

# SECOND READING

H.

ORDINANCE 17-\_\_

17-44

**AN ORDINANCE OF THE TOWNSHIP OF WOODBRIDGE, COUNTY OF MIDDLESEX AND STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 150 OF THE TOWNSHIP CODE, ENTITLED "LAND USE AND DEVELOPMENT" TO IMPLEMENT A PROGRAM TO CAPTURE AFFORDABLE HOUSING OPPORTUNITIES THAT IS DESCRIBED IN THE WOODBRIDGE TOWNSHIP HOUSING PLAN ELEMENT AND FAIR SHARE PLAN**

**WHEREAS**, the Woodbridge Township Planning Board originally adopted the Woodbridge Township Housing Plan Element and Fair Share Plan on April 6, 2016, and the Woodbridge Township Council originally endorsed same on April 19, 2016.

**WHEREAS**, the Woodbridge Township Planning Board subsequently readopted the Woodbridge Township Housing Plan Element and Fair Share Plan with revisions two times, on June 8 and July 27, 2016, and the Woodbridge Township Council endorsed same on June 14 and August 23, 2016.

**WHEREAS**, the Woodbridge Township Planning Board will readopt the Woodbridge Township Housing Plan Element and Fair Share Plan with additional revisions on February 22, 2017, and the Woodbridge Township Council will endorse same on April 18, 2017.

**WHEREAS**, the Woodbridge Township Housing Plan Element and Fair Share Plan, as originally adopted on April 6, 2016 and revised and readopted on June 8 and July 27 2016, and February 22, 2017, recommends the establishment of a special program to capture affordable housing opportunities on sites beyond those specifically identified and mentioned in the Woodbridge Township Housing Plan Element and Fair Share Plan.

**WHEREAS**, the Woodbridge Township Housing Plan Element and Fair Share Plan, as originally adopted on April 6, 2016 and revised and readopted on June 8, July 27 2016, and February 22, 2017, notes that the goals of this recommended program are to: meet the township's unmet affordable housing need as established by the Court; provide developers with a certain degree of flexibility while ensuring that the supply of affordable housing grows; promote smart and sustainable growth in the township; and, channel the development of affordable housing units to areas with facilitated access to jobs, retail and services, transit, schools, and other public facilities.

**WHEREAS**, the Woodbridge Township Council adopted Ordinance 16-36 to establish the special program to capture affordable housing opportunities on sites beyond those specifically identified and mentioned in the Woodbridge Township Housing Plan Element and Fair Share Plan.

**WHEREAS**, amendments to Section 150-83, Affordable Housing Requirements, made independent of Ordinance 16-36 have resulted in the need to repeal same and readopt a new ordinance in order to provide correct references to various subsections of Sections 150-83, Affordable Housing Requirements.

**BE IT ORDAINED**, by the Mayor and Council of the Township of Woodbridge in the County of Middlesex and State of New Jersey as follows:

**SECTION 1.** Ordinance 16-36 is hereby repealed and replaced with this Ordinance.

**SECTION 2.** Section 150-83, Affordable Housing Requirements, Subsection C, Development Approvals, is hereby deleted in its entirety and replaced with the following new Subsection C:

- C. Requirements for Affordable Housing in Multifamily Residential Developments. All development approvals for new multi-family residential development in the Township shall include a set-aside for affordable housing as described herein.
- (1) Purpose. The purpose of these provisions is to supplement the provisions of Section 150-83 with a planning and implementation mechanism for determining the requirements for affordable housing in multifamily development in accordance with the Woodbridge Township Housing Plan Element and Fair Share Plan.
  - (2) Applicability and Exemptions. These requirements shall apply to all approvals for multifamily residential development granted by the Woodbridge Township Planning Board or Zoning Board of Adjustment, including approvals of use or density variances, site plans, or subdivisions, and redevelopment projects subject to a redevelopment plan adopted by the Township governing body governing the development and redevelopment of designated areas in need of

rehabilitation or areas in need of redevelopment in the township, including substantial revisions to previously approved developments, shall be made subject to the mandatory provision of affordable housing as set forth in this section. A substantial revision to a development approval shall, for the purposes of these affordable housing regulations, be any revision that increases the number of residential units by five (5) or more units.

- (3) Definition of Multifamily. For the purposes of this Section, multifamily residential development shall mean residential development that is located in buildings that contain five (5) or more dwelling units, including, but not limited to, dwelling units that are located one over another, garden apartments, townhouse developments, multistory apartment or condominium buildings, and mixed-use developments containing a combination of non-residential and residential uses.
- (4) Set-Aside Requirements for Multifamily Development. All development approvals for multifamily residential development shall provide an affordable set-aside of fifteen (15) percent of the residential units in the development.
  - (a) When the application of the fifteen (15) percent set-aside requirement results in a set-aside requirement that is not a whole number, the set-aside requirement shall be rounded up to the next whole number.
  - (b) At the developer's option, or per the terms of a developer or redeveloper agreement with the Township, the developer may provide an affordable housing set-aside of greater than fifteen (15) percent.
  - (c) A developer of a multi-family residential development may provide a payment-in-lieu-of-construction to fund the construction of affordable housing on another site within the Township in lieu of providing those units on-site up to a maximum of two-thirds ( $\frac{2}{3}$ ) of the required fifteen (15) percent set-aside.
    - [1] The ability to provide a payment-in-lieu-of-construction to fund the construction of a portion of the required fifteen (15) percent set-aside on another site within the township and the specific ratio of the units provided on-site or by a payment in lieu of construction shall be determined by the application of the Point-Based System for Determining Onsite Requirements, as detailed in this ordinance.
    - [2] Developers of sites listed in the Housing Plan Element and Fair Share Plan shall provide all of the required fifteen (15) percent set-aside on site and not be eligible for a payment in lieu of construction except as may be specified in any developer or redeveloper agreement executed

prior to the Order entered by the Court on August 20, 2015, imposing a scarce resource restraint on the township,

- (5) Point-Based System for Determining Onsite Affordable Housing Requirements and Eligible Payments in Lieu of Construction. A developer's ability to provide a payment-in-lieu-of-construction to fund the construction of affordable housing on another site within the township rather than provide such units on-site shall be determined by means of a Point-Based System for Determining Onsite Requirements. The following provisions shall regulate the Point-Based System for Determining Onsite Requirements:
- (a) The Estimated Point Value Maps included in the Township's Housing Element and Fair Share Plan shall serve as the basis for determining the initial point value for establishing the applicable ratio of on-site set-aside and eligible payment-in-lieu of construction.
  - (b) Site-Specific Determination of Accumulated Point Values. The Township shall be responsible for determining the specific number of points allocated to a site or development through the application of the Point-Based System for Determining Onsite Requirements according to the methodology presented in this ordinance. The Township shall provide the site-specific point total to the Woodbridge Township Planning Board or Woodbridge Township Zoning Board as applicable as part of the Board's review of an application for multi-family residential development. The Township shall verify and approve all calculations of total points according to the methodology presented in this ordinance.
  - (c) Methodology for Calculating Accumulated Points. Accumulated points shall be calculated in accordance with the following provisions:
    - [1] Points shall be accumulated based on the proximity of a particular development site to public transportation, employment hubs, mixed-use development, retail uses, schools, and recreation and other community facilities. In every application of the Point-Based System for Determining Onsite Requirements, all of the following point criteria shall be assessed:
      - [a] Bus stop with service on one route within one-quarter mile of development site: 0.75 point. For points to be awarded for more than one (1) bus stop of any type, service on more than one (1) route or in more than one (1) direction must be provided.
      - [b] Bus stop with service on more than one route within one-quarter mile of development site: 1.25 points. For points to be awarded for

- more than one (1) bus stop of any type, service on more than one (1) route or in more than one (1) direction must be provided.
- [c] Bus stop with service on one route within half-mile of development site: 0.50 point. For points to be awarded for more than one (1) bus stop of any type, service on more than one (1) route or in more than one (1) direction must be provided.
  - [d] Bus stop with service on more than one route within one-half mile of development site: 1.00 point. For points to be awarded for more than one (1) bus stop of any type, service on more than one (1) route or in more than one (1) direction must be provided.
  - [e] Train station within one-quarter mile of development site: 10.00 points.
  - [f] Train station within one-half mile of development site: 5.00 points.
  - [g] Train station within one mile of development site: 2.50 points.
  - [h] Existing continuous sidewalks and crosswalks provided from site and extending for at least one-half mile of development site: 1.50 points.
  - [i] Shopping center within one-quarter mile of development site: 1.00 point.
  - [j] Shopping center on adjacent site: 2.00 points.
  - [k] Employment hub within one-half mile of development site: 0.25 point per estimated or actual 1,000 jobs. Jobs may be estimated in accordance with the provisions of Section 150-83C(5)(c)[4], or, when available from the employer, an actual number of jobs may be used.
  - [l] Employment hub on adjacent site of development site: 0.50 point per estimated or actual 1,000 jobs. Jobs may be estimated in accordance with the provisions of Section 150-83C(5)(c)[4], or, when available from the employer, an actual number of jobs may be used.
  - [m] Mixed-use development planned on a development site shall yield 1.00 to 4.00 points according to number of use types that are or will be located onsite, as follows: 1.00 point for four (4) to seven (7) uses; 2.00 points for eight (8) to eleven (11) uses; 3.00 points for twelve (12) to nineteen (19) uses; 4.00 points for twenty (20) or more uses. For the purpose of this calculation, eligible use types shall include those uses that provide shopping and community service options to the residents of the development, including but

not limited to such uses as banks, restaurants, retail stores, dry cleaners and similar establishments, recreation uses, as well as public uses such as post offices, municipal services, or similar uses.

- [n] Public park, open space area, or other recreational facility within one-half mile of development site: 1.00 point.
  - [o] Public park, open space area, or other recreational facility on adjacent site: 2.00 points.
  - [p] Public school within one-half mile of development site: 1.00 point.
  - [q] Public school within one-quarter mile of development site: 1.50 points.
  - [r] Public school on adjacent site: 2.00 points.
- [2] The proximity of a development site to a particular feature shall be performed by means of Geographic Information Systems (GIS) software, Computer-Aided Design (CAD) software, or similar tools.
- [3] The distances provided in this ordinance represent distances from the development site, and must be safely walkable or accessible by bicycle or another means of non-motorized transportation. As such, proximity analyses that simply measure the area within a radius of the development site's boundary or center are unacceptable. Proximity shall be measured along suitable transportation routes (e.g., sidewalks, bicycle-suitable roadways, multipurpose trails) that extend in all directions from a site.
- [4] Estimation of Jobs. For the purpose of estimating the number of jobs in relation to point criteria for proximity to employment hubs, jobs shall be estimated by applying the following multipliers to the estimated gross floor area occupied by each of the following uses:
- [a] Offices, banks, outpatient clinics, car showrooms and similar uses: Three (3) jobs per 1,000 square feet.
  - [b] Stores, strip malls, gas stations and similar uses: One (1) job per 1,000 square feet.
  - [c] Factories: Two (2) jobs per 1,000 square feet.
  - [d] Warehouses and similar uses: Two-tenths (0.2) job per 1,000 square feet.
  - [e] Theaters and concert halls and similar uses: Two (2) jobs per 1,000 square feet.
  - [f] Restaurants, night clubs, taverns and similar uses: Three (3) jobs per 1,000 square feet.

- [g] Libraries, lecture halls, arcades, galleries, bowling alleys, funeral parlors, gymnasiums, museums and similar uses: Three (3) jobs per 1,000 square feet.
  - [h] Arenas, skating rinks, pools and similar uses: Three (3) jobs per 1,000 square feet.
  - [i] Schools and similar uses: One (1) job per 1,000 square feet.
  - [j] Hospitals, nursing homes, assisted living facilities and similar uses: Two (2) jobs per 1,000 square feet.
  - [k] Hotels and motels: Eight-tenths (0.8) job per 1,000 square feet.
- [5] The sum of accumulated points shall be rounded to the nearest whole number. The sum of accumulated points is used to determine set-aside requirements in accordance with Section 150-83C(4)(c).
- (d) Accumulated Points and Set-Aside Requirements. The sum of accumulated points for a particular development site is rounded to the nearest whole number and used to determine the minimum onsite set-aside requirement and the maximum permissible offsite set-aside, which shall be provided in the form of payments-in-lieu-of-construction in accordance with Section 150-83C(7). The total of the on-site set-aside and off-site set-aside provided by payments in lieu of construction shall equal fifteen (15) percent of total number of units in the development, rounded up to next whole number. Permissible onsite and offsite set-asides are described below:
- [6] Zero (0) Points
    - [a] Onsite set-aside: Five (5) percent of total number of units in development, rounded up to next whole number
    - [b] Payments-in-Lieu-of-Construction: The remainder of the units up to the required 15 percent set-aside shall be provided as payments in lieu of construction
  - [7] One (1) Point
    - [a] Onsite set-aside: Six (6) percent of total number of units in development, rounded up to next whole number
    - [b] Payments-in-Lieu-of-Construction: The remainder of the units up to the required 15 percent set-aside shall be provided as payments in lieu of construction
  - [8] Two (2) Points
    - [a] Onsite set-aside: Seven (7) percent of total number of units in development, rounded up to next whole number

- [b] Payments-in-Lieu-of-Construction: The remainder of the units up to the required 15 percent set-aside shall be provided as payments in lieu of construction
- [9] Three (3) Points
  - [a] Onsite set-aside: Eight (8) percent of total number of units in development, rounded up to next whole number
  - [b] Payments-in-Lieu-of-Construction: The remainder of the units up to the required 15 percent set-aside shall be provided as payments in lieu of construction
- [10] Four (4) Points
  - [a] Onsite set-aside: Nine (9) percent of total number of units in development, rounded up to next whole number
  - [b] Payments-in-Lieu-of-Construction: The remainder of the units up to the required 15 percent set-aside shall be provided as payments in lieu of construction
- [11] Five (5) Points
  - [a] Onsite set-aside: Ten (10) percent of total number of units in development, rounded up to next whole number
  - [b] Payments-in-Lieu-of-Construction: The remainder of the units up to the required 15 percent set-aside shall be provided as payments in lieu of construction
- [12] Six (6) Points
  - [a] Onsite set-aside: Eleven (11) percent of total number of units in development, rounded up to next whole number
  - [b] Payments-in-Lieu-of-Construction: The remainder of the units up to the required 15 percent set-aside shall be provided as payments in lieu of construction
- [13] Seven (7) Points
  - [a] Onsite set-aside: Twelve (12) percent of total number of units in development, rounded up to next whole number
  - [b] Payments-in-Lieu-of-Construction: The remainder of the units up to the required 15 percent set-aside shall be provided as payments in lieu of construction
- [14] Eight (8) Points
  - [a] Onsite set-aside: Thirteen (13) percent of total number of units in development, rounded up to next whole number

[b] Payments-in-Lieu-of-Construction: The remainder of the units up to the required 15 percent set-aside shall be provided as payments in lieu of construction

[15] Nine (9) Points

[a] Onsite set-aside: Fourteen (14) percent of total number of units in development, rounded up to next whole number

[b] Payments-in-Lieu-of-Construction: The remainder of the units up to the required 15 percent set-aside shall be provided as payments in lieu of construction

[16] Ten (10) or More Points

[a] Onsite set-aside: Fifteen (15) percent of total number of units in development, rounded up to next whole number

[b] Payments-in-Lieu-of-Construction: None

(6) Zoning Enhancement Areas. In certain areas, which are depicted in Attachment A, Multifamily Zoning Enhancement Area Mapping, multifamily development shall be permitted as an option in addition to the underlying zoning. Multifamily development in these areas shall be provided in accordance with the provisions of Attachment B, Standards for Multifamily Zoning Enhancement Areas. In the event that Chapter 150, Land Use and Development, Article III, Zoning Standards is, subsequent to the adoption of this ordinance, amended to permit multifamily development in the underlying zones of the Multifamily Zoning Enhancement Areas that are depicted in Appendix A, the specific provisions of Chapter 150, Land Use and Development, Article III, Zoning Standards, shall apply. All multifamily residential development in Zoning Enhancement Areas shall provide an affordable set-aside of fifteen (15) percent of the residential units in the development and all such affordable units shall be provided on site. All other zoning provisions of Chapter 150, Land Use and Development, Article III, Zoning Standards, governing these districts shall remain in effect. All single-family residential districts, regardless of the accumulated point value for that district are explicitly excluded from the provisions of this section and shall not be included as zoning enhancement areas.

(7) Payment-in-Lieu-of-Construction.

(a) It is the intention of the Township to recover payments-in-lieu-of-construction, made in accordance with this Section, in an amount which shall make realistically possible the construction of an affordable housing unit. Such payments shall be calculated by determining the Incremental Cost of constructing affordable units to the development if such units were to be part of the multifamily development from which the payment-in-lieu-of-construction is received. For purposes of this Section, the Incremental Cost shall be the average cost of construction of one

bedroom, two bedroom and three bedroom affordable units, less land costs and other fixed costs such as site improvements, infrastructure costs including water and sewer, "soft costs," and the like, which would otherwise be incurred in the development.

- (b) The total amount of the payment shall be determined on the number of one bedroom, two bedroom and three bedroom affordable units which otherwise would be required to be constructed on-site in accordance with governing law respecting bedroom distribution.
- (c) The Township reserves the right to negotiate a higher payment-in-lieu-of-construction in the event there are special circumstances or other conditions that warrant a higher payment-in-lieu-of-construction.
- (d) The calculation of payments-in-lieu-of-construction shall be made by the Township's Chief Financial Officer (CFO) with the assistance, at the CFO's discretion, of the Woodbridge Redevelopment Agency (WRA) (irrespective of whether the development is part of a redevelopment area).
- (e) Collection of payments-in-lieu-of-construction shall be in accordance with the following schedule:
  - [1] First Payment: Fifty (50) percent at the time of Building Permit.
  - [2] Second Payment: Fifty (50) percent at the time of the first Certificate of Occupancy (CO).
  - [3] Reconciliation Payment: Six (6) months after the issuance of the final CO.
  - [4] The First Payment and the Second Payment shall be calculated on the estimated Incremental Cost of an affordable unit as set forth in a pro forma which shall be submitted by the developer to the CFO and Construction Official with the application for a Building Permit and Certificate of Occupancy, as the case may be.
  - [5] The Reconciliation Payment shall be calculated on the basis of the actual Incremental Cost of the construction of affordable units as set forth in audited construction costs submitted by the developer to the CFO. The developer shall submit the audited construction costs, and any Reconciliation Payment due, to the CFO within six (6) months of the issuance of a final Certificate of Occupancy. The CFO will review the developer's submission and either accept it, direct a further submission, or direct payment of an additional amount within thirty (30 Days).

- [6] No Building Permit or Certificate of Occupancy shall be issued unless the payments-in-lieu-of-construction provided by this Section shall have been made.
- [7] Any Reconciliation Payment not timely made to the CFO within six (6) months of the issuance of a final Certificate of Occupancy shall be subject to a late fee of 15% per annum on the overdue amount.
- (8) Requirements for Affordable Housing. The standards of Section 150-83F shall apply.
- (9) Certificates of Occupancy. The standards of Section 150-83D shall apply.
- (10) Administration. The standards of Section 150-83E shall apply.

**SECTION 3.** This Ordinance shall be subject to review and recommendation by the Woodbridge Township Planning Board in accordance with N.J.S.A. 40:55D-26 and notice requirements of N.J.S.A 40:55D-62.1.

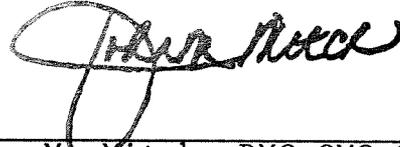
**SECTION 4.** All ordinances or parts thereof that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of their inconsistencies.

**SECTION 5.** The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

**SECTION 6.** This Ordinance shall take effect immediately upon its final passage and publication as required by law and filing with the Middlesex County Planning Board.

ADOPTED: APR 18 2017

I hereby certify that the above is a true and exact copy of a Ordinance adopted by the Municipal Council of the Township of Woodbridge at their Council Meeting held on APR 18 2017.

A handwritten signature in cursive script, appearing to read "John M. Mitch", written over a horizontal line.

John M. Mitch, RMC, CMC, GMR  
Municipal Clerk