

ORDINANCE

BOROUGH OF NORTH CALDWELL

O-11-19

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 107, ZONING AND LAND USE, OF THE BOROUGH OF NORTH CALDWELL, ESSEX COUNTY, NEW JERSEY, TO ESTABLISH A NEW FAIRFIELD ROAD OVERLAY (FRO) ZONE

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of North Caldwell, County of Essex, New Jersey, as follows:

Section 1. Section 107-9 of the Code of the Borough of North Caldwell entitled "Zone Districts Enumerated" is hereby amended to include the following new zone district:

FRO Fairfield Road Overlay District

Section 2. The Zoning Map of the Borough of North Caldwell, as referenced in Section 107-10 of the Code of the Borough of North Caldwell, is hereby amended to include a new FRO Fairfield Road Overlay Zone, which shall be shown to encompass Block 2200, Lots 3, 4, 5 and 6, and Block 2201, Lots 1 and 2, and which shall retain the underlying P.I.P. Planned Industrial Park District zoning on these parcels, as shown on the accompanying Map.

Section 3. Chapter 107, Article III, "Zoning", shall be amended to include a new Section 107-28.2 entitled "FRO Fairfield Road Overlay District". This new Section 107-28.2 shall read as follows:

107-28.2. FRO FAIRFIELD ROAD OVERLAY DISTRICT

- A. Purpose. The purpose of the FRO Fairfield Road Overlay District is to create a realistic opportunity for the construction of low- and moderate-income housing in a suitable portion of the Borough of North Caldwell, and thereby help to address the fair share housing obligation of the Borough of North Caldwell under the New Jersey Fair Housing Act ("FHA"), applicable Council on Affordable Housing ("COAH") regulations, the settlement agreement entered into between the Borough and Fair Share Housing Center ("FSHC") on December 11, 2018, the Borough's Housing Element and Fair Share Plan, which may be amended from time to time, and any applicable order of the Court, including a Judgment of Compliance and Repose Order. The FRO Fairfield Road Overlay District encourages the development of low- and moderate-income housing by allowing for inclusionary multifamily residential; however, developers shall also have the option of developing in accordance with the underlying zone standards.
- B. Permitted uses. The uses set forth below shall be permitted as a development alternative to the underlying zoned uses allowed by this Chapter, but shall not replace the underlying zoning district. The principal permitted uses in the FRO Fairfield Road Overlay District are as follows:
- (1) Single-family attached dwellings; and
 - (2) Multi-family apartments.
- C. Accessory uses. Permitted accessory uses shall include any other accessory use that is customary and incidental to the permitted uses in the FRO Fairfield Road Overlay District, including but not limited to signs, solid waste storage enclosures, community rooms, and other ancillary uses to serve only the residents of the complex.
- D. Affordable housing requirements.
- (1) All single-family attached and multi-family apartment developments constructed in the FRO Fairfield Road Overlay District shall be required to set aside a minimum percentage of units for affordable housing. Where units will be for sale, the minimum set aside shall be twenty percent (20%). Where units will be for rent, the minimum set aside shall be fifteen percent (15%). When calculating the required number of affordable units, any computation resulting in a fraction of a unit shall be rounded upwards to the next whole number.

- (2) All affordable units to be produced pursuant to this section shall comply with the Borough's Affordable Housing Regulations at Article XVI of the Borough Code, as may be amended and supplemented, the Uniform Housing Affordability Controls ("UHAC") (N.J.A.C. 5:80-26.1 et seq.), or any successor regulation, the Borough's Housing Element and Fair Share Plan, as may be amended from time to time, and any applicable order of the Court, including a Judgment of Compliance and Repose Order. This includes, but is not limited to, the following requirements for all affordable units:
- (a) **Low/Moderate Income Split:** A maximum of fifty percent (50%) of the affordable units shall be moderate-income units and a minimum of fifty percent (50%) of the affordable units shall be low-income units. At least thirteen percent (13%) of all restricted rental units shall be very low-income units within in each bedroom distribution, which shall be counted as part of the required number of low-income units within the development.
 - (b) **Bedroom Mix:** If the development is not age-restricted, the following bedroom mix shall apply:
 - [1] The combined number of efficiency and one-bedroom units shall be no greater than twenty percent (20%) of the total low- and moderate-income units;
 - [2] At least thirty percent (30%) of all low- and moderate-income units shall be two bedroom units;
 - [3] At least twenty percent (20%) of all low- and moderate-income units shall be three bedroom units; and
 - [4] The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
 - (c) **Deed Restriction Period:** All affordable units shall be deed restricted for a period of at least thirty (30) years from the date of the initial occupancy of each affordable unit (the "Deed-Restriction Period"). The affordability controls shall expire only after they are properly released by the Borough and/or the Borough's Administrative Agent at the Borough's sole option in accordance with N.J.A.C. 5:80-26.11 for rental units or N.J.A.C. 5:80-26.5 for for-sale units.
 - (d) **Administrative Agent:** All affordable units shall be administered by a qualified Administrative Agent paid for by the developer.
 - (e) **Other Affordable Housing Unit Requirements:** Developers shall also comply with all of the other requirements of the Borough's Affordable Housing Regulations at Article XVI, including, but not limited to, (1) affirmative marketing requirements, (2) candidate qualification and screening requirements, (3) integrating the affordable units amongst the market rate units, and (4) unit phasing requirements. Developers shall ensure that the affordable units are dispersed between all of the buildings on its site, and shall identify the exact location of each affordable unit at the time of site plan application.

E. **Area and bulk requirements.** The area and bulk requirements for the uses allowed in the FRO Fairfield Road Overlay District are set forth below. The bulk regulations of the underlying zoning district shall remain in full force and effect for development devoted exclusively to underlying zoning district permitted uses.

- (1) Minimum lot area: thirty-five thousand (35,000) square feet.
- (2) Minimum lot width: one hundred (100) feet.
- (3) Minimum front yard setback: thirty (30) feet.
- (4) Minimum side yard setback: thirty (30) feet.
- (5) Minimum rear yard setback: thirty (30) feet.

- (6) Minimum distance between buildings: twenty (20) feet.
- (7) Maximum building height: thirty-five (35) feet.
- (8) Maximum building coverage: twenty-five percent (25%).
- (9) Maximum impervious coverage: fifty-five percent (55%).
- (10) Maximum density: ten (10) dwelling units per acre.
- (11) Minimum buffer width along side and rear lot lines: fifteen (15) feet.

F. Additional requirements.

- (1) Off-street parking requirements. Off-street parking for development in the FRO Fairfield Road Overlay District shall be provided in accordance with the following:
 - (a) The minimum number of off-street parking spaces shall be as set forth in the Residential Site Improvement Standards (N.J.A.C. 5:21).
 - (b) All parking areas, including drive aisles, shall be located a minimum of 10 feet from buildings and a minimum of 15 feet from property lines. Parking spaces are prohibited in the front yard. Under-building parking and attached garages shall be permitted, provided that same are oriented to the side or rear of the property and are not visible from the public right-of-way.
 - (c) All parking areas shall be designed in accordance with the applicable provisions of Section 107-20 of this Chapter.
 - (d) Adequate fire and emergency access must be provided subject to the Borough of North Caldwell Fire Department.
 - (e) On-site parking shall not be provided for any use or to any party other than a resident or visitor of the site, nor shall parking areas be used for any purpose other than parking.
 - (f) Signage shall be provided where parking spaces are to be reserved for residents. Visitor parking shall be signed and painted for each space designated for such a purpose.
 - (g) Adequate parking facilities for accessibility to people with mobility impairments shall be provided as required by the Americans with Disabilities Act (ADA).
- (2) Buffer requirements.
 - (a) A minimum planted buffer area of fifteen (15) feet shall be planted along all side and rear lot lines. The buffer area shall be used only as a buffer planting strip on which shall be placed evergreen trees, shrubbery, berms, hedges, fencing and/or other suitable elements sufficient to constitute an effective screen.
 - (b) Buffers shall provide a year-round visual screen in order to minimize adverse impacts from the site on adjacent properties or from adjacent areas. If the buffer area includes existing growth of evergreen and deciduous trees and shrubbery, but not enough to provide a suitable screen as required above, existing trees and shrubbery may remain and shall be supplemented by additional evergreen plantings and/or fencing to provide the required landscaped screen.
 - (c) No structure, activity, storage of materials, drive aisles or parking spaces shall be permitted in the buffer area, other than the crossing of utilities or nonstructural stormwater measures.
 - (d) Buffer areas shall be maintained and kept clean of all debris, rubbish, weeds and tall grass. Any screen planting shall be maintained permanently, and any plant material that does not live shall be replaced within one (1) year or one (1)

growing season, provided all landscape plans as approved shall be continually complied with.

- (3) Signs. Signs are permitted and shall be subject to the requirements outlined under Section 107-31 of this Chapter.
- (4) Fences and retaining walls. Fences and retaining walls are permitted and shall be subject to the requirements outlined under Section 107-32 of this Chapter.
- (5) Refuse and recycling. All refuse and recycling material shall be stored at all times in airtight covered containers which shall be kept in a centrally located, concealed area. They may be stored in private garages or outside of buildings. If the materials are stored outside, they must be kept in a permanent enclosure with a latching gate in a centrally located, concealed area approved by the Planning Board. Where an enclosure is visible from the public right-of-way, it shall be supplemented with a hedge and/or other suitable plantings to provide an effective screen.
- (6) Lighting.
 - (a) Adequate lighting shall be provided for all common areas and pedestrian walkways.
 - (b) All lighting fixtures shall be so arranged so that the direct source of light is not visible from any adjacent residential properties, as approved by the Planning Board.
 - (c) A lighting plan shall be prepared to allow a determination of lighting impacts on adjacent properties and public rights-of-way.
- (7) Sidewalks. Sidewalks shall be provided along Fairfield Road at a minimum width of five (5) feet.
- (8) General design standards.
 - (a) Design: Building plans and elevations shall show a variation in design to be achieved by the types of roof, heights of eaves and peaks, building materials and architectural treatment of the building facade that is utilized. The following design standards shall be utilized:
 - [1] Architectural elements such as varied roof forms, articulation of the facade, breaks in the roof, and walls with texture materials and ornamental details should be incorporated to add visual interest.
 - [2] Roof height, pitch, ridgelines and roof materials should be varied to create visual interest and avoid repetition.
 - [3] Architectural elements such as fenestrations and recessed planes should be incorporated into façade design. Architectural treatment shall be applied to all elevations of a building.
 - [4] A variety of building colors, materials and textures are encouraged.
 - [5] Architectural features that enhance the façade or building form, such as decorative moldings, windows, shutters, dormers, chimneys, balconies and railings, are encouraged.
 - (b) Equipment: Exterior-mounted mechanical and electrical equipment exposed to the public view shall be architecturally screened. Roof-mounted equipment and projections should be painted the same color as the roof and, where possible, located to the rear of the building, away from the public view.
 - (c) Accessory buildings: Architectural design and materials used in the construction of accessory buildings shall conform to those used in the construction of principal

buildings. All accessory buildings shall be subject to the same minimum yard requirements as principal buildings.

Section 4. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 5. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of North Caldwell, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of North Caldwell are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 6. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Essex County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 7. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of North Caldwell for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 8. This Ordinance shall be presented to the Mayor for his approval and signature, which approval shall be granted or denied within ten (10) days of receipt of same, pursuant to N.J.S.A. 40:69A-149.7. If the Mayor fails to return this Ordinance with either his approval or objection to same within ten (10) days after it has been presented to him, then this Ordinance shall be deemed approved.

Section 9. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Essex County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

INTRODUCED: July 16, 2019

Moved By: Councilman Raymond
 Seconded By: Council President Santomauro

COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT	COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT
ASTORINO				X	RAYMOND	X			
CHIAIA	X				REES	X			
KESSLER	X				SANTOMAURO	X			

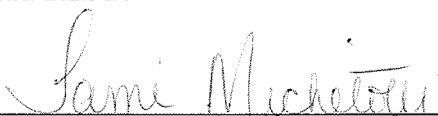
PUBLIC HEARING: August 13, 2019

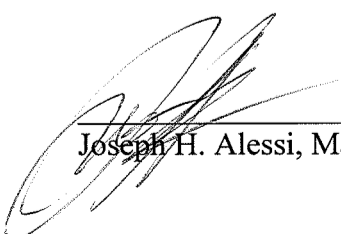
ADOPTED: August 13, 2019

Moved By: Council President Santomauro
 Seconded By: Councilman Chiaia

COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT	COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT
ASTORINO				X	RAYMOND	X			
CHIAIA	X				REES	X			
KESSLER				X	SANTOMAURO	X			

ATTEST:


 Tami Michelotti, Borough Clerk


 Joseph H. Alessi, Mayor

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**Proposed Zoning
 Amendment Map**
 FOR THE TOWNSHIP OF
 FAIRFIELD, MICHIGAN



Legend

- Township Boundaries
- Parcels
- P.I.P. & Other
Overlay Zone
- Underlying Zone District
Boundaries

**Proposed 2025 Update of
 Road Center Line**

10' 20'

NO.	DATE	DESCRIPTION
1	10/1/2024	PRELIMINARY
2	10/1/2024	FINAL

