

ORDINANCE 23-22

AN ORDINANCE AMENDING ARTICLE X OF THE TOWNSHIP CODE ENTITLED "ZONES" REVISING SECTION 188-84.4 ENTITLED "MODERATE- AND LOW-INCOME HOUSING ZONE 14" KNOWN AS ML-14 ZONE

WHEREAS, the Township of Howell ("Township") filed a Mt. Laurel declaratory judgment action in the Superior Court of New Jersey, Law-Division, bearing the caption In the Matter of the Township of Application of the Township of Howell, Docket No. MON-L-2525-15 following the New Jersey Supreme Court's decision in Mt. Laurel IV; and

WHEREAS, the Township entered into a Settlement Agreement with Fair Share Housing Center on or about October 9, 2018 and an Amended Settlement Agreement on November 20, 2018 (collectively referred to as the "Settlement Agreements") establishing the Township's Third Round affordable housing obligation for the period 1999-2025 and the compliance mechanisms by which the Township will meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Court conducted a Fairness Hearing on February 27, 2019 and entered an order on April 5, 2019 approving the Settlement Agreements by and between the Township and Fair Share Housing Center finding on a preliminary basis that the Settlement Agreement is fair to low- and moderate-income households; and

WHEREAS, the Court Order approving the Settlement Agreements requires the Township to adopt zoning for the inclusionary project referenced as the **Trypak Road Group, LLC**, for the properties identified on the Howell Township Tax Map as Block 143, Lots 6 and 6.01 ("North Parcel"); and Block 144, Lots 14, 15, 20, 35, 111, 112, 142, 145-150, 160-165, 165.01, 167, 177, 178, 178.01, and 178.02 ("South Parcel") so as to meet is obligation to create a realistic opportunity to provide for the Township's fair share of affordable housing; and

WHEREAS, the Township Council adopted Ordinance No. O-19-54, which amended Article X of the Township Code entitled "Zones" to create a new Section 188-84.4 entitled "Moderate and Low-Income Housing Zone 14"; and

WHEREAS, the North Parcel is constrained by wetlands more than originally anticipated and therefore cannot be developed as originally intended; and

WHEREAS, in order to comply with the Settlement Agreements and meet the Township's constitutional obligation to provide for its fair share of affordable housing, Section 188-84.4 of the Township Code requires amendment.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Council of the Township of Howell, County of Monmouth, and State of New Jersey that Article X of the Township Code entitled "Zones" is hereby amended to amend Section 188-84.4 entitled "Moderate and Low- Income Housing Zone 14" as follows:

NOTE: Sections of Chapter 188, Article X Zones that are to be added as part of new Chapter 188, Article X Zones, Section 69 Agricultural Rural Estate Zones (ARE-1, ARE-3, ARE-4 and ARE-6) are set forth below. All additions are shown in ***bold with italics with underlines***. All deletions are shown in ***bold italics with strikeouts***. All sections that are unchanged remain in regular typeface.

§ 188-84.4. Moderate- and Low-Income Housing Zone 14 (ML-14). [Added 11-12-2019 by Ord. No. O-19-54]

A. Purpose and intent.

- (1) In accordance with the executed settlement agreements by and between the Township and Fair Share Housing Center dated October 18, 2018, and November 20, 2018, the Township is obligated to create an affordable housing inclusionary zoning district on certain lands in the Township in accordance with the applicable rules of the New Jersey Council On Affordable Housing (COAH) in order to meet its constitutional obligation to provide for its fair share of affordable housing.
- (2) The Moderate- and Low-Income Housing Zone 14 (ML-14) District is intended to assist the Township in complying with its affordable housing obligation. The following properties shall be included within the ML-14 District: Block 143, Lots 6 and 6.01 ("North Parcel"); and Block 144, Lots 8, 9, 10, 11, 12, 14, 15, 20, 35, 111, 112, 142, 145-150, 160-165, 165.01, 167, 177, 178, 178.01 and 178.02 ("South Parcel"). [Amended 5-10-2022 by Ord. No. O-22-12]

B. Permitted uses. The following shall be permitted in the ML-14 District:

- (1) Principal uses. **Multiple permitted uses shall be permitted on the same lot in the ML-14 District.**
 - (a) Single-family dwelling.
 - (b) Townhouse dwelling.
 - (c) Multiple dwelling.
 - (d) **Stormwater basins**
 - (e) **Water towers and pump stations**
 - (f) **All other utilities appurtenant to subject development**
- (2) Conditional uses: none.
- (3) Accessory uses. The following accessory uses are permitted:
 - (a) Sheds, decks, patios, porches, swimming pools, signs, fences, walls, gatehouses and landscaping features, such as benches, trellises, and gazebos, that are customarily incidental to residential uses, located in a manner approved by the Planning Board at the time the development receives its development approvals which authorizes specific locations or typical locations for each dwelling type.

- (b) Active and passive recreational facilities for the use of the residents of the community, including fitness centers, swimming pools, playgrounds, landscaped trails and parks, and clubhouses. Such facilities must be owned, operated and maintained by the property owner. Any community building may be used to provide services and activities primarily for the benefit and enjoyment of the residents of the community.
- (c) Home occupations as per § 188-64.
- (d) Utilities and related services, such as transformers, pumping stations, treatment facilities, meters, etc., necessary for the proper distribution and monitoring of these services.
- (e) Sales and construction offices and storage of materials and equipment associated with and necessitated by the development of the tract for the uses approved by the Planning Board in conformance with any phasing requirements set forth by the Board.
- (f) Garages and off-street parking areas.
- (g) Any other uses that are customarily incidental and subordinate to a principal use.

C. Area, yard, bulk and site design requirements.

- (1) ~~The North Parcels shall be dedicated to the Township. The following intensity and design ratios are applicable to the North Parcel in its entirety and shall not be applied to any individual lot or lots which may be created as part of the overall plan of development.~~
 - ~~(a) Maximum number of dwelling units: 58.~~
 - ~~(b) Minimum number of very-low-, low-, and moderate-income dwelling units: 58.~~
 - ~~(c) Maximum building coverage: 30%.~~
 - ~~(d) Maximum impervious coverage: 60%.~~
- (2) For uses listed in § 188-84.4B(1)(d), (e) and (f), there shall be no minimum lot size or minimum setback in the ML-14 District. Further, Water Towers shall be permitted to a maximum height of 120 feet in the ML-14 District.
- (3) The following intensity and design ratios are applicable to the South Parcel in its entirety and shall not be applied to any individual lot or lots which may be created as part of the overall plan of development.
 - (a) Maximum number of dwelling units: ~~400~~ 458.
 - (b) Minimum number of very-low-, low-, and moderate-income dwelling units: ~~80~~ 138.

- (c) Maximum building coverage: 20%.
- (d) Maximum impervious coverage: 40%.
- (4) Perimeter landscape buffer. A landscaped buffer of a minimum width of 50 feet shall be provided along any tract boundary, except where such boundary abuts public open space or lands to be dedicated as public or private open space, in which instance the required buffer shall not be less than 25 feet. ~~The buffer shall be designed in accordance with § 188-63, except that for compliance with § 188-63, such buffer requirements shall be applicable to the overall tract to be subdivided and not the resulting lot lines created as a result of the proposed subdivision.~~ [Amended 5-10-2022 by Ord. No. O-22-11]

Stormwater basins, facilities and piping and associated grading and amenities, shall be permitted within buffer areas where such buffer area is directly between any lot within the ML-14 Zone. Further, in the ML-14-Zone, the setback shall be measured from the overall tract boundary line, and the buffer shall also be measured from the overall tract boundary line, so that both the setback and buffer run coincidentally as to prevent the stacking of a setback requirement on top of a buffer line. Moreover, any such buffer area setback for a stormwater basin facility or piping and associated grading and amenities, shall not apply to any interior lot line created as part of this subdivision.

- (5) Requirements for single-family detached houses.
 - (a) No single-family detached dwelling shall exceed 35 feet in height and 2 1/2 stories.
 - (b) Setback and building requirements: [Amended 5-10-2022 by Ord. No. O-22-11]

Standard	Requirement
Minimum lot area	6,000 square feet
Minimum lot frontage	60 feet
Minimum front yard setback	25 feet
Minimum rear yard setback	25 feet
Minimum side yard setback	8 feet
Minimum side or rear yard setback for accessory structure or use	5 feet

- (6) Townhouse requirements.
 - (a) No townhouse shall exceed 45 feet in height and threestories.
 - (b) Setback and building requirements:

Standard	Requirement
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Maximum number of units per building	8
Maximum building length	200 feet
Minimum setback from right-of-way <u>of existing West Farms Road and Casino Drive</u>	75 feet
Minimum setback from all other property lines	50 feet
Minimum setback from off-street parking areas	10 feet
Minimum setback from <u>all</u> internal streets	25 feet
Minimum distance between buildings	
Front to front	60 feet
Side to side	25 feet
Side to front/rear	35 feet
Rear to rear	50 feet

(7) Requirements for multifamily dwellings.

- (a) No building containing multifamily dwelling units shall exceed 45 feet in height and four stories.
- (b) Setback and building requirements:

Standard	Requirement
Maximum number of units per building	24 units
Maximum building length	250 feet
Minimum setback from right-of-way <u>of existing West Farms Road and Casino Drive</u>	100 feet
Minimum setback from all other property lines	75 feet
Minimum setback from internal streets	25 feet
Minimum setback from off-street parking areas	10 feet
Minimum distance between buildings	40 feet

(8) Internal streets and off-street parking shall be provided and designed in accordance with the New Jersey Residential Site Improvement Standards set forth at N.J.A.C. 5:21-1.1 et seq.

(9) Recreational requirements.

- (a) Recreational facilities such as sidewalks and pedestrian pathways, small parks and gathering areas with seating, picnic areas with graded grass areas for spontaneous activities and other recreational amenities shall be located within the development a minimum ratio of 10 square feet per market rate dwelling unit.
- (b) Provision for long-term maintenance of recreational facilities must be provided in a manner satisfactory to the Planning Board, and the responsibility for the cost of such maintenance shall be borne by the applicant.

- (c) Active recreational opportunities provided within the residential community may be restricted against use by nonresidents of the community if owned and maintained by the property owner and shall be accessible to residents in perpetuity.

(10) Additional requirements and exceptions from other requirements.

- (a) Waiver of cost generation measures pursuant to N.J.A.C. 5:93-10.1 et seq. In order to permit the intended, agreed upon development of the property, the Township agrees to abide by the COAH regulations against cost generative measures as set forth at N.J.A.C. 5:93-10.1(b) in conformance with the specific provisions of the developer's agreement between the Township and Tyrpak Road Group, LLC. Specifically:

- [1] Any inclusionary development within the within the ML-14 Zone shall be exempt from the Township tree replacement regulations set forth at § 188-194 et seq., within the Township Code. It is understood that any costs that may have accrued, but are waived for any inclusionary development within the ML-14 Zone pursuant to the tree replacement regulations, may be paid to the Township from the Township's Affordable Housing Trust Fund in accordance with the approved spending plan.

- [2] Any inclusionary development within the ML-14 Zone shall be subject to the provisions N.J.A.C. 5:93-10.2, which set forth limitations on application requirements and provide a standard of review for the Planning Board for necessary variances or deviations necessary to accomplish the intent of this district.

- (b) Any off-site improvements or payments in lieu thereof related to the provision of potable water and sanitary service provision shall be imposed on a fair share basis strictly in accordance with N.J.S.A. 40:55D-42.

- (c) All multifamily dwellings shall be exempt from the standards found within § 188-138, regarding look-alike standards for residential construction.

- (d) Mechanical equipment or other utility hardware on roofs, the ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from any public ways.

- (e) Environmentally sensitive features on the tract, including wetlands and steep slope areas, shall be maintained and conserved either through dedication to Howell Township or by private covenant or deed restriction. The area of such dedicated or restricted environmentally sensitive areas shall continue to be considered as part of the tract area for purposes of compliance with the bulk regulations set forth in this section. **[Amended 5-10-2022 by Ord. No. O-22-11]**

- [1] Wetlands and transition areas on the tract shall be established

pursuant to a letter of interpretation issued by the New Jersey Department of Environmental Protection ("NJDEP") pursuant to the provisions of N.J.A.C. 7:7A-4.1 et seq.

[2] Steep slopes on the tract shall be defined as any slope equal to or greater than 20%, as measured over any minimum run of 10 feet. Steep slopes are determined based on contour intervals of two feet or less. For example, any location on the site where there is a one-foot rise over a ten-foot horizontal run constitutes a 10% slope; a 1.5-foot rise over a ten-foot horizontal run constitutes a 15% slope; a two-foot rise over a ten-foot horizontal run constitutes a 20% slope.

[a] For steep slopes as defined herein, any disturbance shall be prohibited except as provided below:

[i] Development within the limits of existing impervious surfaces; and

[ii] New disturbance necessary to protect public health, safety or welfare, such as necessary linear development with no feasible alternative; to provide an environmental benefit, such as remediation of a contaminated site; or to allow for the extension or construction of infrastructure, including roadways and all utilities necessary for development; or to limit the scope of grading necessary for development which may include the use and construction of retaining walls.

(f) Open space lands may be maintained by the owner, a tenant association or a homeowner's association, or may be dedicated to Howell Township as determined by the Planning Board. The area of such dedicated open space shall continue to be considered as part of the tract area for purposes of compliance with the bulk regulations as set forth in this section.

(g) Retaining walls shall be permitted in the ML-14 Zone. A retaining wall shall be defined as a structure constructed and erected between lands of different elevations to protect structures and/or to prevent erosion and which is minimally four feet in height. The maximum height for a retaining wall in the ML-14 Zone shall be six feet. In the event of stepped retaining walls, there shall be a minimum of four feet between each such retaining wall. A retaining wall shall not be subject to the requirements of Township Code § 188-12, but shall be subject to the provisions of this section, Township Code § 134-7 and the applicable provisions of the New Jersey State Uniform Construction Code, N.J.A.C. 5:23-1.1 et seq., including N.J.A.C. 5:23-2.14(g), except that Township Code § 134-7C(1) shall not be applicable, and retaining walls shall be permitted at or up to any lot property line. **[Added 5-10-2022 by Ord. No. O-22-11]**

(h) Retaining walls shall be exempt from the provisions set forth in § 134-

7B(2), (9) and 134-7C(3). As such, the project will be graded to allow infiltration and both capture some of the stormwater and allow some of the stormwater runoff to drain over the wall to existing grades.

- (i) The provisions of § 188-212 et seq. (Stormwater Control) shall be applicable within the ML-14 Zone. In the event that the provisions of § 188-212 conflict with or impose requirements other than those set forth within the provisions of the Residential Site Improvement Standards, N.J.A.C. 5:21 ("RSIS"), the RSIS shall control. **[Added 5-10-2022 by Ord. No. O-22-11]**
 - (j) The provisions of § 188-132 shall be applicable except that § 188-132A shall be modified as follows: "Sidewalks shall be constructed on at least one side of all proposed streets, along the entire frontage of the subject property, and in other selected locations determined by the Board to be in the interest of public safety and proper pedestrian circulation and in accordance with the applicable provisions of the Residential Site Improvements Standards, N.J.A.C. 5:21-1.1 et seq. Sidewalks shall be required on both sides of any section of proposed street, provided such section of street contains dwelling units on both sides thereof. Sidewalks shall be at least four feet wide and four inches thick, except at points of vehicular crossing, where they shall be at least six inches thick with welded wire fabric reinforcement. The sidewalk subgrade shall be a minimum of six inches thick of compacted porous material approved by the Township Engineer prior to placement of any concrete. Where sidewalks abut the curb and cars overhang the sidewalk, widths shall be six feet. Provide one-half-inch-wide preformed bituminous expansion joints at intervals not exceeding 20 feet. Contraction joints shall be cut into the concrete sidewalk between the expansion joints at every four feet. All concrete shall be air-entrained, having a twenty-eight-day compressive strength of 4,500 psi. **[Added 5-10-2022 by Ord. No. O-22-11]**
 - (k) Vehicular access, other than for emergency vehicles as approved by the Planning Board, is prohibited from Stuart Street and Tyrpak Road. Access to residential development within ML-14 Zone is limited to Casino Drive and West Farms Road. **[Added 7-12-2022 by Ord. No. O-22-43]**
- (11) Affordable housing requirements.
- (a) The total affordable housing obligation is 138 units, a minimum of 58 of which shall be affordable family rental units.
 - (b) Thirty percent or 138, whichever is greater, of the units constructed within the ML-14 District are to be affordable to low- and moderate- income households ("affordable units") in accordance with the Superior Court's April 5, 2019, order entered In the Matter of the Application of the Township of Howell, County Monmouth, Docket No. L-2525-15.
 - (c) Thirty percent of the residential units shall be deed restricted in

accordance with the provisions of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.) (UHAC), which shall govern the number of bedrooms and rents for the affordable units.

- (d) The affordable dwelling units shall be split equally between moderate-income units and low-income units. Very-low-income units shall be included within the low-income portion of the split.
- (e) In the event that an equal split of the affordable dwelling units results in a fraction of a unit, the additional unit shall be made available to low-income households.
- (f) A minimum of 13% of the total number of affordable dwelling units, or 22 units, whichever is greater, shall be made available to households categorized as very-low-income households.
- (g) Phasing for construction of the affordable units shall be in accordance with COAH's phasing schedule established by N.J.S.A. 5:93-5.6(d). The phasing schedule shall apply based on the percentage constructed of the total number of affordable units on both the North and South Parcels combined as compared to the total number of market-rate units on the South Parcel.
- (h) All affordable units shall comply with the regulations of UHAC and/or the New Jersey Council on Affordable Housing (COAH), as may be applicable, including, but not limited to, those concerning a) income qualifications, b) controls on affordability for a period of 30 years, c) deed restrictions, d) bedroom distribution, e) low-/moderate-income split, f) affirmative marketing and g) handicap accessibility. Notwithstanding the foregoing, it is understood and agreed that the affordable units may be constructed in buildings separate and apart from buildings containing market-rate units.
- (i) All affordable units shall be subject to deed restrictions on income limits for a period not less than 30 years.

NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on June 13, 2023 and will be further considered for final passage and adoption at the Township Municipal Building at 4567 Rt. 9 North, Howell, New Jersey on June 27, 2023 at 7:00 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk's Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

Introduction:

COUNCIL	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilwoman Fischer</i>		X	X			
<i>Councilman Gasior</i>	X		X			
<i>Councilman Nadel</i>			X			
<i>Deputy Mayor O'Donnell</i>			X			
<i>Mayor Berger</i>			X			

I, Diane Festino, Municipal Clerk of the Township of Howell, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Mayor and Township Council, at its Meeting held June 13, 2023. WITNESS my hand this 14th day of June 2023.



DIANE FESTINO, Municipal Clerk

This is to certify that the foregoing Ordinance was adopted by the Township Council at a regular meeting of the Township of Howell held on June 27, 2023.

Adoption:

COUNCIL	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilwoman Fischer</i>	X		X			
<i>Councilman Gasior</i>		X	X			
<i>Councilman Nadel</i>			X			
<i>Deputy Mayor O'Donnell</i>			X			
<i>Mayor Berger</i>						X

I, Diane Festino, Municipal Clerk of the Township of Howell, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Mayor and Township Council, at its Meeting held June 27, 2023. WITNESS my hand this 28th day of June 2023.



DIANE FESTINO, Municipal Clerk

Explanatory Statement: This ordinance modifies the Moderate- and Low-Income Housing Zone 14 (ML-14) to include some infrastructure uses as principal permitted uses (such as stormwater basins, pump stations and water towers) and to move residential development from the “North Parcels” to the “South Parcels” without impacting the overall density of allowable residential units within the zone. The ordinance also provides regulations and standards regarding buffers, retaining walls and setbacks.

STATE OF NEW JERSEY }

SS. TOWNSHIP OF HOWELL

COUNTY OF MONMOUTH }

The Asbury Park Press | Legal Notices

Notice Publish Date:

June 19, 2023

Notice Content

TOWNSHIP OF HOWELL ORDINANCE NO. O-23-22 AN ORDINANCE AMENDING ARTICLE X OF THE TOWNSHIP CODE ENTITLED "ZONES" REVISING SECTION 188-84.4 ENTITLED "MODERATE- AND LOW-INCOME HOUSING ZONE 14" KNOWN AS ML-14 ZONE Please take notice that the Township of Howell has introduced an Ordinance. This Ordinance modifies the Moderate- and Low-Income Housing Zone 14 (ML-14) to include some infrastructure uses as principal permitted uses (such as stormwater basins, pump stations and water towers) and to move residential development from the "North Parcels" to the "South Parcels" without impacting the overall density of allowable residential units within the zone. The ordinance also provides regulations and standards regarding buffers, retaining walls and setbacks. NOTICE The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on June 13, 2023 and will be further considered for final passage and adoption at the Township Municipal Building at 4567 Route 9 N, Howell, New Jersey on June 27, 2023 at 7:00 P.M. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk's Office in the Township of Howell Municipal Building to the members of the general public who shall request same. Diane Festino Municipal Clerk Township of Howell www.twp.howell.nj.us (\$32.56)

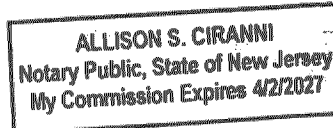
Sworn or Affirmed according to law and subscribed to me this 19th day of June, 2023 A.D.



Diane Festino, RMC
Township Clerk
Township of Howell



Allison S. Ciranni, Notary Public



STATE OF NEW JERSEY }

SS. TOWNSHIP OF HOWELL

COUNTY OF MONMOUTH }

The Asbury Park Press | Legal Notices

Notice Publish Date:

July 3, 2023

Notice Content

TOWNSHIP OF HOWELL ORDINANCE NO. O-23-22 AN ORDINANCE AMENDING ARTICLE X OF THE TOWNSHIP CODE ENTITLED "ZONES" REVISING SECTION 188-84.4 ENTITLED "MODERATE- AND LOW-INCOME HOUSING ZONE 14" KNOWN AS ML-14 ZONE was given public hearing and adopted by the Township Council of the Township of Howell in the County of Monmouth and State of New Jersey during a regular meeting held on June 27, 2023. Diane Festino Municipal Clerk Township of Howell www.twp.howell.nj.us (\$14.96)

Sworn or Affirmed according to law and subscribed to me this 6th day of July, 2023 A.D.



Diane Festino, RMC
Township Clerk
Township of Howell



Allison S. Ciranni, Notary Public

