST Alt)			X			
LERMAN (V.Ch)			X			
LOEHNER			X			
MILLER	X		X			
ROSNER		X	X			
KRAIKER						X
FREEMAN			X			

Vote on Memorializing Board:

BOARD MEMBER	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
BUSCH-VOGEL						
COLTON-MAX (Ch.)			X			
HARRIS (1ST Alt)						
LERMAN (V.Ch)	X		X			
LOEHNER						
MILLER		X	X			
ROSNER			X			
KRAIKER						
FREEMAN			X			