

**LEGAL NOTICE
ORDINANCE NO. 26
2020
TOWNSHIP OF WAYNE
COUNTY OF PASSAIC
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND CHAPTER 134
(LAND DEVELOPMENT) OF THE CODE OF THE TOWNSHIP OF WAYNE**

WHEREAS, on December 18, 2019, the Township Council of the Township of Wayne adopted Resolution No. 338 of 2019 Authorizing Settlement of Litigation in the Matter Entitled In the Matter of the Application of the Township of Wayne Bearing Docket No. PAS-L-2396-15 with Wayne Property Holdings, LLC, a Delaware Limited Liability Company with offices located at 1 Campus Drive, Parsippany, NJ 07054 with respect to real property owned by Wayne Property Holdings, LLC ("Developer") identified as Block 2329, Lots 1 and 1QFARM (previously known as Lot 17) on the Tax Assessment Map of the Township of Wayne, more commonly known as 1361 Alps Road, and Block 2327, Lot 21.01 on the Tax Assessment Map of the Township of Wayne, more commonly known as Kiwanis Drive (collectively "GAF Property"); and

WHEREAS, on January 16, 2020, the Township of Wayne ("Township"), the Wayne Planning Board, and Wayne Property Holdings, LLC entered into a Settlement Agreement with respect to the GAF Property ("GAF Settlement Agreement"); and

WHEREAS, pursuant to the terms contained in the GAF Settlement Agreement, the Township and the Wayne Planning Board agreed to amend the Zoning Ordinance to provide for the GAF Property as part of the Township's Affordable Housing Plan; and

WHEREAS, N.J.S.A. 40:55D-62 and 40:55D-65 provide that the governing body may adopt or amend a zoning ordinance related to the nature and extent of the uses of land and structures thereon and a zoning ordinance may restrict buildings and structures according to their type and the nature and extent of their use; and

WHEREAS, the Planning Department recommends the following amendments to the Township's Zoning Ordinance in accordance with the Settlement Agreement authorized pursuant to Resolution No. 338 of 2019; and

WHEREAS, the Township Council has determined that the recommended changes would be beneficial to the Township; and

WHEREAS, Chapter 134 (Land Development) needs to be amended and supplemented to effectuate said changes.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Wayne in the County of Passaic, State of New Jersey as follows:

SECTION 1. Chapter 134 (Land Development), Article I (General Provisions) of the Code of the Township of Wayne is hereby supplemented to read as follows [additions by **bold**, deletions by ~~strikethrough~~]:

§ 134-27. Zone Districts.

Mount Laurel Round Three District 2 (MLR3D-2)

§ 134-27.1. Zoning Map.

B. Zoning Map Amendments

(8) Ordinance No. 26-2020 amends the Zoning Map to create the Mount Laurel Round Three District 2 (MLR3D-2) from the Office Research (OR) District; Block 2329, Lots 1 and 1QFARM (previously known as Lot 17).

SECTION 2. Chapter 134 (Land Development), Article III (Zoning Regulations) of the Code of the Township of Wayne is hereby supplemented to create and establish Section 134-54 entitled Mount Laurel Round Three Districts ("MLR3D") [additions by **bold**, deletions by ~~strikethrough~~].

§ 134-54. Mount Laurel Round Three Districts (MLR3D).

§ 134-54.1 Purpose

WHEREAS, the Township of Wayne recognizes that the State of New Jersey has determined that municipalities have an obligation to create a realistic opportunity for the creation of affordable housing within the Township; and

WHEREAS, the Township of Wayne has identified properties and locations to assist in meeting its Round Three and Gap Period Obligations and hereby creates and establishes the Mount Laurel Round Three Districts ("MLR3D").

The purpose of the MLR3D is to provide for the realistic opportunity for the development of housing for families with low and moderate incomes as required by the New Jersey State Supreme Court in Southern Burlington County, NAACP v. Township of Mount Laurel, 92 N.J. 158 (1980), the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., and the Wayne Township Fair Share Housing Plan as approved by the Superior Court of the State of New Jersey in the case entitled In the Matter of the Application of the Township of Wayne, Docket No. PAS-L-2396-15 (3rd Round).

§ 134-54.2 Applicability.

These regulations shall apply only to those properties designated within the MLR3D. The below listed permitted uses and general development standards shall apply to all such designated properties. All applicable Township ordinances, including Chapter 134 (except as explicitly exempted), shall be enforced with respect to these developments. Notwithstanding the foregoing, the Planning Board may relax the provisions of Article V of this Chapter to the extent required to allow for conformance with the density of development specified in the Wayne Township Fair Share Housing Plan as it relates to the subject inclusionary site.

§ 134-54.3 Affordable Housing Regulations.

All inclusionary housing developments built in accordance with this section shall contain a mandatory set-aside of affordable housing as an inclusionary development permitted under §134-54 Mount Laurel Round Three Districts of at least 15% of the total for-rent residential units and at least 20% of the total for-sale residential units developed pursuant to the Settlement Agreements for the properties as noted herein, must be affordable to low- (including very-low) and moderate-income households. In the event that the required 15% or 20% of the total number of residential units does not result in a full integer, the developer shall round up to the nearest full integer. The percentage of units required to be set-aside will be specific within each MLR3D District based on whether the development is proposed to be for-sale or for-rent.

The inclusionary affordable units shall be developed and administered in accordance with the Fair Housing Act, N.J.S.A. 527D-301 et seq., COAH's rules and UHAC at N.J.A.C. 5:80-26.1, and as required under Chapter 213, Affordable Housing Regulations of the Code of the Township of Wayne. Such requirements include but are not limited to the following:

Income Distribution:

- 50% of the total number of affordable units (rounded up) provided as affordable to low income households.

- 13% of the total number of affordable units (rounded up) provided as affordable to very-low income households. This percentage may be included in the calculation of the 50% low income set-aside.
- The balance of units shall be reserved for moderate income households.
- Each income level (very-low income, low income, moderate income) shall be proportionally allocated across each unit size (number of bedrooms).

Bedroom Distribution of Units Not Age-Restricted:

- No more than 20% of all affordable units shall be composed of efficiency and one-bedroom units.
- At least 30% of all low- and moderate-income affordable units shall be composed of two bedroom units.
- At least 20% of all low- and moderate-income affordable units shall be composed of three bedroom units.
- Phasing of Affordable Units: Conformance with N.J.A.C. 5:93-5.6(d).
- Affirmative marketing requirements: N.J.A.C. 5:80-26.14 to 26.17.

Affordable housing fees described in §213-66 shall not apply to inclusionary residential developments.

§ 134-54.4 Continuing Compliance with Court Order.

All approvals by the Township Council, municipal agency or any municipal entity for any development within the Districts shall contain a condition that full compliance with the applicable Court Order is a nonseverable, continuing condition of said approval. Submission of the Court Order applicable to each district shall be a prerequisite to a determination of completeness of any development application. This provision shall be nonseverable from this Chapter.

§ 134-54.6 Mount Laurel Round Three District-2 (MLR3D-2).

A. Uses

- 1) Permitted principal uses. The following shall be permitted uses in this district.
 - i. Dwelling, Attached Residential
 - ii. Dwelling, Attached and Stacked Residential
 - iii. Dwelling, Multi-Family Residential
 - iv. Dwelling, Detached Residential
- 2) Accessory uses. Uses considered to be customary and incidental to the principal use, including but not limited to:
 - i. Community Clubhouse and recreation area(s). Recreational area(s) may include a swimming pool, basketball or tennis courts, playground equipment or other similar recreational items.
 - ii. Small playgrounds
 - iii. Fences
 - iv. Garages and carports

v. Sheds

B. Minimum tract size. A minimum gross tract acreage of 89 acres shall be required, with the exception of the creation of up to a maximum of eight (8) R-15 conforming lots that may be located within the said gross tract. The "tract" as referred to in this zone shall be defined as the entire property excluding the portion of the tract rezoned to the R-30 Zone District as identified in the Settlement Agreement dated January 16, 2020 with Developer.

C. Minimum Affordable Housing set-aside: 20 percent.

D. Permitted Development Yield: Maximum number of units shall be 444 units.

E. Residential bulk requirements

(1) Detached dwelling requirements:

Detached dwellings may be constructed in accordance with the R-15 Medium Density Residential District bulk requirements. Access and utilities to these lots shall be permitted from a private driveway/roadway within the tract, subject to all required access and utility easement rights for the continued use of said single-family lots. Upon subdivision approval, the detached single-family lots shall be permitted, developed, maintained and used in accordance with the R-15 zone bulk requirements. Any proposed additions or modifications to the detached dwellings shall not require a Site Plan or Amended Site Plan for the entire tract. Such proposed additions or modifications shall be addressed in a manner consistent with all other R-15 zoned properties, via Zoning Permit, and if necessary, variance consideration by the Zoning Board of Adjustment. Single Family detached units developed within the MLR3D-2 district shall not exceed eight (8) units.

(2) Multifamily-flat, townhouse or townhouse-flat bulk requirements:

i. Maximum number of units per building:

1. Multifamily-flats - 36 units per building
2. Attached dwelling (and stacked)- 8 units per building

ii. Principal building setbacks from perimeter tract property lines:

1. Front: 50 feet
2. Side: 50 feet
3. Rear: 50 feet.

iii. Preservation of Vegetation:

1. All shrubs and trees located within the required setback from property lines shall be preserved and shall not be removed, except as follows:

- a. A letter prepared by a Licensed Tree Expert, a NJ Certified Arborist, or a Licensed Tree Care Operator, describing the reason for removal of vegetation shall be submitted to the Supervisor of Landscape and Park Design for review and approval.
- b. Reasons for removal of landscaping may include the health of the landscaping, the presence of invasive species, or similar reasons.
- c. Removal of vegetation may be subject to replacement per the requirements of §134-91 except that in accordance with the applicable Settlement Agreement between and among the Township of Wayne and its Planning Board and Wayne Property Holdings, LLC dated January 16, 2020 (without limitation Section 4.4.2), In the Matter of the Application of the Township of Wayne, Docket No. PAS-L-2396-15, trees of 18" in caliper located within the area of disturbance are permitted to be removed, an estimate of trees over 8" in caliper shall be required of the Developer but no precise count of trees shall be required and no replacement or in lieu fee shall be assessed on account of such tree removal.

(3) Principal building spacing:

- i. Minimum distance between principal buildings:
 1. Multifamily buildings: 30 feet*
 2. Attached Dwellings (and stacked): 25 feet*

*Unroofed outdoor decks and patios are permitted to extend a maximum of 10 feet into said building to building setbacks.
- ii. Minimum setback from roadways: 15 feet
- iv. Minimum setback to parking areas: 10 feet
- v. Minimum setback to accessory structures - 15 feet

(4) Building heights:

- i. Minimum principal building height shall be as follows for the various multi-family building types:
 1. Multifamily flats: Maximum of 49.5 feet and maximum of 3 residential stories.
 2. Attached dwellings (including stacked dwellings): Maximum of 38 feet and a maximum of 2 ½ stories.

- ii. For all buildings within this District, building height shall be measured from average finished grade directly adjacent to the building to the mean of the sloped roof.

F. Accessory Bulk Requirements.

- (1) Setbacks from perimeter tract property lines:
 - i. Front: 25 feet
 - ii. Rear: 25 feet
 - iii. Side: 25 feet
- (2) Spacing:
 - i. Minimum accessory to accessory distance: 10 feet
 - ii. Minimum setback from roadways: 15 feet
 - iii. Minimum setback to parking areas: 10 feet
- (3) Height:
 - i. Communal Facilities: 25 feet
 - ii. Individual structures: 15 feet
- (4) Maximum sizes:
 - i. Clubhouse and Recreational Area: 30,000 sf
 - ii. Clubhouse building: 10,000 sf
 - iii. Small playgrounds: 5,000 sf each
 - iv. Garages and Carports: 2,000 sf each

G. Site Development Requirements

- (1) Coverage:
 - i. Maximum impervious coverage: 65%
 - ii. Maximum building coverage: 40%
- (2) Parking, retaining walls and roadways shall be allowed within setback areas except as restricted under the buffer requirements. Placement of temporary construction and storage trailers shall be allowed within setback areas during construction of the project.
- (3) Parking: Parking shall be provided pursuant to R.S.I.S. requirements.
- (4) Buffer areas. Buffer areas as herein defined shall be required and all perimeter tract lot lines shall be 25 feet in width in accordance with §134-86 requirements.
- (5) Site design: The configuration of residential buildings, recreation facilities, roadways, and other improvements shall be substantially consistent with the concept plan adopted as part of the Settlement Agreement between the Township of Wayne, the Township of Wayne Planning Board and Wayne Property Holdings, LLC dated January 16, 2020.

H. Exemptions

- (1) Notwithstanding the foregoing provisions, a Developer within the MLR3D-2 District shall be permitted to construct the affordable units in separate buildings that may contain all the affordable units, provided that such buildings are located within the same overall project as market rate units.
- (2) A "story" shall conform with the definition of story as contained in §134-2, except a basement shall be considered as a story where the finished surface of the floor above the basement is more than four feet above the finished grade for 60% or more of the total building perimeter.

SECTION 3. As required by N.J.S.A. 40:55D-64, prior to the hearing on adoption of this ordinance, on behalf of the Township Council, the Township Clerk shall refer this ordinance to the Wayne Planning Board for its review and comment pursuant to N.J.S.A. 40:55D-26. The Township Clerk shall also send a copy of this ordinance to the clerk of an adjoining municipality involving property situated within 200 feet of such adjoining municipality in accordance with N.J.S.A. 40:55D-15. In addition, the Township Clerk shall give notice of a hearing on an amendment to the zoning ordinance proposing a change to the classification or boundaries of a zoning district to the owners of all real property as shown on the current tax duplicates located within 200 feet in all directions pursuant to N.J.S.A. 40:55D-62.1.

Upon adoption, the Township Clerk shall send a copy of this ordinance to the Passaic County Planning Board pursuant to N.J.S.A. 40:55D-16.

SECTION 4. All other provisions of Chapter 134 of the Code of the Township of Wayne shall remain unchanged.

SECTION 5: Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause, phrase, or any other part of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the validity of the remaining sections, subsections, sentences, clauses, and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 6: Repeal of Inconsistent Provisions. All ordinances or parts thereof in conflict or inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 7: Codification. This Ordinance shall be a part of the Code of the Township of Wayne as though codified and fully set forth therein. The Township Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Township Clerk and the Township Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Township of Wayne in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

SECTION 8. This ordinance shall take effect twenty days after final passage, adoption, and publication in the manner prescribed by law.

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF AN ORDINANCE ADOPTED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF WAYNE AT A REGULAR MEETING HELD ON AUGUST 19, 2020.

ATTEST:



PAUL V. MARGIOTTA
TOWNSHIP CLERK

