

**ORDINANCE 19-20**

**AN ORDINANCE AMENDING ORDINANCE 2018-20 ESTABLISHING INCLUSIONARY AFFORDABLE HOUSING ZONES IN THE AMWELL VALLEY AGRICULTURAL DISTRICT AND AMENDING CHAPTER 92, LAND MANAGEMENT, ARTICLE VII ZONING PROVISIONS, TO ADDRESS EAST AMWELL TOWNSHIP'S THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS**

**WHEREAS**, the Township of East Amwell (the "Township") filed a Declaratory Judgment Action in the Superior Court of New Jersey, Hunterdon County, captioned IMO Township of East Amwell, Docket No. HNT-L-306-15 (the "Declaratory Judgment Action"), in furtherance of the Supreme Court's March 10, 2015, decision in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the "Supreme Court Decision"); and

**WHEREAS**, the Township entered into a Settlement Agreement with Fair Share Housing Center on February 27, 2018 (the "Settlement Agreement") that determines the Township's affordable housing obligation and the mechanisms for how the obligation will be addressed; and

**WHEREAS**, the Township's Land Use Board adopted a Housing Element and Fair Share Plan, that comprehensively provides for the creation of affordable housing in the Township in a manner consistent with all applicable affordable housing statutes and regulations and the Settlement Agreement.

**WHEREAS**, East Amwell Township identified four parcels of land determined to be appropriate for development of higher-density inclusionary residential development in the Township located near Ringoes Village and on State Highway 202 North within the Amwell Valley Agricultural District, specifically Block 11, Lots 4 and 37.02 and Block 16.01, Lots 26 and 27, which together possess sufficient land area to accommodate inclusionary residential development at acceptable inclusionary zoning densities to address the Township's Third Round affordable housing obligation; and

**WHEREAS**, in order to establish zoning provisions that provide a realistic opportunity for development of affordable housing and in furtherance of the Settlement Agreement, the Township adopted Ordinance 18-20 establishing certain inclusionary zones within the Township; and

**WHEREAS**, the Court entered a Conditional Judgment of Compliance and Repose dated August 8, 2019 in favor of the Township setting forth certain conditions to be met; and

**WHEREAS**, one of those conditions was that the Township amend Ordinance 20-18 as recommended by the Special Master assigned to the Township’s Declaratory Judgment Action; and

**WHEREAS**, the zoning amendments herein support residential inclusionary development consistent with the Settlement Agreement and the Township’s Housing Element and Fair Share Plan.

**NOW THEREFORE, BE IT ORDAINED**, by the Township Committee of the Township of East Amwell, County of Hunterdon that Ordinance 2018-20 is hereby rescinded and replaced with the following:

**Section 1.** Article VII §92-82, entitled “Zoning Provisions” and §92-83 entitled “Zoning Map” are hereby amended to include the following two (2) new overlay zoning designation, "Ringoes Affordable Housing Inclusionary Overlay Zone" and "Larison's Corner Affordable Housing Inclusionary Overlay Zone" as indicated on Exhibit 1, and listed below:

Block 11, Lots 4 and 37.02;  
Block 16.01, Lots 26 and 27

**Section 2.** Article VII §92-91, entitled “Amwell Valley Agricultural District”, of the Code of the Township of East Amwell is hereby amended and supplemented, as follows:

A. Amend and supplement §92-91.A. “Purpose” to read in its entirety, as follows (Additions indicated in boldface and italics *thus*; deletions indicated with strike-through ~~thus~~):

- A. Purposes. The purposes of the Amwell Valley Agricultural District are:
- (1) To encourage land use patterns and development practices which enhance Township, county and state efforts to retain farmland and protect and preserve agricultural activity within the Township.
  - (2) To protect and promote the continuation of farming in East Amwell Township where farming is a valuable component of the local economy.
  - (3) To protect prime soils (SCS Classes I and II) and soils of state-wide importance (SCS Class III) for their long-term value as an essential natural resource in any agricultural or horticultural pursuit.
  - (4) To permit limited nonfarm related residential development in a location and manner that will be consistent with the continuation of farming.
  - (5) To support the preservation of existing farm operations and limit conflicts between agricultural and nonagricultural uses by encouraging the separation of residential development from active farms.

- (6) To impose lot suitability requirements upon residential lots in order to accommodate individual well and septic disposal systems, which are required in the Amwell Valley Agricultural District.
- (7) To implement the goals of the Amended Master Plan for the Amwell Valley Agricultural District by protecting agricultural lands and promoting agriculture as a valuable component of the local economy.
- (8) To provide an affordable housing overlay option at fixed densities that will satisfy the Township's affordable housing obligation while also providing a diverse housing stock and investment in Ringoes Village. Inclusionary zoning overlays are provided on Block 11, Lots 4 and 37.02 (***Ringoes Affordable Housing Inclusionary Overlay Zone***) and Block 16.01, Lots 26 and 27 (***Larison's Corner Affordable Housing Inclusionary Overlay Zone***) and will be subject to the ***densities and affordable housing*** set-asides prescribed below.

B. Amend and supplement §92-91.B., “Permitted uses.”, to read in their entirety, as follows (Additions indicated in boldface and italics ***thus***; deletions indicated with strike-through ~~thus~~):

B. Permitted principal uses shall be as follows:

- (1) Detached, single-family dwelling.
- (2) Agricultural uses and farms.
- (3) Public parks.
- (4) Subsidized accessory apartments as defined in Article III and in accordance with the provisions of Note 1 under § 92-91E herein below.
- (5) Farm-based business (meeting the definition of such in Article III).
- (6) Bed-and-breakfast. See § 92-44.
- (7) Antique shop. See § 92-42.
- (8) Wireless telecommunications antennas on existing structures, subject to minor site plan approval.
- (9) A golf course/club, subject to the following provisions (which shall not be construed as conditions of a conditional use):
  - (a) The tract on which the golf course/club is to be constructed shall comprise at least 200 acres for 18 holes.
  - (b) The length of the golf course shall be not less than 7,000 yards.
  - (c) The golf course/club shall be the sole principal use on the tract. In particular (and without limiting the foregoing provision), there shall be no residential uses on the tract, whether in conjunction with the golf course/club or otherwise, except for the ancillary uses provided for in Subsection B(9)(h).
  - (d) No portion of any golf tee, fairway or green shall be located closer than 150 feet to any tract boundary or public road right-of-way, except that cart paths may be located no closer than 100 feet to such boundaries or roads.

- (e) There shall be a direct driveway access to the golf course/club, over the tract, from a state or county road.
- (f) A vegetated buffer at least one-hundred-feet wide, consisting of native trees, shrubs and ground covers, shall be provided and maintained between any turf area which will be treated with fertilizers or pesticides and the closest point of any one-hundred-year floodplain; or if there is no floodplain, the top of bank of any permanent, nonseasonal stream or open water body, on or off site, except that up to 35% of such stream or pond frontage shall be exempt from this requirement, upon a showing of good cause by the applicant.
- (g) Gasoline powered golf carts shall be prohibited on any golf course/club.
- (h) Ancillary uses may include a swimming pool and related facilities, tennis courts and related facilities and not more than two buildings to provide overnight accommodations for members and their guests, each such building not to exceed 6,250 square feet of floor space and not to exceed four bedrooms and four bathrooms (sleeping accommodations for eight persons per building.) All such ancillary uses shall be located in reasonable proximity to the clubhouse and main parking lot and shall not require additional parking. Due to concerns with water utilization within in the Amwell Valley Agricultural District, any swimming pool associated with a golf course/club shall only be filled with water supply trucked in from an outside location.
- (10) Affordable housing development through inclusionary residential development on Block 11, Lots 4 and 37.02 (***Ringo's Affordable Housing Inclusionary Overlay Zone***) and Block 16.01, Lots 26 and 27 (***Larison's Corner Affordable Housing Inclusionary Overlay Zone***) in the form of townhouses, duplexes or multi-family housing, such as garden apartments, in accordance with the density and set-aside standards identified at 92-91.(H)(4) **and 92-91.(H)(5)**.

C. Amending §92-91.H. entitled "Land Development Options", by adding and inserting the following new subsection §92-91.H(4) entitled "***Ringo's Affordable Housing Inclusionary Overlay Zone***", to read as follows:

- (4) Affordable Housing Inclusionary Overlay Zone development standards for Block 11, Lots 4 and 37.02 ~~and Block 16.01, Lots 26 and 27.~~
  - (a) The required minimum residential densities and affordable housing set asides shall be as follows:
    - [1] Townhouse or for-sale development: 6 dwelling units per acre with a 20% affordable housing set-aside; and/or
    - [2] Multi-family rental housing, such as garden apartments: 6 dwelling units per acre with a 16% affordable housing set-aside.

[3] Townhouse and multi-family at the prescribed densities and set-asides identified above may be mixed on single parcel of land.

- (b) The following tract requirements shall apply:
- |   |                         |
|---|-------------------------|
| [1] Min. Lot Area (Tract)                       | 10 Acres                |
| [2] Min Lot Width (Tract)                       | 100 Feet                |
| [3] Min Lot Depth (Tract)                       | 125 Feet                |
| [4] Min Front Yard Setback (Tract) <sup>i</sup> | 150 Feet                |
| [5] Min Side Yard Setback (Tract) <sup>i</sup>  | 100 Feet                |
| [6] Min Rear Yard Setback (Tract) <sup>i</sup>  | 100 Feet                |
| [7] Maximum Lot Coverage                        | 40%                     |
| [8] Max. Building Height:                       | 35 Feet / 2-1/2-stories |
| [9] Building to building                        | 15 Feet <sup>ii</sup>   |
| [10] Minimum Open Space Area <sup>iii</sup>     | 15% of tract area       |
- Footnotes:
- i. Patios, decks, and fences may be located within required building setbacks.
  - ii. Covered porches or decks shall be permitted within 10 feet of a building
  - iii. Open space shall be arranged as common area situated between and among buildings from a central location within the development.
- (c) Parking
- (a) Space per units shall be calculated per RSIS
  - (b) Residential parking space dimensions shall conform to RSIS.
  - (c) Off-street parking and loading areas shall meet the standards set forth in §92-63.
- (d) Buffers and Landscaping shall conform to the standards set forth in §92-46.
- (e) Water and wastewater service: The developer shall provide water and sewer service (or alternative wastewater treatment facilities).
- (f) Non-residential development shall not be permitted.
- (g) Affordable housing development shall comply with the standards and requirements for inclusionary zoning set forth in Chapter 43, Article II, Affordable Housing Regulations and the applicable provisions of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985.
- (h) The Developer *Township* shall **retain a qualified administrative agent to** be responsible to affirmatively market, administer, and certify the occupants of each affordable unit, with all administrative costs to be paid by the developer.

D. Amending §92-91.H. entitled “Land Development Options”, by adding and inserting the following new subsection §92-91.H(5) entitled “Larison's Corner

Affordable Housing Inclusionary Overlay Zone", to read as follows:

(5) Affordable Housing Inclusionary Overlay Zone development standards for Block 16.01, Lots 26 and 27.

- (a) The required minimum residential densities and affordable housing set asides shall conform to the memorandum of understanding outlined in the Court-approved Settlement Agreement with Fair Share Housing Center dated February 27, 2018, as follows:

- [1] Multi-family rental housing, such as garden apartments:  
6 dwelling units per acre with a 16% affordable housing rental unit set-aside; and/or
- [2] Townhouse or for-sale development: 6 dwelling units per acre with a 20% affordable housing set-aside.
- [3] The development shall consist of 181 total units with 29 affordable rental units. If the development yields 181 units or fewer, the affordable housing set-aside shall be 16% and the affordable units shall all be family rental units. If the development yields more than 181 units, 16% of the first 181 units shall be set-aside as affordable family rental units. For all units in excess of 181 units, the set-aside may be either 16% of the affordable units are for rent or 20% if the affordable units are for sale, or a combination thereof.
- [4] Townhouse and multi-family at the prescribed densities and set-asides identified above may be mixed on single parcel of land.

- (b) The following tract requirements shall apply:

- [1] Min. Lot Area (Tract) 10 Acres
- [2] Min Lot Width (Tract) 100 Feet
- [3] Min Lot Depth (Tract) 125 Feet
- [4] Min Front Yard Setback (Tract)<sup>i</sup> 150 Feet
- [5] Min Side Yard Setback (Tract)<sup>i</sup> 100 Feet
- [6] Min Rear Yard Setback (Tract)<sup>i</sup> 100 Feet
- [7] Maximum Lot Coverage 40%
- [8] Max. Building Height: 35 Feet / 2-1/2-stories
- [9] Building to building 15 Feet<sup>ii</sup>
- [10] Minimum Open Space Area <sup>iii</sup> 15% of tract area

Footnotes:

- i. Patios, decks, and fences may be located within required building setbacks.
- iv. Covered porches or decks shall be permitted within 10 feet of a building

- v. Open space shall be arranged as common area situated between and among buildings from a central location within the development.
- (c) Parking
  - (a) Space per units shall be calculated per RSIS
  - (b) Residential parking space dimensions shall conform to RSIS.
  - (c) Off-street parking and loading areas shall meet the standards set forth in §92-63.
- (d) Buffers and Landscaping shall conform to the standards set forth in §92-46.
- (e) Water and wastewater service: The developer shall provide water and sewer service (or alternative wastewater treatment facilities).
- (f) Non-residential development shall not be permitted.
- (g) Affordable housing development shall comply with the standards and requirements for inclusionary zoning set forth in Chapter 43, Article II, Affordable Housing Regulations and the applicable provisions of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985.
- (h) The Township shall retain a qualified administrative agent to be responsible to affirmatively market, administer, and certify the occupants of each affordable unit, with all administrative costs to be paid by the developer.
- (i) The property may be developed without an affordable housing set aside requirement pursuant to the prior settlement agreement reached between the Township and Thompson Properties which provided for:
  - [1] Six residential building lots on Lot 27 accessed from Dutch Lane
  - [2] Four residential building lot on Lot 26 accessed from Dutch Lane
  - [3] Four separate office buildings on Lot 26 accessed from Route 202/31 with each building not to be larger than 16,000 square feet for a total of 64,000 square feet.

**Section 3.** This ordinance may be renumbered for codification purposes.

**REPEALER**

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**EFFECTIVE DATE**

This Ordinance shall take effect upon passage and publication as provided by law.

**ATTEST:**

**TOWNSHIP OF EAST AMWELL**

\_\_\_\_\_  
Krista Parsons, Acting Township Clerk

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Richard Wolfe, Mayor

Introduced: September 12, 2019

Motion by: Deputy Mayor Mathews

Second by: Chris Sobieski

Introduction Roll Call:

Ayes: Mr. Wolfe, Mr. Mathews and Mr. Sobieski

Nays: None

Absent: Mr. Ostrander and Mr. Miller

Abstain: None

Adopted: October 10, 2019

Motion by:

Second by:

Adoption Roll Call:



Ayes: Mr. Wolfe, Mr. Mathews and Mr. Sobieski

Nays: None

Absent: Mr. Ostrander and Mr. Miller

Abstain: None

I hereby certify the foregoing to be a true copy of an Ordinance introduced by the East Amwell Township Committee at a meeting held on September 12, 2019.

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\_\_\_\_\_Krista Parsons, Acting Township Clerk