

**LEGAL NOTICE
ORDINANCE NO. 9
2021
TOWNSHIP OF WAYNE
COUNTY OF PASSAIC
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND CHAPTER 134
(LAND DEVELOPMENT) OF THE CODE OF THE TOWNSHIP OF WAYNE**

WHEREAS, on January 6, 2021, the Township Council of the Township of Wayne adopted Resolution No. 56 of 2021 Authorizing Settlement of Litigation in the Matter Entitled In the Matter of the Application of the Township of Wayne Bearing Docket No. PAS-L-2396-15 with Avalonbay Communities, Inc., a Maryland Corporation with offices located at 105 Elm Street, First Floor, Westfield, NJ 07090 with respect to real property owned by Avalonbay Communities, Inc. ("Developer") identified as Block 3103, Lots 16 and 19, and Block 3101, Lots 12 and 13 on the Tax Assessment Map of the Township of Wayne, more commonly known as 1455, 1445 and 1460 Valley Road, respectively (collectively "Avalonbay Property"); and

WHEREAS, on January 8, 2021, the Township of Wayne ("Township"), the Wayne Planning Board, and Avalonbay Communities, Inc. entered into a Settlement Agreement with respect to the Avalon Bay Property ("Avalonbay Settlement Agreement"); and

WHEREAS, pursuant to the terms contained in the Avalonbay Settlement Agreement, the Township and the Wayne Planning Board agreed to amend the Zoning Ordinance to provide for the Avalonbay Property as part of the Township's Affordable Housing Plan; and

WHEREAS, N.J.S.A. 40:55D-62 and 40:55D-65 provide that the governing body may adopt or amend a zoning ordinance related to the nature and extent of the uses of land and structures thereon and a zoning ordinance may restrict buildings and structures according to their type and the nature and extent of their use; and

WHEREAS, the Planning Department recommends the following amendments to the Township's Zoning Ordinance in accordance with the Settlement Agreement authorized pursuant to Resolution No. 56 of 2021; and

WHEREAS, the Township Council has determined that the recommended changes would be beneficial to the Township; and

WHEREAS, Chapter 134 (Land Development) needs to be amended and supplemented to effectuate said changes.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Wayne in the County of Passaic, State of New Jersey as follows:

SECTION 1. Chapter 134 (Land Development), Article I (General Provisions) of the Code of the Township of Wayne is hereby supplemented to read as follows [additions by **bold**, deletions by ~~strikethrough~~]:

§ 134-2. Definitions.

DWELLING, ATTACHED AND STACKED - One dwelling unit in a line of three or more attached dwelling units, with each dwelling unit having individual outside access. The dwellings may be attached horizontally or both horizontally and vertically.

§ 134-27. Zone Districts.

Mount Laurel Round Three District 4 (MLR3D-4)

§ 134-27.1. Zoning Map.

B. Zoning Map Amendments

(9) Ordinance No. 9 of 2021 amends the Zoning Map to create the Mount Laurel Round Three District 4 (MLR3D-4) from the Office Research (OR) District (Block 3103, Lots 16 and 19) and the Office Building - Limited (OB-L) District (Block 3101, Lots 12 and 13).

SECTION 2. Chapter 134 (Land Development), Article III (Zoning Regulations) of the Code of the Township of Wayne is hereby supplemented to create and establish Section 134-54 entitled Mount Laurel Round Three Districts ("MLR3D") [additions by **bold**, deletions by ~~strikethrough~~].

§ 134-54.7 Reserved

§ 134-54.8 Mount Laurel Round Three District-4 (MLR3D-4).

A. Uses:

- 1) Permitted principal uses. The following shall be permitted principal uses on that portion of the MLR3D-4 district encompassed by Block 3103, Lots 16 and 19.
 - i. Dwelling, Attached Residential
 - iii. Dwelling, Multi-Family Residential
 - iii. Dwelling, Attached and Stacked Residential
- 2) Permitted principal uses. The following shall be permitted principal uses on that portion of the MLR3D-4 district encompassed by Block 3101, Lots 12 and 13.
 - i. Retail establishments
 - ii. Retail services
 - iii. Restaurants and drive-through restaurants.
 - iv. Shopping centers
 - v. Professional offices
 - vi. Hotels
 - vii. Indoor Amusement and Indoor Recreation
 - viii. Self-storage facilities
 - ix. Banks and financial institutions
 - x. Private schools
 - xi. Childcare centers.
 - xii. Adult day care
 - xiii. Assisted living, memory care, and CCRC facilities
 - xiv. Health clubs and spas
 - xv. Any other non-residential uses similar to those listed in (i) through (xiii) above
- 3) Accessory uses. Uses considered to be customary and incidental to the permitted principal use, including, but not limited to:
 - i. Community clubhouse and recreational facilities accessory to a permitted residential use. Recreational facilities may include a swimming pool, basketball courts, tennis courts, other sport courts, fitness centers, community rooms, business centers, playground equipment, pet parks, courtyards and patios, trails and paths, rooftop terraces, gazebos and shade structures, spas, fire pits, and other similar recreational uses. Community clubhouse and recreational facilities may be shared between any permitted use in the MLR3D-4 district, whether on-site or off-site.

- ii. Garages, parking decks and multi-level parking structures
- iii. Surface parking lots
- iv. Fences and walls
- v. Loading facilities
- vi. Stormwater management facilities
- vii. Sheds and storage facilities
- viii. Trash and recycling facilities
- ix. Temporary management, leasing, sales, storage and construction trailers
- x. Permanent management offices, leasing and sales offices, and uninhabited model apartments, which shall not count toward density calculations
- xi. Utility structures and facilities.
- xii. Signs (permanent and temporary)

B. Minimum lot size: The minimum lot size on that portion of the MLR3D-4 district encompassed by Block 3103, Lots 16 and 19 shall be three acres. The minimum lot size on that portion of the MLR3D-4 district encompassed by Block 3101, Lots 12 and 13 shall be one acre.

C. Minimum Affordable Housing set-aside: Fifteen percent (15%) of all residential units constructed must be non-age-restricted family affordable units reserved for very-low-, low-, and moderate-income households in accordance with the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1, et seq., and the New Jersey Fair Housing Act ("FHA"), N.J.S.A. 52:27D-301, et seq., subject to the following conditions:

- 1) The income distribution of the affordable units shall fully comply with UHAC, with the exception that thirteen percent (13%) of the total number of affordable units shall be very-low-income units affordable to and reserved for households at or below thirty percent (30%) of area median income and these very-low-income units shall be distributed within each bedroom distribution.
- 2) The bedroom distribution of the affordable units shall be thirty-five percent (35%) 3-bedroom units and sixty-five percent (65%) 2-bedroom units, e.g., 25 three-bedroom units and 46 two-bedroom units if all 473 units are constructed. None of the affordable units shall be 1-bedroom units.
- 3) The affordable units may be located in multifamily residential dwellings at the discretion of the Developer; however, the affordable units shall be integrated with the market-rate units.
- 4) The affordable units shall be governed by controls on affordability in conformance with UHAC, which requires affordable units to be deed restricted for a period of at least 30 years from the date of initial occupancy.
- 5) The affordable units shall be affirmatively marketed in accordance with applicable law, including posting of all affordable units on the New Jersey Housing Resource Center website.
- 6) Construction of the affordable units shall be phased in accordance with the schedule set forth in N.J.A.C. 5:93-5.6(d).

D. Maximum Permitted Development Yield: The maximum number of housing units on that portion of the MLR3D-4 district encompassed by Block 3103, Lots 16 and 19 shall be 473 units. There shall be a minimum of 40 Attached Residential and/or Stacked Residential Dwelling units on Block 3103, Lot 19.

E. Residential bulk requirements: Development of that portion of the MLR3D-4 district encompassed by Block 3103, Lots 16 and 19 shall meet the following requirements:

i. Maximum number of units per building:

1. Dwelling, Attached Residential: 8
2. Dwelling, Multi-Family Residential: none
3. Dwelling, Attached and Stacked Residential: 16

ii. Minimum principal building setbacks from property lines:

1. Front yard for Multi-Family Residential: 50 feet
2. Front yard for Attached/Attached and Stacked Residential: 25 ft
3. Side yard: 15 feet
4. Rear yard: 15 feet
5. All principal building setbacks shall be exclusive of open porches, decks, steps, overhanging eaves, cornices, chimneys and bay windows and similar structures

iii. Principal building spacing:

1. Minimum distance between principal buildings: 20 feet.
2. Minimum setback from roadways: 10 feet.
3. Minimum setback to surface parking areas, exclusive of driveways: 10 feet.

iv. Building heights:

1. Multi-Family Residential: Maximum of 65 feet and 4.5 stories.
2. Attached and Stacked Residential: Maximum of 45 feet and 3.5 stories.
3. Accessory buildings, including attached clubhouses: Maximum of 2 stories and 40 feet.
4. Garages, parking decks and multi-level parking structures: 65 feet
5. For all residential buildings and accessory buildings within the MLR3D-4 district, building height, as measured in feet and stories, shall be measured from finished grade directly adjacent to the building to the mean of the sloped roof at the same point where the finished grade is measured.

v. Accessory building requirements:

1. Minimum front yard setback: 40 feet.
2. Minimum side yard setback: 10 feet.
3. Minimum rear yard setback: 10 feet.
4. Minimum distance between accessory buildings: 10 feet.
5. Minimum distance to roadways and parking areas, exclusive of driveways: 10 feet.

vi. Dimensional and coverage requirements:

1. Minimum lot frontage: 100 feet
2. Minimum lot depth: 300 feet
3. Maximum impervious coverage: 75%

vii. Other residential requirements:

1. Parking, retaining walls and roadways shall be allowed within building setback areas.
2. Placement of temporary management, leasing, sales, construction and storage trailers and temporary sales, leasing and construction signage shall be allowed anywhere within the MLR3D-4 district, including building setback and buffer areas in accordance with §134-54.6(E)(vii)(4), during construction of the project.
3. Parking: Minimum Parking requirements: Required parking for this development will be at a minimum of 1.75 parking spaces per dwelling unit. This standard may require a *de minimis* exception from the standards contained in the Residential Site Improvement Standards adopted by New Jersey, however it will not require variance relief from the Planning Board. The Planning Board shall grant a *de minimis* exception permitting a minimum parking ratio of 1.75 parking spaces per dwelling unit upon the submission of a parking analysis which supports the requested downward departure from Residential Site Improvement Standards.
4. Buffer areas. Buffer areas as herein defined shall be required along all perimeter tract lot lines and shall be 10 feet in width in accordance with §134-86 requirements. All buffer requirements are included within, and not in addition to, any applicable setback requirement, if any.
5. Site design: The configuration of residential buildings, recreation facilities, roadways, and other improvements may be similar with the concept plans adopted as part of the AvalonBay Settlement Agreement. However, the concept plan had not been engineered and the time of the AvalonBay Settlement Agreement and the plan submitted for site plan approval may be changed by the developer in accordance with the standards for the MLR3D-4 district.
6. One monument sign shall be permitted at each vehicular access to a public roadway. One additional monument sign shall be permitted on each lot at the corner of valley Road and Barbour Pond Road. Each monument sign may be two-sided and shall be a maximum height of 6 feet and a maximum width of 12 feet. Monument signs may be externally illuminated.

F. Nonresidential bulk requirements: Development of that portion of the MLR3D-4 district encompassed by Block 3101, Lots 12 and 13 shall meet the following requirements:

- i. Minimum lot width: 100 feet.
- ii. Minimum lot depth: 150 feet.
- iii. Minimum setbacks for a principal building:
 1. Front yard: 50 feet
 2. Side yard: 25 feet
 3. Rear yard: 50 feet
- iv. Minimum setbacks for an accessory building:
 1. Side yard: 10 feet
 2. Rear yard: 10 feet
- v. Maximum building heights:
 1. Principal building: 4 stories and 60 feet

2. Accessory building: 15 feet

vi. **Maximum impervious coverage: 75 percent**

vii. **Parking, retaining walls and roadways shall be allowed within building setback areas.**

G. Exemption from limitations on development: Development in the MLR3D-4 zone is exempt from the standards set forth in the following sections to facilitate the implementation of the AvalonBay Settlement Agreement and to reduce cost-generative measures in accordance with N.J.A.C. 5:93-10:

- i. **§134-91.2 (Calculation of number of building lots for subdivision and the number of units for site plans) which adjusts the number of units permitted in a site plan;**
- ii. **§134-91.3(A), (B) and (E) (5) (Slope and Soil Disturbance regulations which adjust minimum lot areas and maximum allowable disturbance areas);**
- iii. **§134-96.4 (General Requirements to Regulations for Slope and Soil Disturbance which adjust maximum allowable site disturbance);**
- iv. **§ 134-85.3(B) (Tree Preservation) shall not be applicable within the area of disturbance;**
- v. **§134-91.4 (Tree removal)**
- vi. **§134-66A-1 (Fence and wall height regulations for residential districts).**
- vii. **§213-66 (Development fees).**
- viii. **§134-71.3 (General design standards)**
- ix. **§134-71.5 (Commercial design standards)**
- x. **134-10.3 (Stream and maintenance fees)**
- xi. **134-10.4 (Soil removal permit fee)**

SECTION 3. As required by N.J.S.A. 40:55D-64, prior to the hearing on adoption of this ordinance, on behalf of the Township Council, the Township Clerk shall refer this ordinance to the Wayne Planning Board for its review and comment pursuant to N.J.S.A. 40:55D-26. The Township Clerk shall also send a copy of this ordinance to the clerk of an adjoining municipality involving property situated within 200 feet of such adjoining municipality in accordance with N.J.S.A. 40:55D-15. In addition, the Township Clerk shall give notice of a hearing on an amendment to the zoning ordinance proposing a change to the classification or boundaries of a zoning district to the owners of all real property as shown on the current tax duplicates located within 200 feet in all directions pursuant to N.J.S.A. 40:55D-62.1.

Upon adoption, the Township Clerk shall send a copy of this ordinance to the Passaic County Planning Board pursuant to N.J.S.A. 40:55D-16.

SECTION 4. All other provisions of Chapter 134 of the Code of the Township of Wayne shall remain unchanged.

SECTION 5: Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause, phrase, or any other part of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the validity of the remaining sections, subsections, sentences, clauses, and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 6: Repeal of Inconsistent Provisions. All ordinances or parts thereof in conflict or inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 7: Codification. This Ordinance shall be a part of the Code of the Township of Wayne as though codified and fully set forth therein. The Township Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Township Clerk and the Township Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Township of Wayne in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

SECTION 8. This ordinance shall take effect twenty days after final passage, adoption, and publication in the manner prescribed by law.

ATTEST:

PAUL V. MARGIOTTA
TOWNSHIP CLERK

RICHARD JASTERZBSKI
PRESIDENT OF THE COUNCIL

NOTICE

I hereby certify that the aforementioned ordinance was published in the Herald News, a newspaper published in the County of Passaic and circulated in the Township of Wayne, in the issues of February 10, 2021 and

PAUL V. MARGIOTTA
Township Clerk

This ordinance is hereby
approved this 5th day
of March 2021.

ADOPTED ON: March 3, 2021

CHRISTOPHER P. VERGANO
Mayor