

ORDINANCE NO. 2193-2010

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, SPECIFICALLY CHAPTER 49 SECTION 14 ENTITLED "R-6 INCLUSIONARY MULTI-FAMILY RESIDENTIAL" PERTAINING TO BLOCK 3610, LOTS 1 AND 2 AND BLOCK 3609, LOT 1, KNOWN AS THE LANDMARK SITE, DALY FIELD AND ARCHERY PLAZA

WHEREAS, an Interlocutory Order of the Superior Court of New Jersey, granting a Builder's Remedy and Other Forms of Relief, was entered by the Honorable Jonathan N. Harris, J.S.C. on July 29, 2009, requiring the Borough to permit the development of the Landmark Site (Block 3610, Lot 1; Block 3610, Lot 2 and Block 3609, Lot 1) substantially in compliance with Exhibit P15 ("The Landmark Plan," dated March 15, 2006) and Exhibit P4, including rendered building elevations, which were submitted to the Court as part of the document entitled "Planning Report: Builders [sic] Remedy Assessment and R-1-1 Zoning Analysis in the Matter of: Landmark at Radburn, LLC, et al v. Borough of Fair Lawn, et al. Docket Number BER-L-8226-07, dated October 30, 2008;" and

WHEREAS, the Builder's Remedy was ordered to allow a maximum of 200 total dwelling units, including a set-aside of affordable units equal to 20 percent of the total number of dwelling units constructed on the Landmark Site; and

WHEREAS, the Borough has complied with the Interlocutory Order in the timeline set forth by the Court and adopted Ordinance 2179-2010 which permits development in substantial compliance with the aforementioned Exhibits and which permits a maximum 200 total dwelling units and requires a 20 percent affordable unit set-aside; and

WHEREAS, the Superior Court of New Jersey entered a subsequent Order on July 22, 2010 requiring amendment of certain terms of Ordinance 2179-2010; and

WHEREAS, Ordinance 2179-2010 is being amended under protest by the Mayor and Council of the Borough of Fair Lawn, and the Borough of Fair Lawn reserves all of its rights to appeal, move for reconsideration, or seek any and all other such relief as it deems appropriate from the aforesaid Order, when the Borough's right to appeal becomes fixed and determined;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Fair Lawn that:

SECTION I.

Borough Code Section 49-14 entitled "R-6 Inclusionary Multi-Family Residential," paragraph E is hereby amended as follows ([brackets] denote deletions and underline denotes additions):

"E. Inclusionary sites shall comply with Chapter 49 of the Borough Code, entitled Affordable Housing. The affordable units shall be designed, constructed and sold/leased in a manner that makes them eligible for crediting pursuant to COAH's rules governing including but not limited to low- and moderate-income split, bedroom distribution, phasing, deed restrictions and marketing. They shall be integrated into the overall project with the market rate units to the extent feasible. The income distribution pursuant to COAH's rules and the New Jersey Fair Housing Act shall be at least [13 percent very-low-income units, 37] 50 percent low-income units and no more than 50 percent moderate-income units."

SECTION II.

Borough Code Section 49-14 paragraph G.3.q is hereby amended as follows:

"q. Front-loaded garages shall not extend more than 7 feet from the building face. Minimum front yard setback for units with front-loaded garages shall be 20 feet from the [street] edge of pavement."

SECTION III.

Borough Code Section 49-14 paragraph N is hereby amended as follows:

“N. Supplemental Design Standards. Where provisions herein conflict with other provisions of Chapter 125, Land Development, this Section shall supersede. Deviations from these standards may be granted via design waiver. Ordinance 2177-2010, “General Design Standards for Commercial, Mixed-Use and Multi-Family Residential Development,” and Ordinance 2178-2010, “Supplemental Standards for Planned Development,” shall not apply.”

SECTION IV.

Borough Code Section 49-14 paragraph N.31 is hereby amended as follows:

“31. All exterior yard areas shall be maintained by a Homeowner’s Association, management company, or similar common entity, not individual property owners.”

SECTION V.

Borough Code Section 49-14 paragraph R is deleted in its entirety, and paragraphs S and T are re-lettered R and T, respectively.

SECTION VI. Each section of this Ordinance and every subsection hereof shall be deemed independent, separate and distinct from all other sections, and the holding of any section or a part hereof to be unconstitutional, void, or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any section or part hereof.

SECTION VII. All ordinances, codes or parts thereof that are inconsistent with this Ordinance are repealed or otherwise modified.

SECTION VIII. This Ordinance shall take effect upon passage and publication as required by law.

Attest:

Approved:

Joanne M. Kwasniewski, RMC/CMC/AE
Municipal Clerk

Joseph Tedeschi, Mayor

Introduced: August 10, 2010

Adopted: