

**TOWNSHIP OF HOPEWELL  
MERCER COUNTY, NEW JERSEY**

**RESOLUTION #17-374**

**RESOLUTION RECOMMENDING ADOPTION OF AN ORDINANCE AMENDING  
THE RO RESEARCH OFFICE ZONES TO PERMIT INCLUSIONARY  
RESIDENTIAL DEVELOPMENT AND AMENDING CHAPTER XVII, "LAND USE  
AND DEVELOPMENT," TO THE REVISED GENERAL ORDINANCES OF THE  
TOWNSHIP OF HOPEWELL**

WHEREAS, the Township Committee of the Township of Hopewell has introduced an Ordinance amending various provisions of Chapter XVII of the Code of the Township of Hopewell entitled the Hopewell Township Land Use and Development Ordinance that provides for inclusionary residential development as a conditional use in the RO Zone. The RO Zone includes the BMS property. The ordinance further provides that if inclusionary development does not occur at the BMS property, thirty additional affordable units will be provided at the Township owned Zaitz property; and

WHEREAS, a further purpose of the ordinance is to facilitate the production of low and moderate income housing pursuant to judicial mandate; and

WHEREAS, at its meeting on November 13, 2017, the Township Committee introduced the ordinance and referred the Ordinance to the Hopewell Township Planning Board for its review and recommendation; and

WHEREAS, under N.J.S.A. 40:55D-64 and N.J.S.A. 40:55D-26a, the ordinance must be referred to the Planning Board for identification of any provisions in the proposed ordinance which is inconsistent with the Master Plan and recommendation concerning these inconsistencies and any other matters as the Board deems appropriate; and

WHEREAS, at its November 15, 2017 special meeting, the Hopewell Township Planning Board reviewed the Ordinance, along with a memoranda prepared by Banish Associates, Inc., dated November 14, 2017 and heard the testimony of Frances Banisch of Banisch Associates, Inc.; and

WHEREAS, the Planning Board compared the proposed ordinance to the Land Use Plan Element of the 2002 Master Plan and the 2011 Housing Plan Element and found that the intent of the proposed ordinance advances the goal for a balanced land use plan that can meet the constitutional mandate to provide for the Township's fair share of the regional need for affordable housing. Nonetheless, the Planning Board found that the specific proposal to construct a neighborhood of multi-family housing and apartments within the RO zone is inconsistent with the nonresidential land uses programmed for this site in the Land Use Plan.

WHEREAS, Notwithstanding this inconsistency, in Planning Board Resolution No. 17-022, the Planning Board recommended that the Township Committee adopt the proposed ordinance.

WHEREAS, on November 27, 2017, the Hopewell Township Committee held a public hearing on the Ordinance Amending Various Zoning Provisions of Chapter XVII, Land Use and Development of the Revised General Ordinances of the Township of Hopewell.

WHEREAS, the Hopewell Township Committee reviewed the Hopewell Township Planning Board Resolution No. 17-022; the Memorandum of Banisch Associates dated November 14, 2017; heard the testimony of Frank Banisch and all public comments;

WHEREAS, the Hopewell Township Committee found that the Ordinance advances the following objectives:

- To provide for a reasonable balance among various land uses that respects and reflects the interaction and synergy of community life.
- To provide for a variety of housing types which respond to the needs of households of varying size, age, and income, persons with disabilities and emerging demographic characteristics.
- To promote and support the development and redevelopment of affordable housing intended to address the Township's fair share of the region's lower income housing, particularly in areas served by public transportation which connect to areas of employment.
- To provide a range of housing opportunities within the Township with densities and lot sizes that respond to the capabilities and limitations of natural systems and available infrastructure.
- The proposed rezoning results in an appropriate use of land which contributes to the general welfare of the community and state, and is an appropriate response to the mandate to provide affordable housing through municipal zoning.
- The proposed rezoning does not conflict with the development or general welfare of any neighboring municipality, the county or the state as a whole and it provides a reasonable development option to address local affordable housing goals.
- The proposed rezoning provides affordable housing through inclusionary development without the expenditure of public funds and results in the efficient use of the available public infrastructure while curtailing the extension of such infrastructure.
- The proposed rezoning provides zoning requirements and standards that produce the

opportunity to utilize creative development techniques in order to produce good civic design and arrangements, which are subject to further Planning Board review during the development application process.

- The procedure followed in developing the proposed ordinance combines public and private procedures that result in an efficient use of land.
- The proposed ordinance improves the balance of land uses sought in the Master Plan.
- The proposed development contemplated by the proposed zoning standards should result in a compact building layout and design.
- The multiple family neighborhood permitted by this ordinance will make future uses of the BMS site possible that will help to revitalize this site as BMS relocates away from this Hopewell campus.
- While the nonresidential zoning which the proposed ordinance amends is consistent with the Master Plan, the proposed rezoning will advance the goal of diversifying the housing stock and providing affordable housing to meet the constitutional obligation.

**NOW, THEREFORE, BE IT RESOLVED**, that on this 27<sup>th</sup> day of November, 2017, that the Hopewell Township Committee, County of Mercer, State of New Jersey- hereby adopts the Ordinance Amending Various Zoning Provisions of Chapter XVII, Land Use and Development, of the Revised General Ordinances of the Township of Hopewell to provide for inclusionary residential development as a conditional use in the RO Zone. The Ordinance is hereby adopted for all of the above reasons pursuant to N.J.S.A. 40:55D-62(a) and Willoughby v Planning Board of the Twp. Of Deptford, 326 N.J.Super.158, 165-66 (App. Div. 1999).

Date Adopted: November 27, 2017

**CERTIFICATION**

I HEREBY CERTIFY THE FOREGOING TO BE  
A TRUE COPY OF A *Resolution* ADOPTED  
BY THE HOPEWELL TOWNSHIP COMMITTEE  
AT A MEETING HELD

*November 27, 2017*

DATE

*Laurie E. Gompf*

LAURIE E. GOMPf, MUNICIPAL CLERK

**TOWNSHIP OF HOPEWELL  
MERCER COUNTY, NEW JERSEY**

**ORDINANCE NO. 17-1670**

**ORDINANCE OF THE TOWNSHIP OF HOPEWELL  
AMENDING CHAPTER XVII OF THE CODE OF THE  
TOWNSHIP OF HOPEWELL ENTITLED THE  
HOPEWELL TOWNSHIP "LAND USE AND  
DEVELOPMENT ORDINANCE"**

**WHEREAS**, the Township of Hopewell is required to amend certain provisions of Chapter XVII of the Code of the Township of Hopewell entitled the Hopewell Township "Land Use and Development Ordinance" to facilitate the production of low and moderate housing pursuant to third round affordable housing proceedings in the Law Division of the Superior Court encaptioned In the Matter of the Application of the Township of Hopewell, Docket No. MER-L-1557-15 (Mount Laurel); and

**WHEREAS**, the purpose of this Ordinance is to accomplish the foregoing as required by judicial mandate; and

**WHEREAS**, the intent of this ordinance is to provide affordable housing on RO-1 zoned land through the use of conditional use standards because such standards afford the land owner the maximum opportunity to utilize its site in accordance with the RO-1 non-residential standards while permitting a defined number of affordable and inclusionary housing units; and

**WHEREAS**, because Hopewell Township has determined that conditional use standards will be the method for permitting affordable housing in the RO-1 zone, the township is also required to provide an alternative location to provide the required number of affordable units to ensure a realistic opportunity; and

**WHEREAS**, Hopewell Township will include an additional 30 affordable units on Block 85 Lot 3, also known as the Zaitz tract, to be constructed only if affordable units are not constructed on RO-1 zoned lands.

**NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED** by the Township Committee of the Township of Hopewell, County of Mercer, State of New Jersey that Chapter XVII of the Code of the Township of Hopewell entitled the Hopewell Township "Land Use and Development Ordinance" be amended, modified and supplemented as follows:

**SECTION I.**

Chapter 17-168.a. entitled "Purpose" of the RO-1, RO-2 and RO-3 Zoning Districts is repealed as currently stated and is replaced by the following new Chapter 17-168.a. in its place and stead:

**17-168 RO-1, 2 AND 3 DISTRICTS: RESEARCH/OFFICE DISTRICTS.**

- a. *Purpose.* The purpose of these districts is to provide for research/office uses by single owners with one or more tenant occupants on large parcels within the township. A neighborhood of inclusionary housing is also deemed appropriate in the RO-1 District when arranged on undeveloped portions of the property, and adequately buffered from manufacturing buildings and activities. It is also intended that the provision for assisting in the

development of lower income housing as set forth below be a required portion of any new development in the RO-1 District.

## SECTION II.

Chapter 17-168.b entitled "Conditional Uses" is supplemented to add a new Paragraph 2 as follows:

2. Inclusionary affordable housing development pursuant to the requirements in §17-168(g).

## SECTION III

Chapter 17-252 entitled "Applicability of Growth Share", Chapter 17-253 entitled "Residential Growth Share Provisions", and Chapter 17,254 entitled "Nonresidential Growth Share Provisions" are repealed inasmuch as the "Growth Share" rules adopted by the New Jersey Council on Affordable Housing ("COAH") upon which they were based have been invalidated by the Courts.

## SECTION IV

A new section 17-168(g) entitled "Conditional Use Inclusionary Development in the RO-1 District" is added as follows:

17-252. Conditional Use Inclusionary Development in the RO-1 District.

- A. Principal permitted uses.
  - (1) Garden apartments.
  - (2) Townhouses.
- B. Permitted accessory uses.
  - (1) Off-street parking
  - (2) Any use or structure customarily incidental to a principal permitted use.
  - (3) Private garages and carports.
  - (4) Recreational and cultural facilities for the sole use of the residents of the community and their guests, including but not limited to a clubhouse, jogging and bike trails, swimming pool, library, media center, court games, picnic areas and other typical active and passive recreation facilities.
  - (5) Sales office of a temporary nature not to extend beyond the occupancy of the last dwelling
- C. Area and Yard Requirements – Relief required by this section shall be considered according to the standards in N.J.S.A. 40:55D-70 (c):

The following bulk standards apply to all tracts proposed for inclusionary residential development within the RO-1 District:

- |       |  |   |
|-------|--|---|
| i.    | Minimum tract size:                          | thirty (30) contiguous acres                    |
| ii.   | Maximum tract size:                          | fifty (50) contiguous acres                     |
| iii.  | Minimum front yard for townhouse structures: | 25 feet to private road/100 feet to public road |
| iv.   | Minimum front yard for apartment buildings:  | 75 feet to private road/100 feet to public road |
| v.    | Minimum tract width:                         | 750 feet  |
| vi.   | Minimum side yard for principal structures:  | 50 feet   |
| vii.  | Total for both side yards:                   | 100 feet  |
| viii. | Minimum rear yard:                           | 100 feet  |
| ix.   | Minimum distance between apartment buildings | 50 feet   |
| x.    | Minimum distance between townhouse buildings | 25 feet   |
| xi.   | Accessory building side yard:                | 25 feet   |
| xii.  | Accessory building rear yard:                | 50 feet   |

- xiii. Maximum coverage: 60 percent, including private roadways
- xiv. Maximum building height: 4 stories and 55 feet

**Multi-Family Building Setbacks.**

- a. Building face to local street curb or pavement: 25 feet.
- b. Building face to collector street curb or pavement: 40 feet.
- c. Building face to arterial street curb or pavement: 50 feet.
- d. Building face to common parking area:
  - 1. Front building face: 20 feet.
  - 2. Rear or side building face: 15 feet.

**Multi-Family Building Spacing.**

The following separation of buildings shall be provided:

<b>Dimension</b>	<b>Separation of Buildings (feet)</b>
Long side to long side	75
Front to rear	50
Front to end	45
Rear to rear	50
Rear to end	40
End to end	30

**Multifamily building requirements:**

(1) Garden apartments.

- (a) The maximum length of structures shall be 200 feet. Maximum density shall be 25 dwelling units per acre.
- (b) Garden apartment structures should be grouped in clusters, with architectural design consistent in each cluster.
- (c) Recreation facilities, such as swimming pools and tennis courts, should be encouraged but carefully located to avoid problems of noise, light and similar nuisance elements affecting residential units. They shall be located not less than 100 feet from any tract boundary.
- (d) No front yard shall be used for service such as clothes drying and/or outdoor storage.
- (e) Where townhouses or garden apartments abut a residential zone or use, there shall be a landscaped strip not less than 15 feet in width or depth, which strip shall not be utilized for roadway or parking and which shall be so planted as to form an effective visual screen.
- (f) All utilities and their service lines, including electric and telephone, shall be installed underground and subject to approval of the appropriate utility. Wherever the utility is not installed in a public right-of-way, an appropriate utility easement shall be provided.
- (g) All streetlights and all lighting along pedestrian walks and in parking areas shall be downward-directed and shaded and installed on ornamental standards of the appropriate utility. They shall be of a style and design compatible with the architectural style of the project and shall be approved by the Planning Board and the utility company.
- (h) Adequate provision shall be made for the storage, recycling and removal of garbage, which shall be at the sole cost and expense of the owner.
- (i) Adequate provision shall be made for snow removal on all sidewalks, streets, roads, driveways and parking areas within the project, which shall be at the sole cost and expense of the owner.
- (j) Minimum roof pitch shall be 4:12 unless flat roofs are employed, in which case green roof design or solar collectors shall be employed.
- (k) Landscape or rooftop screening shall be provided for all a/c units, meters, connections, etc.

(2) Townhouses.

- (a) Maximum of eight units in a single row. Minimum width of unit, 18 feet. Offset of at least four feet between every two units.

(b) Townhouses should be grouped in clusters, with a maximum of 30 per cluster. Private parking areas should be located near the unit entrances and outdoor living areas or patios adjoining open space or paths leading to open space.

(c) Townhouses in each cluster should be consistent in terms of architectural style and major design elements such as materials, windows, rooflines, roof designs, etc. Design approval shall rest with the Planning Board.

(d) Each dwelling unit in a townhouse building shall be completely separated from all other dwelling units in the same building by a fire wall subject to the requirements of the Uniform Construction Code.

(e) Adequate safe and sanitary provisions shall be made for the recycling and storage of solid waste and garbage in compliance with all applicable ordinance requirements of the Township of Hopewell.

(f) Guest parking of one space for every six units shall be required.

(g) Minimum roof pitch shall be 4:12.

(h) Landscape or rooftop screening shall be provided for all a/c units, meters, connections, etc.

**6) Development Requirements for Inclusionary Housing in the RO-1 District:**

a. **Infrastructure** - All development shall be connected to public sewers and public water.

b. **Residential Use**

1) There shall be a minimum of 50 affordable units and a maximum of 250 dwelling units,

2) Pursuant to COAH's second round rules at N.J.A.C. 5:93-1, et seq., at least 15% of all rental units and 20% of all for-sale units shall be deed-restricted for occupancy by low and moderate income households and the affordable housing units shall be dispersed among the residential buildings rather than concentrated in a few buildings.

3) No more than 60% of all market rate dwellings shall be two-bedroom units and at least 40% shall be one-bedroom units.

4) Low and moderate income units shall meet the following bedroom distribution requirements:

1. The combination of efficiency and one bedroom units shall be at least 10 % and no greater than 20 % of the total low and moderate income units;

2. At least 30 percent of all low and moderate income units shall be two bedroom units; and

5) At least 20 percent of all low and moderate income units shall be three bedroom units. Residential units shall be afforded the following activities within the redevelopment area: fitness room, community room, convenient recycling and trash receptacle area and multipurpose pedestrian/bicycle trail.

6) At least 50% of all affordable units shall be made available to low income households of which at least 13% shall be available to very low income households as required by P.L. 2008, c.46.

c. **Site Design** - Relief required by this section shall be considered according to the standards in N.J.S.A. 40:55D-70 (c)

1) The location and arrangement of buildings, uses, parking areas and street setbacks shall be designed to minimize conflicts with non-residential uses in the RO-1 District.

2) The buildings shall be located, arranged and designed to maximize opportunities for active and/or passive solar energy collection.

3) Each dwelling unit and combined complex of dwelling units shall have a compatible architectural theme with variations in design to provide attractiveness to the development which shall include consideration of landscaping techniques, building orientation to the site and to other structures, topography, natural features and individual dwelling unit design such as varying unit widths, staggering unit setbacks, providing different exterior materials, changing roof lines and roof designs, altering building heights and changing types of windows, shutters, doors, porches, colors and vertical or

horizontal orientation of the facades, singularly or in combination for each dwelling unit.

- 4) The dwelling unit mix shall be such that no more than 65% of the total number of dwelling units shall have the same number of bedrooms.
- 5) No townhouse building shall contain more than eight dwelling units.
- 6) A minimum of 20% of the total land area of the inclusionary development tract, shall be designated as active and passive open space. Pedestrian and bike paths, ball fields, playgrounds and other areas for active or passive recreation shall be included in the calculation of required open space.
- 7) A dense landscape buffer screen of 75 feet in width shall be installed where the development abuts any non-residential use or public street.
- 8) Pedestrian and bicycle circulation shall be provided and shall be separated from motor vehicle circulation wherever possible, and, where applicable, shall be consistent with the Township's master plan for bikeways.
- 9) Pedestrian facilities shall include a perimeter loop pathway around the inclusionary development.
- 10) An integrated sidewalk system shall be provided throughout the development which encourages pedestrian movements.
- 11) Residential uses shall be located within the existing ring road. Residential uses may be located between the ring road and site perimeter only if the developer demonstrates to the planning board that environmental or other planning reasons preclude residential development within the ring road. Any development located between the ring road and site perimeter shall protect existing views from the perimeter through site grading, landscaping or other means acceptable to the planning board.

d. **Parking** - Relief required by this section shall be considered according to the standards in N.J.S.A. 40:55D-70 (c):

- 1) Parking facilities shall be at least 75' feet from the right-of-way line of any public road, and at least 50' from any private road
- 2) Parking facilities and driveways shall be at least ten feet from District lines.
- 3) Bicycle racks shall be provided on site at a rate of one bicycle storage space for every 30 automobile parking spaces.
- 4) Where abutting a residential zone or residential use, accessory buildings, accessory structures or accessory uses shall not be closer than 75 feet to any side or rear property line.

e. **Traffic**

- 1) Traffic studies shall be prepared to project the development-generated traffic volumes affecting the roadways serving the development. In addition, an updated study for on-site parking usage for each development phase shall be submitted.
- 2) Provisions for traffic improvements shall be made and strategies for traffic control shall be provided to ensure that the levels of service are maintained or improved.

## SECTION V

A new Chapter 17-253 entitled "Mandatory Affordable Housing Set-aside in Future Rezonings or the Grant of Variances Authorizing Multi-Family Housing" is added as follows:

17-253. Mandatory Affordable Housing Set-aside in Future Rezonings or the Grant of Variances Authorizing Multi-Family Housing.

- a. Pursuant to directives of the Superior Court in the third round affordable housing proceedings encaptioned In the Matter of the Township of Hopewell, Docket No. MER-L-1557-15 (Mount Laurel), if the Township or its land use Boards permit, either through future rezonings or the grant of variances, multi-family or single family attached development that is "approvable" and "developable" as



defined in N.J.A.C. 5:93-1, et seq. at a gross density of 6 units to the acre or more, the Township and/or its land use Boards shall require that an appropriate percentage of the residential units shall be set-aside for low and moderate income households in accordance with N.J.A.C. 5:93-1, et seq. This requirement shall apply to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project which consists of six (6) or more new residential units, whether permitted by a zoning amendment, a variance granted by the Township's land use Boards, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation. Nothing herein precludes the Township from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to the provisions hereof consistent with N.J.S.A. 52:27D-311(h) and other applicable law. Consistent with N.J.A.C. 5:93-1, et seq., for inclusionary projects in which low and moderate income units are to be offered for "sale", the appropriate set-aside percentage is 20 percent; for inclusionary projects for which the low and moderate income units are to be offered for "rent", the appropriate set-aside percentage is 15 percent. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project. This requirement does not apply to any sites or specific zones otherwise identified in judicially approved Settlement Agreements under Docket No. MER-L-1557-15 (Mount Laurel) or the Township's judicially approved third round Housing Element and Fair Share Plan (collectively "Compliance Plan"), for which density and set-aside standards shall be governed by the specific standards set forth therein. A property shall not be permitted to be subdivided so as to avoid meeting the above affordable housing requirement.

#### **SECTION VI**

Chapter 17-254 is reserved for future use now that the previously adopted Chapter 17-254 has been repealed.

#### **SECTION VII. SEVERABILITY.**

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

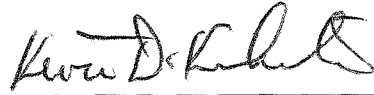
#### **SECTION VIII. INCONSISTENT ORDINANCES REPEALED.**

All Ordinances or parts of Ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed, but only to the extent of such inconsistencies.

**SECTION IX. EFFECTIVE DATE.**

This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law and the filing of same with the Mercer County Planning Board pursuant to N.J.S.A. 40:55d-16.

Date Introduced: November 13, 2017  
Date Advertised: November 17, 2017  
Date Adopted: November 27, 2017



Kevin D. Kuchinski  
Mayor

Attest:



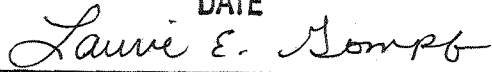
Laurie E. Gompf  
Municipal Clerk

**CERTIFICATION**

I HEREBY CERTIFY THE FOREGOING TO BE  
A TRUE COPY OF AN Ordinance ADOPTED  
BY THE HOPEWELL TOWNSHIP COMMITTEE  
AT A MEETING HELD

November 27, 2017

DATE



LAURIE E. GOMPf, MUNICIPAL CLERK