

ORDINANCE #1189-2023

AN ORDINANCE OF THE TOWNSHIP OF CLINTON IN HUNTERDON COUNTY, NEW JERSEY, AMENDING THE DEVELOPMENT REGULATIONS APPLICABLE TO THE AH-9 AFFORDABLE HOUSING ZONING DISTRICT LOCATED ON ROUTE 31 NORTH IN ORDER TO FACILITATE THE CONSTRUCTION OF A 100 PERCENT AFFORDABLE HOUSING PROJECT IN SAID DISTRICT

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”) on December 13, 2018, which agreement has been amended several times in the intervening years (collectively, the “settlement agreement”), setting forth the Township’s third round affordable housing obligation covering the period 1999 to 2025 and the various plan mechanisms to satisfy its obligation in full; and

WHEREAS, by ordinance adopted on June 9, 2021, the Clinton Township Mayor and Council established the AH-9 Affordable Housing District, which comprises an approximately 11-acre site identified as Block 70, Lots 6 and 6.01 on the Township tax maps and located on the northbound side of New Jersey State Highway 31; and

WHEREAS, the AH-9 zoning regulations were intended to accommodate the development of a 146-unit mixed-income affordable housing project with a 55% affordable housing set-aside in order to satisfy a portion of the Township’s affordable housing obligation; and

WHEREAS, the Mayor and Council now wish to amend the AH-9 zoning regulations to replace the previously-proposed 146-unit mixed-income project with a 96-unit 100% affordable

housing project, in that doing so would substantially reduce of total number of units to be built in the zone while yielding 16 more affordable housing units than originally proposed; and

WHEREAS, on June 29, 2023, the Honorable Kevin M. Shanahan, A.J.S.C. entered a post-judgment consent order approving the development of the AH-9 District with the proposed 96-unit 100% affordable housing project and authorized the Township to amend the AH-9 zoning regulations accordingly;

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

SECTION 1. Regulations applicable to AH-9 Affordable Housing District amended. Article XXIIIF, “AH-9 Affordable Housing District” in Part 7 “Zoning Regulations” of Chapter 165, “Land Use Regulations” of the Code of the Township of Clinton (“Township Code”) is hereby amended as follows (new text is underlined thus; deleted text is in brackets [thus]):

Article XXIIIF AH-9 Affordable Housing District

§ 165-155.44. Purpose.

The purpose of this article is to establish regulations and standards controlling the development of [mixed-income] multifamily housing on land designated as Block 70, Lots 6 and 6.01 on the Township’s tax maps in accordance with the provisions set forth below, as well as with the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 *et seq.*, and the “second round” regulations of the Council on Affordable Housing (“COAH”) set forth at N.J.A.C. 5:93.

§ 165-155.45. Permitted principal uses.

Permitted principal uses are as follows:

- A. Multifamily dwellings as permitted and regulated in the Schedule of Zoning Requirements below, where the residential units (up to a maximum of [80]96 units) shall be limited to occupancy by very low-, low- and moderate-income households in accordance with the rules and regulations of Section 42 of the Internal Revenue Code, 26 CFR 1.42-1 *et seq.*, and the New

Jersey Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 *et seq.* (collectively, the “Affordability Laws”), as may be applicable.

§ 165-155.46. Permitted accessory uses.

Permitted accessory uses are as follows:

- A. Private garages and off-street surface parking areas.
- B. Buildings for storage and maintenance equipment and trash/recycling enclosures.
- C. Signs in accordance with the requirements of § 165-109.
- D. Private recreation buildings and facilities, including ancillary indoor and outdoor private recreational amenities [including]such as (but not limited to) playgrounds and tot lots, primarily intended for use by residents of the development.
- E. Clubhouses and community centers/rooms serving the residents of the development.
- F. Gazebos, pergolas, fences, walls, lighting fixtures and similar outdoor landscape structures.
- G. Uses which are customarily incidental to the principal permitted uses in the zone, including, but not limited to, leasing, management and maintenance offices and model units.
- [H. Employee-/superintendent-occupied dwelling unit.]
- [I]H. Green infrastructure and stormwater infrastructure.
- I. Electric vehicle (EV) charging equipment.

§ 165-155.47. Schedule of Zoning Requirements.

The following bulk standards shall apply to development in the AH-9 Affordable Housing District.

- A. The development of the property situated in the AH-9 Affordable Housing District shall be substantially similar to the conceptual [site]layout plan prepared for the site by [Haley Donovan]E&LP dated [February 16, 2021]July 14, 2023, last revised July 19, 2023.

- B. Minimum tract area: 11 acres
- C. Maximum Density: [146]96 dwelling units[, which may include one designated employee/superintendent-occupied unit at the developer's option. Fifty-five percent of the dwelling units shall be limited to occupancy by very-low-, low- and moderate-income households, up to a maximum of 80 units].
- D. Maximum number of units per building: [25]24.
- E. Minimum front yard setback (principal buildings): [50]125 feet.
- F. Minimum side yard setback (principal buildings): [20]30 feet.
- G. Minimum rear yard setback (principal buildings): [50]300 feet.
- H. Minimum distance between buildings: 30 feet, or as otherwise may be required by Building/Fire Code, whichever is greater. If a building includes an attached structure such as a deck or porch, the minimum distance shall be calculated from the nearest edge of such structure.
- I. Maximum building coverage: 15% of the gross tract area.
- J. Maximum impervious coverage: 55% of the gross tract area.
- K. Maximum floor area ratio: 40% of the gross tract area.
- L. Maximum building height: No building shall exceed a height of three habitable stories or 46 feet, measured from the first-floor slab to the highest roof ridge.

§ 165-155.48. Highlands applicability determination.

- A. Any application for development in the AH-9 District shall comply with the standards of Article VI, Application Procedure for developments in the Highlands; however, the developer shall be permitted to address the requirements of said article as part of a final site plan application following a separate preliminary site plan application.

§ 165-155.49. Unit distribution.

- A. The AH-9 Affordable Housing District is intended to accommodate the development of a municipality-sponsored

[mixed-income affordable housing project with a fifty-five-percent affordable housing set-aside]~~100% affordable housing project~~ consisting of a maximum of [80]96 affordable units[and 146 total units, including an employee/superintendent-occupied unit at the developer's option]. The distribution of affordable units shall include a minimum of 50% low-income units, of which at least 13% shall be very-low-income units; and a maximum of 50% moderate-income units. The affordable unit bedroom mix shall consist of a minimum of 25% three-bedroom units, a minimum of 30% two-bedroom units, and a maximum of 20% one-bedroom units. Affordable housing requirements shall be implemented in accordance with the rules and regulations of Section 42 of the Internal Revenue Code, 26 CFR 1.42-1 *et seq.*, and the New Jersey Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 *et seq.* (collectively, the "Affordability Laws"), as may be applicable. In the event of a conflict between the minimum bedroom mix and income distribution requirements of this subsection and those set forth in the Affordability Laws, the higher (more restrictive) standard shall apply.

§ 165-155.50. Parking and circulation.

- A. Site access. All vehicular access to the site shall be via a single entrance on Route 31. This requirement shall not preclude the creation of a secondary emergency access point to the extent required for the health, safety and welfare of the general public and the development's residents.
- B. Off-street parking.
 - (1) Off-street parking requirements shall be calculated in accordance with the standards and requirements set forth in the New Jersey Residential Site Improvement Standards ("RSIS"), N.J.A.C. 5:21. In the event of a conflict between the requirements set forth in RSIS and the requirements set forth elsewhere in this chapter, RSIS shall control. Notwithstanding the foregoing, a portion of the required parking spaces may be permitted to be banked.
 - (2) Off-street parking requirements shall comply with P.L. 2021 c. 171, which was signed into law on July 9, 2021. Particularly, pursuant to N.J.S.A. 40:55D-66.20, as a condition of preliminary site plan approval, the developer or owner, as applicable, shall prepare as

Make-Ready Parking Spaces at least 15 percent of the required off-street parking spaces. Make-Ready Parking Spaces and parking spaces prepared with Electric Vehicle Supply/Service Equipment shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement. This shall result in a reduction of no more than 10% of the total required parking.

- C. Minimum roadway setbacks. All internal driveways or roadways shall be set back at least 10 feet from any property line, except where such roadways intersect with an existing street.
- D. Minimum parking setbacks. All surface parking areas shall be set back a minimum of 50 feet from the front property line, [five]20 feet from the side and rear property lines, and 10 feet from any exterior building wall.
- E. Parking area screening. Surface parking areas located between any public right-of-way and a principal building [and/or visible from the public right-of-way]shall be screened with [landscape plants at least three feet in height at time of planting]a landscape berm at least 3 feet high planted with a variety of plant material, including, but not limited to, trees, shrubs and perennials at the discretion of the Planning Board. Parking areas otherwise visible from any public right-of-way or adjacent property shall be screened with landscape plants installed at a minimum height of 3 feet.
- F. Sidewalks. Sidewalks shall be installed by the developer along the tract's Route 31 frontage with a walkway connecting to the tract's internal pedestrian circulation.

§ 165-155.51. Setback and height limitations for accessory buildings and structures.

- A. Clubhouse[/community room] and community center/room. A maximum of one [detached]club house[, community room] and community center/room and/or leasing office building [may be located in the property's front yard as defined in §165-4, provided it is set back at least 50 feet from the front property line and 20 feet from the side and rear property lines, and is no higher than 25 feet] shall be permitted. The clubhouse and community center room building is prohibited in the front yard and shall not exceed a maximum height of 25 feet.

- B. Gazebos [and pump houses], pump houses and lift stations. Gazebos [and pump houses], pump houses and lift stations shall be permitted in the front yard with required minimum [front yard] setbacks of 50 feet from the front property line and 20 feet from the side and rear lot lines.
- C. Trash enclosures. Trash enclosures shall be [prohibited in the front yard, except in association with a clubhouse, community room or leasing office, but shall not be located between such building and a public roadway. Trash enclosures shall otherwise have minimum side and rear setbacks of 10 feet and maximum height of six feet]permitted in the front yard and shall have a minimum front yard setback of 150 feet and minimum side and rear yard setbacks of 20 feet. Trash enclosures shall have a maximum height of 6 feet and shall be composed of materials consistent with and reflecting the facade materials of the principal buildings.
- D. Fences and walls. Fences and walls shall be permitted in any required yard in accordance with § 165-117.1. Individual or combined fence and/or wall heights in excess of six feet shall be tiered with a minimum setback of six feet between tiers.
- E. Lighting. Lighting fixtures shall be permitted in required yards and shall otherwise comply with § 165-74.
- F. Decks, patios, porches, and other accessory building/structures. Unenclosed decks, patios, porches, and similar design elements attached to a principal building or club house/community room shall have minimum setbacks of [10]40 feet from all property lines. All other accessory structures, including, but not limited to, basins, playgrounds, and tot lots, (except as otherwise regulated herein) shall be prohibited in the front yard and shall maintain minimum setbacks of [10]20 feet from side and rear lot lines and a maximum permitted height of 16 feet.

§ 165-155.52. Building design.

- A. The following criteria shall apply to the design of the buildings in the development. These criteria are intended to serve as guidelines, and deviations therefrom shall not require variance relief.

- (1) The overall form, mass, architectural features and design elements of the development shall reflect the Township's agricultural history.
- (2) All buildings should relate harmoniously with other on-site features and buildings in a unified design theme.
- (3) Architectural features shall be used to create 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.
- (4) Large horizontal buildings shall be broken into segments having vertical orientation with alternating front and rear facade 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 facade of an acceptable method of articulation.
- (5) Buildings with expansive blank walls are discouraged.
- (6) Buildings should be encouraged to incorporate elements that provide a visually attractive environment through the use of varied decorative and architectural features at entrances, cornices, windows and rooflines.
- (7) Building construction shall utilize green building or sustainable building methods to the extent practicable and as the development budget allows. While this is consistent with the Township's 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.

§ 165-155.53. Landscaping, buffers and screening.

- A. The following landscaping, buffering and screening design requirements shall apply to the development of the site. Deviations from these criteria shall require a site plan exception, not a variance.
 - (1) Landscaping shall be provided to promote a desirable visual environment, accentuate building design, define entranceways, screen parking, building walls and

equipment, mitigate adverse visual impacts, provide windbreaks for winter winds and shade for summer cooling.

- (2) Plants and other landscape materials shall be selected in terms of both aesthetic and functional considerations consistent with the rural character of the district and its surroundings.
- (3) The landscape design shall create visual diversity and contrast through variation in size, shape, texture and color.
- (4) The selection of plants should be [selected] based on resistance to disease, insect, deer and other pest damage, wind and ice damage, habitat, soil conditions, growth rate, longevity, root pattern, maintenance requirements, and other pertinent factors.
- (5) Site entrances and unique site areas should be accentuated with special landscaping treatments.
- (6) The landscape plan shall include a variety of trees, shrubs, groundcover, grasses, annual and/or perennial beds and/or any other plant material, as determined to be appropriate in generating seasonal interest.
- (7) Existing mature trees shall be preserved to the extent possible.
- (8) Surface parking areas and ground-mounted equipment shall be sufficiently screened year-round with landscape plantings.
- (9) Screening shall provide a year-round visual buffer in order to minimize adverse impacts from the site on adjacent properties and public rights-of-way. Existing vegetation may provide sufficient screening where it is demonstrated by the developer, and/or supplemented where necessary.
- (10) The main entrance road to the tract should include street trees on each side of the roadway, and such trees shall be of a different variety from those planted in the parking area.

- (11) Rows of parking longer than [20]17 spaces shall have landscape islands at least six feet in width to break up the expanse of pavement.
- (12) Landscaping within sight triangles shall not exceed a mature height of 30 inches. Shade trees shall be pruned up to an eight-foot branching height above grade.
- (13) Tree spacing along roadways and parking areas should be a maximum of 40 feet, unless other vertical elements such as decorative lighting fixtures are installed between the trees, then a maximum spacing of 60 feet should be permitted.
- (14) Trees along the parking areas and main entrance driveway should be planted in a formal arrangement, while informal planting may be provided along the tract boundaries, open spaces and other landscaped areas.
- (15) Trees shall be installed with a minimum caliper of 2.5 inches.
- (16) Areas not improved with buildings, structures, and other man-made improvements should be landscaped with a combination of plant material, street furniture or other design amenities as determined to be appropriate, with the exception of undisturbed open space and natural features.
- (17) Accessory structures and outdoor equipment, including trash enclosures and air-conditioning units, shall be appropriately screened with permanent fencing and/or landscape plants.

§ 165-155.54. Recreational facilities requirements.

Active and passive recreational amenities [shall be provided]are required, including a playground, clubhouse and passive open space.

§ 165-155.55. through § 165-155.70. (Reserved)

SECTION 2. Referral to Planning Board. Pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-64, the Clerk shall cause a copy of this ordinance to be referred to the Clinton Township Planning Board for review prior to its adoption.

SECTION 3. Repealer. All ordinances and resolutions or parts thereof inconsistent with this ordinance are hereby repealed as to such inconsistencies only.

SECTION 4. 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 5. Effective Date. This ordinance shall take effect 20 days after its final passage by council and the filing of same with the Hunterdon County Planning Board, in accordance with N.J.S.A. 40:69A-181 and N.J.S.A. 40:55D-16 respectively.

Lindsay Heller, Acting Township Clerk

Hon. Brian Mullay, Mayor

Introduced: July 27, 2023

Public hearing: September 13, 2023 (rescheduled from Aug. 9 and Aug. 23, 2023)

Adopted:

The foregoing ordinance was introduced on first reading on July 27, 2023. It will be further considered for final passage following a public hearing thereon to be held at a meeting of the Mayor and Council on **September 13, 2023 at 7:00 p.m.**, on the third floor of the Clinton Township Public Safety Building, 1370 Route 31 North, Annandale, NJ 08801, at which time and place any member of the public wishing to ask questions or make comments will be heard. During the week prior to and up to and including the date of the public hearing, copies of the full ordinance will be available at no cost during regular business hours in the Office of the Township Clerk for members of the public who shall request a copy of same. The ordinance will also be available on the Township's website (www.clintontwpnj.gov).

The purpose of the ordinance is to amend the zoning regulations applicable to the AH-9 Affordable Housing District to facilitate the development of a 100 percent affordable housing project in said zone. The AH-9 District is located on Route 31 North near the Spruce Run Reservoir. It is approximately 11 acres in

area and comprises the parcels designated as Block 70, Lots 6 and 6.01 on the Clinton Township Tax Maps. The current AH-9 zoning regulations allow the development of a 146-unit mixed-income multi-family project with a 55% affordable housing set-aside, resulting in a maximum of 66 market rate units and 80 affordable housing units. The proposed ordinance, if adopted, would allow a total of 96 multi-family units to be constructed in the zone, all of which would be affordable to very low-, low- and moderate-income households.

