

**BOROUGH OF SADDLE RIVER
BERGEN COUNTY, NEW JERSEY**

ORDINANCE NO. 20-993

**AN ORDINANCE AMENDING CHAPTER 210 ZONING ORDINANCE OF THE CODE
OF THE BOROUGH OF SADDLE RIVER, NEW JERSEY, ESTABLISHING A NEW
ARTICLE XV ENTITLED TOWNHOUSE INCLUSIONARY HOUSING DISTRICT 2,
AND AMENDING THE BOROUGH ZONING MAP**

WHEREAS, on July 2, 2015, the Borough of Saddle River (the "Borough") filed a Complaint for Declaratory Judgment seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. ("FHA") in accordance with In re N.J.A.C. 5:96, 221 N.J. 1(2015)(Mount Laurel IV) with respect to the Borough of Saddle River's affordable housing obligation "to create a realistic opportunity for producing a fair share of the regional present and prospective need for housing low- and moderate-income families." 221 N.J. at 3-4, this matter is commonly referred to as the affordable housing "DJ" action; and

WHEREAS, the Borough of Saddle River, the Intervener (Saddle River Investors, LLC, along with affiliated companies, entities, representatives, designees, assigns and/or successors, collectively "SRI") and the Fair Share Housing Center ("FSHC"), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (Mount Laurel IV) as an intervening defendant in this proceeding, in consultation with the Court appointed Master participating in the DJ action entered into a settlement agreement dated February 10, 2020 (the "Agreement");

WHEREAS, the Agreement is subject to review and approval by the Court at a fairness hearing but the Agreement provides that, irrespective of whether a fairness hearing and/or compliance hearing on the Agreement has occurred, the Borough must introduce and adopt ordinances allowing for the construction of SRI's two inclusionary housing developments consisting of 60 residential sales units each, the first development consisting of 52 market rate units and 8 family affordable units on Block 1402, Lots 23, 24 and 25 (the "O'Donnell parcel"), and the second development consisting of 48 market rate units and 12 family affordable units on Block 1602, Lot 1 (the "Algonquin site"), or the Borough risks losing its immunity to exclusionary zoning lawsuits;

WHEREAS, the Agreement contemplated that SRI and the Borough would have disputes as to the terms of the ordinances and included a procedure for resolving those disputes, with the parties agreeing to allow the Honorable Gregg A. Padovano, J.S.C. to make a final, binding determination on any remaining unresolved issues as to the terms of the ordinances, which determination all parties agreed not to appeal;

WHEREAS, the Court appointed Master prepared a draft ordinance for each of the two inclusionary development sites that represented a composite of the terms

proposed both by SRI and the Borough and, after considering the comments of the parties and the impact of the suggested changes to the terms of the ordinances on the Borough's ability to provide both a realistic opportunity for the construction of affordable housing and design standards that will provide for good civic design and arrangements, the Court appointed Master prepared a further draft ordinance for each of the two inclusionary development sites, which deviated from the prior drafts prepared by the master stating that the affordable units had to be in a central location, and which the Court then reviewed and made a final, binding determination that the ordinances attached as "Exhibit A" to the Court's April 3, 2020 Order (the "April 3, 2020 Order") shall be introduced by the Borough on first reading on or before April 20, 2020;

WHEREAS, the introduction and subsequent adoption of the within ordinance will comply with the April 3, 2020 Order and will implement, in part, the Agreement, covering the properties designated as Block 1603, Lots 1 and 2.01, located at 14 Algonquin Trail at which the prior zoning was the R-1 Single Family Zone.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Saddle River, Bergen County, New Jersey, as follows:

SECTION 1. Chapter § 210 of the General Ordinances of the Borough of Saddle River entitled "Zoning" is hereby amended to add the new Townhouse Inclusionary Housing District 2 (TIHD -2) zoning district at new Article XIV covering the properties at Block 1603, Lots 1 and 2.01 which may be merged to form a cohesive development which shall include affordable housing units satisfying the provisions of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.) as hereinafter set forth.

210-78. Townhouse Inclusionary Housing District 2 (TIHD-2)

A new Article XIV Townhouse Inclusionary Housing District 2 is hereby established in Chapter 210 of the Borough of Saddle River Zoning Ordinance. This zone shall encompass Block 1603 Lots 1 and 2.01 on the Borough of Saddle River Tax Maps.

210-79. Purpose

The purpose of the Townhouse Inclusionary Housing District 2 is to establish an inclusionary development zone in which a certain proportion of the dwelling units are set aside for occupancy by very-low, low and moderate income households satisfying the FHA and Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.) and in conformance with the latest procedural and substantive rules for affordable housing, as determined by the courts or other applicable authority, by permitting such development subject to the following regulations.

210-80. Permitted Principal Uses

Townhouse multifamily dwelling units, provided:

- i. There shall be no more than four bedrooms per residential unit.

- ii. No more than six (6) units may be located in any single building, except up to twelve units may be located in the affordable housing building.
- iii. The finished floor area in any unit shall not exceed 4,975 square feet, exclusive of basements, garages, decks and patios.
- iv. Each unit shall have at least a two-car attached garage, except up to twelve units may have a one-car attached garage.
- v. The affordable housing units may be provided in stacked flats in one or more three (3) story buildings, which building(s) shall be located on the eastern side of the site, near West Saddle River Road, where the three-story height will be less intrusive due to topography.

210-81. Permitted Accessory Uses

Accessory uses and structures may include the following, when shown on a site plan approved by Saddle River:

- (1) Public and private utilities servicing the units.
- (2) Internal roadways, parking areas and sidewalks.
- (3) Clubhouses or other Recreation buildings.
- (4) Lighting fixtures subject to 210-76h.
- (5) Swimming pools and tennis courts.
- (6) Signs, subject to 210-85(o).
- (7) Refuse collection area, subject to 210-85(m).
- (8) Off-street parking spaces that serve the development, along with associated private roadways.
- (9) Fences and walls, which shall complement the architectural style, type, and design of the buildings and the overall project design.
- (10) Appropriate barriers at an emergency access.
- (11) Storm water management basins and structures and sanitary sewer systems and pumps and utilities, when properly screened and landscaped.
- (12) Mail boxes or a mail box station.
- (13) Internal traffic control devices and traffic and directional signs.
- (14) Any other accessory uses and structures approved as a part of site plan review including detention/retention ponds and catch basins or piping to ensure adequate stormwater management controls.

210-82. Permitted Conditional Uses

None.

210-83. Prohibited Uses

Any use other than those uses specifically permitted above are prohibited, inclusive of outdoor storage of materials by any resident or condominium association or management company, storage of materials on decks/patios, detached garages, sheds, and similar.

210-84. Development Standards

The following development standards apply to the TIHD-2 District:

- a. Minimum area: Block 1603, Lots 1 and 2.01
- b. Maximum density: The maximum number of units on-site shall not exceed 60 units
- c. Maximum stories/height (defined in this zone as the vertical dimension measured from the midpoint of the garage floor to the highest point of the building):
 - 2 ½ stories/37 feet for market rate townhouses
 - 3 story/45 feet for affordable housing building
- d. Minimum front yard setback:
 - Measured from public roadway (or road widening easement line), as applicable 45 feet
 - Measured from private roadway 15 feet (20' on driveway side)
- e. Minimum side/rear yard: 40 feet
- f. Minimum distance between buildings: 30 feet
- g. Minimum landscape buffer:
 - Along public streets 30 feet, provided driveway access to the street shall be permitted through the buffer
 - Along other lot lines 20 feet
- h. Maximum building coverage: 35 percent
- i. Maximum impervious coverage including the townhouse units together with their attached garages, excluding decks and/or patios: 55 percent
- j. Parking: Each residential unit, excluding up to twelve units, shall be provided with a minimum of four parking spaces to be located in the garage and the driveway servicing the unit. Twelve affordable residential units may have a minimum of two parking spaces per unit (in a garage and/or driveway). In addition, visitor (or recreation) parking of a minimum of .25 parking spaces per unit shall be provided adjacent to the internal drives.

- k. Maximum number of attached dwelling units per building: 8 for market units
12 for affordable units
- l. Maximum building length: 210' for market units and 240' for affordable units
- m. Site Access: Primary access to the development shall be provided solely from West Saddle River Road.
- n. Minimum setback of a building to an internal drive: 10 feet (20' on driveway side)

210-85 Design Standards.

An overall theme of design and architectural motif shall be utilized within the development for the purpose of presenting an aesthetically pleasing design with varied building elevations, design and structural appearance within the context of an integrated unifying design theme. The following design standards shall be utilized:

- a. Façade design
1. All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, etc.
 2. For a minimum of every 25 feet of building length, there shall be one plane-break along the façade, comprised of at least 24 inches in depth.
 3. Buildings with expansive blank walls on any facade are discouraged. Side and rear elevations shall receive architectural treatments comparable to front facades, specifically with respect to window treatments and some form of articulation relief, which may be in the form of a belt course, corner line or similar trim features.
 4. Decorative architectural features at entrances, cornices, and windows, and articulation between dwelling units are encouraged, and shall be architecturally compatible with the overall style, materials, colors and details of the building.
 5. Complementary building colors and materials shall be consistent with the general theme of the development.
- b. Materials. Building facades shall be finished in a combination of materials including some or all of the following: brick, wood, Hardie Plank panels or similar fiber cement siding, stone, precast and cast stone and manufactured stone, and glass. Roofing materials shall simulate slate, tile or cedar shingles.
- c. Exterior-mounted mechanical and electrical equipment exposed to the public view shall be architecturally screened. Roof-mounted equipment and projections, if applicable, should be painted the same color as the building, and where possible, located in such a manner as to be away from public view.

d. Landscaping standards

1. The applicant shall prepare and submit to the Planning Board, in connection with site plan review, a landscaping plan prepared by a licensed Landscape Architect, licensed by the New Jersey State Board of Landscape Architects, or other qualified individual.,
2. Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, define entranceways, screen parking areas, utilize foundation plantings to enhance the site's visual and aesthetic amenity, mitigate adverse visual impacts, provide windbreaks for winter winds and summer cooling for buildings, and enhance buffer areas. In addition to the buffers, street trees, and typical foundation plantings, an area of landscaping shall be provided between the rear of buildings internal to the development so as to create a sense of privacy for units. The landscape design shall create visual diversity and contrast through variation in size, shape, texture and color. Consideration shall be given to accenting site entrances and unique areas with special landscaping treatment. Flowerbed displays are encouraged.
3. All portions of the property not utilized by buildings or paved surfaces shall be landscaped utilizing such components as fencing, shrubbery, lawn areas, ground cover, existing vegetation, and the planting of coniferous and/or deciduous trees native to the area in order to maintain or reestablish the vegetation in the area and lessen the visual impact of the structures and paved areas from adjoining properties.
4. The landscape design shall create visual diversity and contrast through variation in size, shape, texture, and color. The selection of plants shall consider their susceptibility to disease and insect damage, wind and ice damage, habitat (wet-site, drought, sun and shade tolerance), soil conditions, growth rate, longevity, root pattern, maintenance requirements, etc.
5. 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.
6. The use of indigenous/native plant material is encouraged to establish sustainable landscapes that blend with the natural environment, reduce the use of pesticides, and reduce irrigation. Details of any irrigation system shall be provided at the time of site plan review.
7. It is contemplated that the internal drives shall be "tree lined", and in this respect, the site plan shall contain a planting scheme showing trees of a species or type reasonably satisfactory to the Planning Board. Shade trees shall be a minimum of two and one-half-inch caliper when planted, and a maximum of 50 feet on center.

e. Buffer Requirements

Buffer areas. Buffers shall comply with the following standards:

1. There shall be a landscaped buffer zone, which shall include any natural waterway, of no less than 20 feet adjacent to all rear and side yards and 30 feet adjacent to all public rights-of-way (excluding any easements). Such buffer zones shall be kept in their natural state where wooded and buffer requirements may be entirely or partially satisfied with existing growth of evergreen and deciduous trees and shrubbery. When natural vegetation is sparse or nonexistent, the buffer zones shall be supplemented in order to provide a year round visual screen as determined to be appropriate by the Saddle River Planning Board in site plan review, which said Planning Board review shall be based on testimony from the applicant's Planner and/or landscape architect. In this regard, the buffer can be a combination of vegetation and berms, where appropriate. The only visual breaks in the buffer shall be permitted at the entryway and emergency access or in areas of storm water management which are designed to provide a natural screen from adjacent properties. The buffer plantings shall be a combination of deciduous and evergreen trees and shrubs designed to create a natural appearance and an effective vegetative screen. Trees installed in this buffer shall be at least 15' in height.
2. Where required, buffers shall be measured from property lines and, if a road widening easement is required, road widening easement line. Compliance shall be determined by the Planning Board, and any approvals required pursuant to this section shall be obtained at the time of site plan review. Buffer areas may overlap required setbacks.
3. Algonquin Trail and West Saddle Road Buffers:
The following supplemental buffer requirements shall apply:
 - a) a minimum buffer of 30 feet shall be required, provided that driveway access/egress to the street shall be permitted.
 - b) Buffering along Algonquin Road and West Saddle River Road may include a berm (up to fifteen feet (15') in height), plantings on said berm, additional plantings on site, etc.
4. No buildings, structures, accessory structures, parking, driveways, or storage of materials shall be permitted within the required buffer, provided that a driveway providing access/egress to and from the site shall be permitted.
5. Existing vegetation within the required buffer shall be preserved, where appropriate and supplemented with shade-tolerant massed plantings to

enhance a natural character to the site where necessary to screen adjoining land uses.

- f. Landscape plan content. A landscape plan shall be submitted with each major site plan or major subdivision application. In addition to the major site plan submission requirements, the landscape plan shall include and identify the following information:
1. Existing and proposed underground and aboveground utilities such as site lighting, transformers, hydrants, manholes, valve boxes, etc., existing wooded areas, rock outcroppings and existing and proposed water bodies.
 2. Location of individual existing trees noted for preservation within the area of development and 30 feet beyond the limit of the disturbance. Trees four inches in diameter (measured 4 1/2 feet above the existing ground level) shall be located and identified by name and diameter unless the wooded area is shown with a specific limit line. In this case, specimen trees shall be located within 30 feet of the line. Indicate all existing vegetation to be saved or removed.
 3. Existing and proposed topography and location of all landscaped berms.
 4. Location, species and sizes of all proposed shade trees, ornamental trees, evergreen trees and shrubs and areas for lawns or other ground cover. Graphic symbols used to show the location and spacing of shade trees, ornamental trees, evergreen trees, shrubs and ground cover shall be representative of the size of the plant shown to scale at maturity.
 5. A plant schedule indicating botanical name, common name, size at time of planting (caliper, height and spread), quantity, root condition and any special remarks (spacing, substitutions, etc.) for all plant material proposed. Plants within the plant schedule shall be keyed to the landscape plan utilizing the first letter of the botanical plant name.
 6. Planting and construction details and specifications.
- g. Lighting.
1. All lighting fixtures and foot-candle standards shall be provided for all areas of the site, to property lines, including around buildings, circulation aisles, parking and recreation areas and open space areas, and shall be consistent with the standards outlined by the Illuminating Engineering Society of North America (IESNA) and regulations of the Borough of Saddle River, and integrated with the overall design theme of the development.
 2. The Borough light fixture (Hadco Baltimore V651 70 HPS), with a maximum height of 14 feet, shall be utilized as the streetlight fixture.

3. A lighting plan prepared by a qualified individual shall be provided with any site plan application.
 4. All freestanding outdoor lighting fixtures shall appropriately shielded and 'dark sky' compliant, and no taller than 18 feet in height.
 5. The intensity, shielding, direction and reflecting of lighting shall be subject to site plan approval by the approving authority.
 6. All parking areas, walkways, building entrances, and driveways shall be adequately illuminated during the hours of operation that occur after sunset. Any adjacent residential zone or use shall be shielded from the glare of illumination from site lighting and automobile headlights.
- h. Internal Circulation, Vehicular Access and Egress.
1. All vehicular circulation aisles shall be at least 22 feet in width
 2. Primary vehicular access shall be provided from West Saddle River Road. An emergency or secondary access may be provided on Algonquin Trail as determined during the site plan review process with the input of police and fire services.
- i. Sidewalks.- To be provided off-site by Saddle River Borough. Sidewalks shall be required on site as deemed appropriate by the Planning Board.
- j. Curbing. Curbing for interior roads shall be Belgian block.
- k. Refuse collection. The manner in which refuse material shall be stored and collected shall be determined at the time of site plan review. If common refuse collection areas are to be provided, their location shall be depicted on the site plan, along with the manner in which the facility(s) shall be screened and landscaped, how garbage truck circulation and pick up shall be accommodated, and the manner in which recyclable material will be stored within the refuse collection area.
- l. Fencing. Decorative aluminum fencing up to six feet high shall be installed along public roads and decorative vinyl fencing up to six feet high shall be installed along the remainder of the perimeter of the development.
- m. Signs. A single sign, not to exceed 3 x 4 feet in dimension, may be placed upon a decorative stone wall at each entrance to the development. The top of the sign shall not be more than 4.5 feet from the grade as measured around the sign. The sign shall be placed within a landscaped setting.
- n. Multiple buildings on a lot. Irrespective of 210-28 which limits the number of principal buildings on a lot, in the TIHD-2 Zone multiple principal buildings shall be permitted.

- o. Townhouse development in the TIHD-2 District shall be served by sanitary sewers and the provisions of 195-42 shall not apply.
- p. Drainage facilities shall be designed in accordance with the Residential Site Improvement Standards (RSIS) and the provisions of 180-5 shall not apply to townhouse development in the TIHD-2 District.
- q. Placement of Affordable Housing Building. The building(s) containing the affordable housing units shall be situated near the eastern limit of the parcel, closest to West Saddle River Road.
- r. All improvements referenced in 195-30 shall be of a design and with specifications approved by the planning board, and such improvements shall not require approval by resolution of the Borough Council.
- s. Relief from any required site design standard under this section shall be considered a design standard exception pursuant to N.J.S.A. 40:550-51(b) and not a variance.

210-86. Affordable Housing Standards Applicable to TIHD-2 Zone

- a. Pursuant to the Settlement Agreement with Fair Share Housing Center, dated February 10, 2020, the number of affordable housing units on-site shall be twelve in number, and shall consist of two very low-income housing units, four low income housing units, and six moderate income housing units, with the affordable housing unit bedroom distribution also being satisfied (maximum 20% 1 bedroom, minimum 30% 2 bedroom, and minimum 20% 3 bedroom) across each income category. The two very low income units shall be one 2 bedroom and one 3 bedroom unit.
- b. All lower income housing units shall be in conformance with the requirements of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. ("FHA"); applicable regulations of the New Jersey Council on Affordable Housing ("COAH"); applicable requirements of the Courts of the State of New Jersey; and all applicable regulations on affordability controls and other regulations of the New Jersey Housing and Mortgage Finance Agency ("NJHMFA") including, without limitation, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("UHAC").
- c. The bedroom distribution of very-low, low- and moderate-income units for affordable units constructed in the TIHD-2 District shall be as follows:
 - 1. No more than twenty percent (20%) of the very-low, low- and moderate-income units shall be one-bedroom units.
 - 2. At least twenty percent (20%) of the very-low, low- and moderate-income units shall be three-bedroom units.
 - 3. At least thirty percent (30%) of the very-low, low- and moderate-income units shall be two-bedroom units.

- d. Very-low, Low- and moderate-income unit split. At least fifty percent (50%) of the affordable units will be available to very low income and low income households and the remainder of which will be available to moderate income households as defined in the FHA and UHAC and other applicable statutes and regulations. A minimum of thirteen percent (13%) of the affordable units will be made available to very low income households, defined as households earning thirty percent (30%) or less of the regional median income by household size.
- e. Procedures regarding affirmative marketing of very-low, low- and moderate-income units and other requirements of inclusionary development units are subject to and determined by UHAC and COAH rules or other rules determined appropriate by the court, and are as set forth in the Borough of Saddle River affordable housing ordinances.

SECTION 2. The Zoning Map of the Borough of Saddle River, as provided for and referenced in Section § 210-4 of the Code of the Borough of Saddle River, is hereby amended to add thereto the Townhouse Inclusionary Housing District-2 (TIHD-2) Zone, and further said TIHD-2 Zone is hereby added to the Zone designations at Section § 210-6.

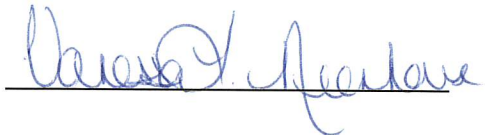
SECTION 3. Inconsistency. All ordinances or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 4. Severability. If any sentence, section, clause, or other portion of this ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or repeal the remainder of this ordinance.

SECTION 5. Effective Date. This ordinance shall take effect twenty (20) days following passage and publication, or as otherwise required by law, and upon filing with the Planning Board of the County of Bergen.

ATTEST:

APPROVED:



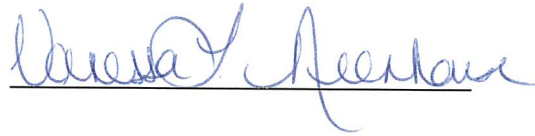

Vanessa Nienhouse, RMC

Mayor Albert J. Kurpis

Municipal Clerk

Borough of Saddle River

I hereby certify that foregoing to be a true copy of an ordinance adopted by the Mayor and Council of the Borough of Saddle River at its meeting held on the 4th day of June, 2020.



Vanessa Nienhouse

Municipal Clerk

Introduced: April 20, 2020

Adopted: June 4, 2020