

**TOWN OF WESTFIELD  
GENERAL ORDINANCE NO. 2217**

**“AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWN OF  
WESTFIELD TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING  
ACT REGARDING COMPLIANCE WITH THE TOWN’S AFFORDABLE  
HOUSING OBLIGATIONS”**

**WHEREAS**, on July 2, 2015, the Town of Westfield (the “Town”) filed a declaratory judgment action (the “DJ action”) 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., in accordance with Mount Laurel IV, 221 N.J. 1 (2015). On April 4, 2017, the Town and Fair Share Housing Center (“FSHC”) entered into an agreement settling the DJ action (the “Settlement Agreement”), subject to review and approval by the court after a fairness hearing. The court reviewed and approved the Settlement Agreement as amended in certain respects by order entered on October 26, 2017, and an amended order entered on November 1, 2017. On May 31, 2018 the court entered a Conditional Judgment of Compliance and Repose. On August 23, 2018, the court entered a Final Judgment of Compliance and Repose; and

**WHEREAS**, one of the mechanisms the Town included in its Housing Element and Fair Share Plan towards satisfaction of its realistic development potential (“RDP”) was to amend an inclusionary development zoning ordinance governing the so-called “Williams Nursery” site (Block 1905, Lot 13) (the “Williams site”) to increase the density allowed on that site from 8 units per acre to 20 units per acre to allow up to a total of 130 total dwelling units on the 6.61-acre site, 26 of which units had to be affordable units set aside for low and moderate income households. The Town adopted the required ordinance amending the inclusionary zoning ordinance governing the Williams site; and

**WHEREAS**, one of the mechanisms the Town included in its Housing Element and Fair Share Plan to address its unmet need was to amend the North Avenue TOD zoning ordinance (the “North Avenue TOD”) providing for inclusionary development and governing a number of lots on North Avenue, one of which is the so-called “Handler Building” site (Block 3305, Lot 4) (the “Handler site”), to increase the density in the North Avenue TOD from 15 units per acre for sales units and 16 units per acre for rental units to 25 units per acre across the board, which would allow up to a total of 27 total dwelling units on the 1.1-acre Handler Building site, 6 of which units would be affordable units set aside for low and moderate income households. The Town adopted the required ordinance amending the North Avenue TOD; and

**WHEREAS**, at this time, just beyond the mid-point review, it appears that the Handler Building site located in the North Avenue TOD is unlikely to redevelop for residential housing because the building on the site is not conducive to conversion from industrial use to residential use. Concurrently, there has been interest in developing the Williams Nursery Site providing an opportunity for the Town to increase the number of affordable units on the site if the Town would increase the density allowed on the site; and

**WHEREAS**, the Town and Fair Share Housing Center have executed an “Amendment to Settlement Agreement Between the Town of Westfield and Fair Share Housing Center” which

includes provisions that: (1) the Town will adopt an ordinance further amending the inclusionary zoning ordinance governing the Williams site to increase the allowable density from 20 units per acre to 24.6 units per acre to allow 162 total dwelling units on the 6.61-acre site (whose acreage was determined by a duly licensed professional), with a 20% set aside for affordable housing, thus increasing the number of affordable units set aside for low and moderate income households on the Williams site by 6 units (the number of units that would have been generated by the Handler site if it was redeveloped for an inclusionary development), from 26 to 32; and (2) the Town may adopt an ordinance amending the North Avenue TOD to remove the Handler site from the North Avenue TOD so that commercial development without any inclusionary set aside will be allowed on the Handler site; and

**WHEREAS**, the adoption of this ordinance is consistent with and is also intended to effectuate the “Amendment to Settlement Agreement Between the Town of Westfield and Fair Share Housing Center”.

**NOW, BE IT THEREFORE ORDAINED** by the Town Council of the Town of Westfield, in the County of Union, and the State of New Jersey, as follows:

**Section I. The Land Use Ordinance, Article 11, Section 11.18 titled “RA-5A Multi-Family Residence District, subsection E**, is hereby amended to read as follows:

E. **Bulk and lot regulations.** Development of the property within this district shall be similar to that reflected on the attached Exhibit A - Concept Plan Drawing, including building footprint, building orientation, and building locations, subject to de minimis adjustments in order to accommodate design improvements and engineering constraints; and, generally similar in architectural style to that reflected in the Attached Exhibit B - Artist’s Conceptual Rendering. The following bulk and lot regulations shall apply to all developments within the RA-5A zone district:

1. Minimum tract area. There shall be a minimum tract area of five (5) acres.
2. Minimum front yard.
  - a. Principal structures: Fifty (50) feet. However, balconies may encroach up to four (4) feet into this required minimum setback provided that they shall be open and without enclosures on all sides (except on the side abutting the building wall) and except for any railing or wall required per applicable construction codes; roofs shall be permitted on balconies.
  - b. Accessory structures including swimming pools and clubhouses: One hundred and fifteen (115) feet with all improvements located a minimum of fifty (50) feet from

any existing residential principal structures on contiguous properties.

3. Minimum side yard and rear yard.
  - a. Principal structures: Twenty-five (25) feet. However, balconies may encroach up to four (4) feet into this required minimum setback provided that they shall be open and without enclosures on all sides (except on the side abutting the building wall) and except for any railing or wall required per applicable construction codes; roofs shall be permitted on balconies.
  - b. Stand-alone accessory structures including swimming pools and clubhouses: Twenty (20) feet with all improvements located a minimum of fifty (50) feet from any existing residential principal structures on contiguous properties.
4. Maximum density. The maximum density shall be 24.6 dwelling units per acre, which equates to an allowable 162 dwelling units on the 6.61 acre site.
5. Maximum building height. No principal building shall exceed a maximum of four (4) stories but not more than 47 feet in height. An architectural feature designed to give the appearance of a pitched style roof may exceed the permitted height by eight (8) feet, when used to screen flat roofs and/or mechanical equipment. No accessory building shall exceed the maximum of one and one-half (1.5) stories or twenty-five (25) feet in height.
6. Minimum distance between buildings.
  - a. Sixty (60) feet between building walls. However, balconies may encroach up to six (6) feet into this required minimum distance provided that they shall be open and without enclosures on all sides (except on the side abutting the building wall) and except for any railing or wall required per applicable construction codes; roofs shall be permitted on balconies.
7. Maximum coverage by buildings and above-grade structures. No more than thirty-seven and one-half (37.5) percent of the area of any lot shall be covered by buildings and above-grade structures. Earthen flood detention basins as defined herein shall not be considered as a building or structure for purposes of computing this coverage.
8. Maximum coverage by improvements. No more than sixty-five (65) percent of the area of any lot shall be covered by physical improvements, including but not limited to, buildings, above-grade structures, and at-grade structures

including, but not limited to, sidewalks, parking areas, patios, driveways, swimming pools, etc. It is the intention of this provision that each lot shall have at least thirty-five (35) percent of its lot area without any improvements except vegetation. Earthen flood detention basins as defined herein shall not be considered as a building, structure or improvement for purposes of computing this coverage.

9. Maximum dwelling units per building. No townhouse building shall contain more than six (6) dwelling units. No multi-family residential building shall contain more than sixty-six (66) dwelling units.
10. Maximum continuous wall length. The longest dimension of any continuous exterior wall of any building shall not be greater than sixty (60) feet. For the purpose of administering this provision, any exterior wall that is offset for a depth of two (2) feet or greater shall be construed as a separate wall.
11. Miscellaneous requirements for accessory structures. Accessory structures including swimming pools and clubhouses:
  - a. Are permitted within principal use buildings.
  - b. Are permitted in side and rear yards and prohibited in front yards.
  - c. Stand-alone Clubhouses may not exceed 3,500 square feet in size.

**Section II. The Land Use Ordinance, Article 11, Section 11.18 titled “RA-5A Multi-Family Residence District, subsection F.1, is hereby amended to read as follows:**

1. Total number of affordable units. Any development for multi-family residences or single-family attached residences shall be required to include at least thirty-two (32) of the units to be sold or rented at rates affordable to low-, very low- and moderate-income limits. All thirty-two (32) affordable units shall be constructed on site. The developer shall also be required to make a payment in lieu of providing a 33<sup>rd</sup> affordable housing unit in the amount of \$60,000.00 which shall be paid into the Town’s affordable housing trust fund. The developer shall pay half of the payment (\$30,000) as a condition precedent to the issuance of the first construction permit for the project and the remaining payment (\$30,000) as a condition precedent to the issuance of the first certificate of occupancy.

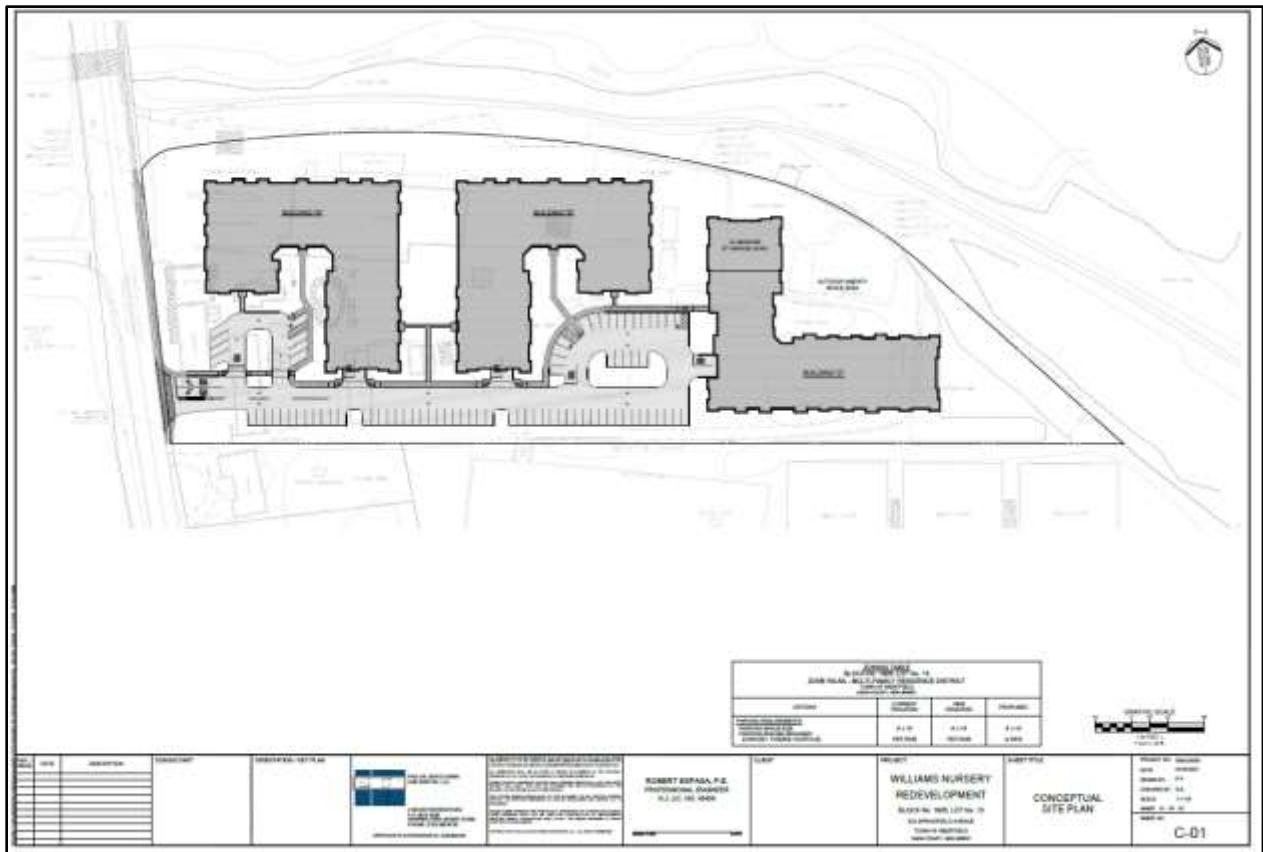
**Section III. The Land Use Ordinance, Article 11, Section 11.18 titled “RA-5A Multi-Family Residence District, subsection G.3, is hereby amended to read as follows:**

3. Use of accessory buildings. No part of any stand-alone accessory building or structure shall be used for living purposes.

**Section IV. The Land Use Ordinance, Article 17, Section 17.03 titled “Location of Required Parking Spaces”, subsection B.3., is hereby amended to read as follows:**

3. RA-4 and RA-5A Zones. Off-street parking areas may be located in any front yard, street side yard, side yard or rear yard, subject to the parking area setback requirements herein.

**Section V. The Land Use Ordinance, Article 17, Section 17.03 titled “Location of Required Parking Spaces”, subsection B.6., is hereby deleted in its entirety.**



*Exhibit A – Concept Plan Drawing*



PHOTOGRAPHY, RENDERING, PAINTING, MODELING, COLORING AND SELECTIVE CORRECTIONS ARE ALL SUBJECT TO APPROVAL BY CLIENT AND FINAL SUBJECT TO CHANGE.

## EXHIBIT B

REDEVELOPMENT | WESTFIELD, NEW JERSEY



*Exhibit B – Artist's Conceptual Rendering*

**SECTION VI.** All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

**SECTION VII.** In the event that any section, provision, or part of provision of this ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

**SECTION VIII.** This ordinance shall take effect after passage and publication in the manner provided by law.