

ORDINANCE NO. 2018-07
TOWNSHIP OF EAST WINDSOR
COUNTY OF MERCER

**AN ORDINANCE AMENDING CODE CHAPTER XX, “ZONING,” FOR
CREATION OF A NEW ZONING DISTRICT TITLED AH-1 AFFORDABLE
HOUSING DISTRICT TO FACILITATE DEVELOPMENT OF AN
INCLUSIONARY AFFORDABLE HOUSING DEVELOPMENT AT THE
PROPERTY LOCATED AT 641 NORTH MAIN STREET, (BLOCK 11.01 LOT 5),
OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EAST
WINDSOR.**

WHEREAS, in accordance with the New Jersey Supreme Court’s “Mount Laurel I” decision (South Burlington County NAACP v. Mount Laurel, 67 N.J. 151 (1975)), the Township has a constitutional obligation to provide for its “fair share” of affordable housing; and

WHEREAS, the Township entered into a settlement agreement with Fair Share Housing Center, Inc. (“Fair Share Housing Center” or “FSHC”) as approved by the Superior Court at a Fairness Hearing held on July 19, 2017 and reflected in a Court Order also dated July 19, 2017 (collectively, the “settlement agreement”), setting forth the Township’s third round affordable housing obligation covering the period 1999 to 2025, including the various plan mechanisms to satisfy its obligation in full; and

WHEREAS, the Township entered into a Memorandum of Understanding (MOU), between Township of East Windsor and Blackpoint Group, LLC and Benjamin Zaitz and Zaitz Trust, in May 2017 regarding 641 North Main Street; and

WHEREAS, the 28.4 acre “641 North Main Street Site,” identified as Block 11.01, Lot 5 on the Township of East Windsor tax maps and located on easterly side of North Main Street, immediately south of NJ State Highway 133, is intended to accommodate the development of an inclusionary affordable housing project satisfying a portion of the Township’s obligation in accordance with the municipality’s 2017 Housing Element and Fair Share Plan;

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Township of East Windsor, in Mercer County, New Jersey as follows:

Section 1. The Revised General Ordinances of the Township of East Windsor, 1970, Chapter XX, “Zoning” (“Township Code”) is hereby amended by adding a new section 20-26.00, entitled “AH-1 Affordable Housing District”, as follows:

§20-26.00

AH-1 Affordable Housing District

§ 20-26.1. *Purpose.*

The purpose of this article is to establish regulations and standards controlling the development of land in a specified area of the Township with provisions for the development of low- and moderate-income housing units in accordance with those set forth below and in accordance with the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 *et seq.* and the regulations of the Council on Affordable Housing (“COAH”) for the second round, set forth at *N.J.A.C.* 5:93. The purpose of this zone is to establish an affordable housing zone in accordance with a settlement agreement between the East Windsor Township and Fair Share Housing Center, Inc. (“Fair Share Housing Center” or “FSHC”). The settlement agreement was approved by the Superior Court at a Fairness Hearing held on July 19, 2017 and reflected in a Court Order also dated July 19, 2017 (collectively, the “settlement agreement”), setting forth the Township’s third round affordable housing obligation covering the period 1999 to 2025, which included this zone as a mechanism to satisfy its obligation.

§ 20-26.2. *Minimum Gross Tract Size.*

A minimum gross tract acreage of 28.4 acres shall be required. The “tract” as referred to in this zone shall be defined as the overall site known as Block 11.01, Lot 5 for proposed development, inclusive of the total multi-family and age restricted residential housing prior to further subdivision or dedications.

§ 20-26.3. *Principal Permitted Uses.*

- a. Multifamily housing-family rental units
- b. Age restricted housing.

§ 20-26.4. *Maximum Number of Dwelling Units Permitted.*

The maximum number of permitted dwelling units within the age-restricted housing sublot of the overall tract for development shall be up to 116 units and shall not exceed a net density of 14 units per net acre of lot area designated specifically for age restricted development. The maximum number of non-age restricted multifamily dwelling units within non-age-restricted housing portion of the overall tract for development shall be 295 units and shall not exceed a net density of 14 units per net acre of lot area designated specifically for age restricted development in accordance with the terms of the settlement agreement.

§ 20-26.5. Age Restrictions.

All dwelling units within the age-restricted dwelling units identified herein shall comply with the standards as set forth in §20-22.2 in its entirety.

§ 20-26.6. Affordable Housing Requirements.

The age-restricted development permitted, up to 116 units, shall, in lieu of providing a 15 percent on-site inclusionary affordable housing set-aside, provide a payment-in-lieu of construction on site to the East Windsor Township's Housing Trust Fund. The payment-in-lieu shall be equal to \$55,000 per each approved affordable unit that would be required based upon a 15 percent set-aside of the total number of age-restricted units.

The non-age restricted multi-family development shall be required to be an inclusionary development, of up to 295 multi-family units and shall have a minimum 22 percent set aside of the total number of non-age restricted units approved, affordable to low and moderate-income households (65 affordable units for 295 total units). The 22 percent of the total number of units approved shall round up any fractional number of units to provide one additional whole unit.

The inclusionary affordable units shall be developed and administered in accordance with COAH's rules and UHAC at N.J.A.C. 5:80-26.1, and as required under Section 20-20.0000, including but not limited to income split, affirmative marketing, unit income type requirements and bedroom distribution. In addition, the unit types shall provide at least 15 percent of the total number of affordable units (rounded up), as affordable to very-low income households (affordable to households earning 30 percent or less of median income by household size), with half of the very low-income units available to families.

§ 20-26.7. Permitted Accessory Uses.

- a. Private garages and surface parking areas.
- b. Buildings for storage and maintenance equipment.
- c. Off-street parking as hereinafter regulated.
- d. Signs in accordance with the requirements of §20-5.1607 b.2 of this chapter and related provisions.
- e. Private recreation buildings and facilities, including ancillary indoor and outdoor private recreational amenities, primarily intended for use by residents of the development.
- f. Community center/room serving the residents of the development.

- g. Gazebos, pergolas and similar outdoor landscape structures.
- h. Uses which are customarily incidental to the principal permitted uses in the zone including, but not limited to, development leasing, management and maintenance offices.

§ 20-26.8. Bulk and Area Requirements

The following zone standards shall apply to development in the AH-1 Affordable Housing District.

- a. Minimum tract area: 28.4 acres.
- b. Minimum tract lot width: 500 feet.
- c. Minimum building setbacks from tract boundaries:
 - 1. Minimum building setback from North Main Street right-of-way (ROW): 125 feet.
 - 2. Minimum building setbacks from NJ Route 133 ROW: 110 feet.
 - 3. Minimum building setback from Town Center Road Extension: 100 feet.
 - 4. Minimum setback from all other tract boundary lines: 50 feet.
- d. Minimum building setback from internal roads: 25 feet.
- e. Minimum distance from internal parking areas: 15 feet.
- f. Minimum distance between building walls:
 - 1. Front to front: 90 feet.
 - 2. Front to side: 40 feet.
 - 3. Side to side: 30 feet
 - 4. Side to rear: 40 feet
 - 5. Rear to rear: 60 feet
- g. Maximum building coverage: 25% of the gross tract area.
- h. Maximum improvement coverage: 60% of the gross tract area.

- i. Maximum building height: No building shall exceed a height of 3 stories or 40 feet.
- j. Maximum number of units per building:
 - 1. Non-age restricted building: 18 units.
- k. Long uninterrupted building lengths are discouraged. The maximum age restricted building length shall be 150 feet except where said building provides a minimum 45-degree change in direction for a minimum length of at least 60 feet.
- l. Accessory buildings: All accessory building shall comply with §20-4.0400 and 20-3.0201. regarding accessory buildings and structures except for the following:
 - 1. Accessory structures shall not be permitted in the tract boundary front, side or rear yard building setbacks as required in §20-26.6 d. herein.
 - 2. No accessory building shall exceed 15 feet in height and one story except for accessory community/recreation buildings which shall not exceed a maximum building height of 25 feet.
 - 3. Minimum setback from interior roadway 20 feet.
 - 4. Minimum setback to internal parking areas 15 feet.
- m. Minimum setback to other buildings 20 feet
- n. Buffers: Suitable buffers shall be provided as the board of jurisdiction determines to be appropriate and as referenced in the Technical Standards of §22-27. The minimum landscape buffer adjacent to all tract boundary lines shall be 25 feet. The minimum landscape buffer from all other property lines shall be 15 feet.

§ 20-26.9. Parking, Loading and Circulation.

- a. Off-street parking and loading: Parking and loading requirements of the AH-1 Zone shall comply with New Jersey Residential Site Improvement Standards (“RSIS”), *N.J.A.C. 5:21*, as determined to be applicable.
- b. Minimum number of garage spaces: The non-age restricted development of the tract shall contain a minimum of 1 garage parking space per 3 units in the building. Garages shall be attached to the principal building and shall be considered part of the units; no detached accessory garages shall be permitted.

- c. Site access: Access to the tract shall be provided exclusively from North Main Street and Town Center Road as deemed appropriate by the applicable board of jurisdiction.
- d. Minimum roadway and parking setback: No internal driveway, roadway or parking area shall be located closer than 20 feet to a tract boundary except where such roadways intersect with an existing street.
- e. Provisions shall be provided for at least 2 percent of the total parking spaces in the development, shall have provisions for electrical recharging stations. Such locations shall be specifically approved by the board of jurisdiction.

§20-22.10 Required Recreational and Open Space Facilities.

- a. The proposed developments shall provide adequate active recreational facilities within the specified open space and indoors to satisfy the needs of the anticipated residential population of each development. All recreational facilities shall adhere to the standards set forth in the Barrier Free Subcode of the Uniform Construction Code of the State of New Jersey. A minimum of 30 percent of the tract shall be specifically set aside for conservation, recreation and/or other open space. No more than one half of the minimum 30 percent noted above shall be comprised of wetlands, wetland buffers, 100-year flood plains or lands with a topographic slope more than 15 percent.
- b. The following listing and ratios of recreational facilities are requirements for the respective board of jurisdiction in their evaluation of the adequacy of proposed recreational facilities, although alternative recreational facilities and ratios thereof may be proposed by the applicant and approved at the sole determination of the board:

- 1. Age-restricted development shall provide the following active recreation amenities and such facilities shall be located on the age-restricted subplot of the tract for age-restricted housing:

- (a) One clubhouse/recreation building or incorporated into the residential structure of at least 6,000 gross square feet in area, shall be provided to serve the proposed age restricted dwelling units. Off-street parking as approved by the Board may be required depending upon location of the recreation facility.

Such clubhouse or recreational building shall be maintained with features such as exercise equipment, community meeting rooms and community cooking facilities, such as a commercial kitchen for community gatherings. Such provisions shall only be made available for use by the residents of the facility.

- (b) When the number of age-restricted dwelling units exceeds 100 units, a swimming pool shall be provided. Such swimming pool

shall have a minimum water surface of 1,800 square feet, and a minimum deck/patio equal to an area equivalent to 150 percent of the water surface area.

- (c) At least four courts, either bocce and/or shuffleboard courts, shall be provided for the age-restricted development.
 - (d) Two tennis courts shall be provided for each approximately 100 age-restricted dwelling units.
 - (e) Community gardens facility of a minimum area of 4,000 square feet shall be provided for the age-restricted subplot of the tract. These facilities shall include improvements such as raised planting beds, sources of water and tool storage facilities as accepted by the board of jurisdiction.
 - (f) Outdoor amenities including terraces, courtyards and patio areas with tables and chairs, benches, shade trellises, gazebos, and other such recreation elements as shall be specifically required by the board of jurisdiction.
2. Non-age-restricted development on the tract shall provide the following active recreation amenities and such facilities shall be located on the age-restricted subplot of the tract for age-restricted housing:
- (a) One clubhouse/recreation building, at least 10,000 gross square feet in area, shall be provided to serve the proposed non-age restricted dwelling units, with adjacent off-street parking as approved by the Board. Such clubhouse or recreational facility shall be maintained with features such as exercise equipment, community meeting rooms and community cooking facilities, such as a commercial kitchen for community gatherings. Such provisions shall only be made available for use by the residents of the facility.
 - (b) When the number of dwelling units exceeds 100 units, a swimming pool shall be provided. Such swimming pool shall have a minimum water surface of 1,800 square feet, and a minimum deck/patio equal to an area equivalent to 150 percent of the water surface area.
 - (c) One tennis court shall be provided for each approximately 100 non-age-restricted dwelling units.
 - (d) Outdoor amenities including benches, shade trellises, gazebos, terraces, bicycle racks and other such recreation elements shall be provided as specifically required by the board of jurisdiction.
 - (e) Outdoor active recreation play areas for children shall be provided as required by the board of jurisdiction. Such areas shall

be appropriate and specifically designed for the different age groups or age-related abilities and contain a total minimum of 5,000 square feet of active recreation play area. The areas shall serve toddlers, preschool and school-age children with play area designs to accommodate these differences regarding the type, scale, and the layout of equipment. The term “toddlers” refers to children ages 6 months through 2 years of age, “preschool-age” refers to children 2 through 5 years, and “school-age” refers to children 5 through 12 years.

The overlap between these groups shall be designed into the playground equipment use and provides for a margin of safety. Such play areas shall provide for shaded sitting areas for supervision of the play areas and include fencing or other containment where required for safety of the area.

Such recreation areas, equipment and surfacing shall be in accordance with the Americans with Disabilities Act of 1990 (ADA), accessibility requirements. In addition, the play areas shall comply with all applicable standards such as the American Society for Testing Materials (ASTM), and Consumer Products Safety Commission (CPSC), recommendations.

(f) Community gardens facility of a minimum area of 4,000 square feet shall be provided for the non-age restricted areas of the tract. These facilities shall include improvements such as raised planting beds, sources of water and tool storage facilities as approved by the board of jurisdiction.

3. Jogging and bicycle circuit paths shall be provided for both the age-restricted and non-age-restricted housing development areas and provide for interconnections between such facilities as deemed appropriate by the applicable board of jurisdiction. Such paths shall connect to the proposed recreation amenities and include bicycle racks at these connections.

§ 20-22.11 Utilities/Service Requirements.

All dwelling units within a structure shall be connected to a Township approved and functioning public water and sanitary sewer systems prior to the issuance of certificates of occupancy.

§ 20-22.12 Building Design Requirements.

The following design standards shall apply to both the age and non-age restricted residential development with consideration of form, mass, architectural features and design elements consistent with the Township’s history and style, to be incorporated as follows:

- a. All buildings shall relate harmoniously with other onsite features and buildings. Although, the architectural features described herein shall be varied to provide variety from building to building for visual interest and reducing monotony of the development.
- b. Building materials and colors shall be consistent with the Township's existing residential architectural characteristics and history.
- c. Architectural features shall be used to create visual interest and variety and shall include staggered unit setbacks, changing rooflines and roof designs, and alterations in building height. No flat roof structures are permitted.
- d. Large horizontal buildings shall be broken into segments having vertical orientation with alternating front and rear façade setbacks to generate the appearance of smaller individual buildings/units. No more than 30 feet of front or rear building wall is permitted without providing a break in the façade of an acceptable method of articulation.
- e. Buildings with expansive blank walls on any facade are discouraged. Side and rear elevations should receive architectural treatments comparable to front facades.
- f. Buildings are to incorporate elements that provide a visually attractive environment using varied decorative and architectural features at entrances, cornices, windows and rooflines.
- g. Building color and materials shall have a complimentary palate between buildings that is consistent with the general theme of the development.
- h. Development with consideration of "human scale" shall be provided through the use of strategically placed windows, doors, porches and columns.
- i. To the extent practicable, buildings shall be oriented to maximize daylighting of the interior of buildings or outdoor recreation areas.
- j. Exterior-mounted mechanical and electrical equipment exposed to the public view shall be architecturally screened. Roof-mounted equipment and projections should be painted the same color as the roof and, where possible, located to the rear of the building, away from the public view.
- k. Building construction shall utilize green building or sustainable building methods to the extent practicable. While this is consistent with the Townships' longstanding tradition of environmental stewardship, it is recognized such strategies may also be utilized to reduce the operating and maintenance costs of low- and moderate-income households.

1. Provisions for bicycle storage shall be provided at each residential building.

§ 20-22.13 Landscaping, Buffers and Screening.

The development plan for the tract shall include a formal landscape plan signed and sealed by a landscape architect licensed in the State of New Jersey. The development shall provide landscaping for the tract in accordance with applicable standards provided in the Technical Standards regulations of Chapter XXII herein inclusive of buffers, site and parking area landscape requirements.

§ 20-22.14 Other Applicable Requirements.

All other provisions of the Revised General Ordinances of East Windsor Township not in conflict with the provisions specified herein for the AH-1 Zoning District shall apply.

Section 2. Section 20-4.0100, “Districts Created” of the Township code is hereby amended and supplemented to read as follows (additions are underlined):

§ 20-4.0000 GENERAL PROVISIONS.

20-4.0100 DISTRICTS CREATED. The following districts are hereby created:

R-A Rural Agricultural

R-E Rural Estate

R-1 Residential Low Density

R-2 Residential Low Density

R-3 Residential Medium Density

R-M Residential Multifamily

S-L Residential Small Lot

PRC Planned Retirement Communities

PAC Planned Adult Community

PUD Planned Unit Development

MH Manufactured Housing

NC Neighborhood Commercial

HC Highway Commercial

TC Turnpike Commercial

R-O Research Office

I-O Industrial Office

ARH Age-Restricted Housing

CC Community Commercial

CR Corridor Revitalization

AH-1 Affordable Housing District

Section 3. The map entitled “Zoning Map, East Windsor Township, Mercer County, NJ,” last dated February 3, 2017, is hereby revised to add thereto a new AH-1 Affordable Housing District, which shall comprise the parcel designated as Block 11.01, Lots 5 on the East Windsor Township tax maps, to amend the boundaries of the R-O District by removing therefrom the parcel designated as Block 11.01, Lot 5 on the East Windsor Township tax maps.

Section 4. The Schedule of Zoning Requirements referenced in Chapter XX Zoning of the Township Code and provided as an attachment of said Code is hereby amended by adding thereto the applicable requirements for the AH-1 Affordable Housing District created by this ordinance.

Section 5. Repealer. All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

Section 6. Severability. If any paragraph, section, subsection, sentence, sentence clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision of such holding shall not affect the validity of the remaining paragraphs or sections hereof.

Section 7. Effective Date. This Ordinance shall take effect upon its passage, publication and filing with the Mercer County Planning Board, and as provided for by law.

ATTEST:

Kelly Lettera
Municipal Clerk

Janice S. Mironov
Mayor

Introduced:

Adopted:

Effective: