

**LEGAL NOTICE
ORDINANCE NO.54
2022
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, in compliance with the New Jersey Supreme Court's decision in In re the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable House, 221 N.J. 1 (2015), ("Mount Lauren IV"), the Township filed a declaratory judgment action on or about July 2, 2015 seeking a Judgment of Compliance and Repose approving its 'Third Round' Affordable Housing Plan in addition to related reliefs which action is entitled In the Matter of the Application of the Township of Wayne, Docket No. PAS-L-2396-15 (the "DJ Action"); and

WHEREAS, on or about September 5, 2015, Wayne Property Holdings, LLC, a Delaware Limited Liability Company with offices located at 1 Campus Drive, Parsippany, NJ 07054 ("Developer") filed a Motion to Intervene in the DJ Action and the Court having granted, among other things, Developer Intervention by Order dated November 9, 2015 with respect to real property owned by Developer identified as Block 2329, Lot 1 and Lot 1QFARM and Block 2327, Lot 21.01 on the Tax Assessment Map of the Township of Wayne and more commonly known as the GAF Property; and

WHEREAS, on December 18, 2019, the Township Council 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, Docket No. PAS-L-2396-15 which approved a Settlement Agreement between the Developer, the Township and the Wayne Planning Board in this matter; and

WHEREAS, on January 16, 2020, the parties entered into the Settlement Agreement regarding the DJ action; and

WHEREAS, on August 19, 2020, the Township Council adopted Ordinance No. 26 of 2020 Amending Chapter 134 (Land Development) of the Code of the Township of Wayne creating the Mount Laurel Round Three District - 2 (MLR3D-2) and establishing zoning regulations to implement the herein referenced Settlement Agreement; and

WHEREAS, since that time, Wayne Property Holdings, LLC transferred its interest in the GAF Property and Settlement Agreement to AG-RW Wayne Owner, LLC, a State of New York limited liability company having an address c/o Jonathan Grebow, 25A Hanover Road, Suite 310, Florham Park, NJ 07932; and

WHEREAS, as a result of site constraints regarding the development of the property, AG-RW Wayne Owner, LLC and the Township have negotiated a First Amendment to the Settlement Agreement dated January 16, 2020; and

WHEREAS, on November 2, 2022, the Township Council adopted Resolution No. 363 of 2022 Authorizing a First Amendment to the Settlement Agreement in the Matter entitled In the Matter of the Application of the Township of Wayne, Docket No. PAS-L-2396-15 Regarding Block 2329, Lots 1 and 1QFARM and Block 2327, Lot 21.01 with AG-RW Wayne Owner, LLC with respect to the GAF Property ("Amended Settlement Agreement"); and

WHEREAS, pursuant to the terms contained in the First Amendment to the Settlement Agreement, the Township agreed to amend the Zoning Ordinance to allow for the construction of the site in accommodation with site constraints; 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 Amended Settlement Agreement; 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 III (Zoning Regulations) of the Code of the Township of Wayne is hereby amended and supplemented to read as follows [additions by **bold**, deletions by ~~strikethrough~~]:

§ 134-27.1. Zoning Map.

B. Zoning Map amendments.

(11) Ordinance No. 54 of 2022 amends the Zoning Map to change a portion of Block 2329, Lots 1 and 1QFARM (previously known as "Lot 17") from the MLR3D-2 to R-30 as shown on the drawing entitled "Zoning Figure" prepared by Langan Engineering, dated September 23, 2022.

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

A. Uses.

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 **Amended** Settlement Agreement dated ~~January 16, 2020~~ **November 28, 2022** with AG-RW Wayne Owner, LLC.

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

D. Permitted Development Yield: Maximum number of units shall be ~~444~~ **445** 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. **Construction of the dwellings and any** ~~Any~~ proposed

additions or modifications to the detached dwellings shall not require a Site Plan or Amended Site Plan for the entire tract. Such **construction** ~~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:

a) Maximum number of units per building:

- (1) Multifamily-flats - 36 units per building
- (2) Attached dwelling ~~(and stacked)~~ - 8 units per building
- (3) **Attached and stacked dwelling: 18 units per building**

c) Preservation of vegetation.

- (1) All shrubs and trees located within the required ~~setback~~ **buffer** from property lines shall be preserved and shall not be removed, except as follows:

[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, as amended, 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.

[d] **Removal of vegetation shall be permitted where such removal is necessitated by construction activities required for roadways and utility lines that cross the perimeter tract boundary and for construction activities required for construction, repair, and maintenance of retaining walls located within or adjacent to the 25-foot buffer area. Such removal of vegetation shall be minimized and restoration of vegetation shall be maximized to the greatest extent feasible given the purpose for the removal.**

G. Site development requirements.

(1) Coverage:

- (a) Maximum impervious coverage: 65%.

- (b) Maximum building coverage: 40%.
- (2) Parking, retaining walls and roadways shall be allowed within setback areas ~~except as restricted under the~~ **and shall be permitted within** buffer requirements areas only as specifically permitted herein. 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. **Exceptions to the required buffer area shall apply to areas extending 25 feet from:**
- (a) **Perimeter tract lot lines along Alps Road, Olga Court, Seth Court, and Ratzler Road;**
 - (b) **Where roads or utilities cross the perimeter tract lot lines; or**
 - (c) **Where construction, repair, or maintenance of retaining walls require disturbance of vegetation within the 25-foot buffer area. Where permitted, vegetation removal within the 25-foot buffer area for roadway construction, utility construction, or grading activities occurs, restoration plantings shall be provided within the 25-foot buffer area or to the limit of the roadway or utility crossing if applicable.**
- (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 **Amended** Settlement Agreement between the Township of Wayne, the Township of Wayne Planning Board and **AG-RW Wayne Owner, LLC** ~~Wayne Property Holdings, LLC~~ dated ~~January 16, 2020~~ **November 28, 2022**.

H. Exemptions.

(3)The height limitations contained in Section 134-66.A(1) shall not apply to exposed rockface walls where rockface walls are retaining soil and/or rock to the top of the exposed rockface.

SECTION 2. 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 3. All other provisions of Chapter 134 of the Code of the Township of Wayne shall remain unchanged.

SECTION 4: 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 5: 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 6: 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 7. This ordinance shall take effect twenty (20) days after final passage by Council and approval by the Mayor in the manner prescribed by law at N.J.S.A. 40:69A-181.

ATTEST:

PAUL V. MARGIOTTA
TOWNSHIP CLERK

FRANCO MAZZEI
PRESIDENT OF THE COUNCIL

NOTICE

I hereby certify that the aforementioned ordinance was published in the Herald News, a newspaper published in the County of Passaic and circulated in the Township of Wayne, in the issues of November 9, 2022 and December 14, 2022.

PAUL V. MARGIOTTA
Township Clerk

This ordinance is hereby
approved this 8th day
of December 2022.

ADOPTED ON: December 7, 2022

CHRISTOPHER P. VERGANO
Mayor