

ORDINANCE NO. 49-2008

AN ORDINANCE TO AMEND AND SUPPLEMENT VARIOUS ARTICLES OF CHAPTER 400 ENTITLED "LAND USE" TO IMPLEMENT A RECOMMENDATION OF THE AMENDMENT TO THE LAND USE PLAN ELEMENT OF THE 2003 MASTER PLAN TO CREATE A NEW ZONE DISTRICT TO BE KNOWN AS THE "R-7 - ACTIVE ADULT / INCLUSIONARY HOUSING"

WHEREAS, the Mount Olive Planning Board adopted a Master Plan Reexamination Report and a comprehensive Master Plan as prepared by Robert A. Michaels, P.P., A.I.C.P. in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-28) on December 11, 2003 and memorialized said action in Planning Board Resolution No. 03-MP; and

WHEREAS, the Mount Olive Planning Board did adopt an amendment to the Land Use Element of the aforementioned Master Plan as prepared by Charles T. McGroarty, PP, ACIP on July 12, 2007; and

WHEREAS, the Municipal Land Use Law (N.J.S.A. 40:55D-62a) requires substantial consistency of the regulations governing zoning and land use development with the adopted Master Plan; and

WHEREAS, the Planning Board does recommend to the Township Council that the land use regulations and the Zoning Map as established in Chapter 400, more particularly known as the "Land Use Ordinance of the Township of Mount Olive" be amended and supplemented to create a new active adult / family inclusionary residential zone district in accordance with the recommendation as set forth in the July 12, 2007 Amendment to the Land Use Plan of the 2003 Master Plan; and

WHEREAS, the Township Council of the Township of Mount Olive concurs with the recommendations put forward by the Planning Board and does find that the public health, safety, morals, and general welfare of the community shall be promoted by the proposed new zone district for the purpose of creating housing opportunities for both active adults and for low and moderate families.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Mount Olive, County of Morris and State of New Jersey that the Township's Land Use Ordinance and Zoning Map be amended to add a new subsection "M" to the established residential zone districts as set forth in Article VII, §400-100 entitled "Zoning District Use and Bulk Regulations" in Chapter 400 of the Township Code create a new zone district to be known as the "Active Adult and Inclusionary Housing Residential Zone District" and to provide development standards as provided herein.

Section 1. §400-100, entitled "Rural and Residential Districts" of Article VII, entitled "Zoning District Use and Bulk Regulations" is hereby amended and supplemented to add a new zone district as follows:

M. R-7: Active Adult and Inclusionary Housing Residential Zone District.

The purpose of this district is to provide for a new zone district for active adult residential development within an age-restricted residential development and to also provide low and moderate-income family residential units as defined in §400-6 of this chapter.

A. PRINCIPAL PERMITTED AND ACCESSORY USES, BUILDINGS AND STRUCTURES

(1) Principal permitted uses shall be as follows:

- (a) Single-family detached dwellings
- (b) Duplex dwellings
- (c) Townhouse dwellings not to exceed a maximum of eight (8) units in one overall structure.
- (d) Multiple dwelling unit buildings not to exceed a maximum of twenty-four (24) residential units per building

(2) Permitted accessory uses, buildings and structures shall be as follows:

- (a) Recreational, social and communal facilities for the exclusive use of residents of the community and guests
- (b) Community center building
- (c) Active and passive outdoor recreation facilities
- (d) Off-street parking areas
- (e) Gatehouse
- (f) Individual and common mailboxes
- (g) Signage in accordance with the standards in subsection L.
- (h) Enclosed trash and recycling storage areas
- (i) Patios and decks

(3) Conditional uses shall be as follows:

- (a) None.

(B) MANDATORY AFFORDABLE HOUSING PROVISION

The developer of an active adult residential site plan and/or subdivision shall be required to provide twenty percent (20%) of the total residential dwelling units to households of low and moderate-income with at least one-half the total number of such units available to low income households. The requirements established by the Council On Affordable Housing for low and moderate income housing as set forth in N.J.A.C. 5:94-1.1 et seq.; N.J.A.C. 5:95-1.1 et seq.; and N.J.A.C. 5:80-26.1 et seq. including amendments thereto, and those standards including but not limited to the design, location and phasing for the low and moderate-income units as set forth in §400-85 of this Chapter shall apply subject to certain modifications as set forth in this Section. The low and moderate-income units shall be available to the general public and shall constitute a “family unit” as defined by N.J.A.C. 5:94.1.4 without restriction by age and in accordance with the above-referenced standards.

The applicant/developer may elect to locate the required low and moderate-income units on a separate lot or lots pursuant to subdivision approval by the Planning Board. In the event a separate lot or lots are created for this purpose the gross density for the market units and the low and moderate-income units shall be calculated on the pre-subdivided acreage.

(C) GENERAL DEVELOPMENT STANDARDS

- (1) Minimum tract area. The minimum tract area for age-restricted development shall be fifty (50) acres under the ownership or control of a single entity and the subject of a development application.
- (2) Residential density. Residential density, inclusive of both market and low and moderate-income units shall not exceed one and four-tenths (1.4) dwelling units per gross acre.
- (3) Site access and minimum tract frontage. Any development in the R-7 zone district shall have direct access to and at least five hundred (500) feet of continuous linear frontage on, an improved public street.
- (4) Infrastructure improvements. The approving authority shall reserve the right to require on-tract and offsite road improvements for ingress and egress at the site and improvements, including, but not limited to, the installation of traffic signalization at the intersection of Flanders Bartley Road, Ironia Road, Pleasant Hill Road and Main Road, if approved by the New Jersey Department of Transportation, to ensure safe and efficient ingress and egress to the site. The improvements shall be designed to implement the policy objectives outlined in the Mount Olive Township's 2003 Master Plan's Circulation Element and the recommendations of the Township Engineer. All internal streets shall be designed in accordance with the N.J.A.C. 5:21-1.1 et seq. (Residential Site Improvement Standards).
- (5) Utilities. All utility lines shall be installed underground in accordance with §400-60 of this chapter.
- (6) Potable water and sanitary sewerage facilities. The development shall be served by a central water system. Sanitary sewer service shall be provided by a connection into the existing Clover Hill Sanitary Sewer system that discharges and is treated at the Clover Hill Treatment Plant. The developer shall extend the sanitary sewer lines as required to service the proposed development and perform infrastructure improvements to the existing sewer lines that may be required to provide sufficient capacity for the additional flow discharged from the proposed development. Improvements shall also be provided by the developer to the Clover Hill Treatment Plant to improve plant efficiency in conjunction with sewerage service to the R-7 Zone District in accordance with the upgrades established in the "Conclusions" section of the correspondence entitled "Township of Mount Olive Clover Hill Wastewater Treatment Plant Report Supplement" dated April 17, 2008 and subject to the approval of the New Jersey Department of Environmental Protection. The report supplements the original

report prepared by CMX entitled "Township of Mount Olive clover Hill Treatment Plant Technical Memorandum On Capacity Evaluation" dated January 2008".

- (7) Maximum building coverage. The maximum building coverage, including principal and accessory buildings and structures, shall not exceed twenty (20%) percent of the gross acreage of the tract. Building coverage shall be calculated on the basis of the total tract. In the event a portion of the tract is subdivided to locate the low and moderate-income housing units on a separate lot or lots, and/or in the event some or all of the market units are designed on individual lots pursuant to subdivision approval by the Planning Board, the applicant shall demonstrate prior to preliminary site plan and/or subdivision approval that the cumulative impact for the entire development including any subdivision as referenced herein, will comply with the 20 percent building coverage standard.
- (8) Maximum impervious coverage. The maximum impervious coverage for the overall tract shall not exceed forty (40%) percent of the gross acreage of the tract. Maximum impervious coverage shall be calculated on the basis of the total tract. In the event a portion of the tract is subdivided to locate the low and moderate-income housing units on a separate lot or lots, and/or in the event some or all of the market units are designed on individual lots pursuant to subdivision approval by the Planning Board, the applicant shall demonstrate prior to preliminary site plan and/or subdivision approval that the cumulative impact for the entire development including any subdivision as referenced herein, will comply with the 40 percent impervious coverage standard.
- (9) The existing stormwater drainage channel, commonly known as Rosewood Ditch should be improved in accordance with the guidelines outlined in the TRC Omni Environmental Corporation Report dated July 26, 2005 to the extent permitted by the NJDEP. All stormwater management improvements shall be in accordance with the Stormwater Management Rules (N.J.A.C. 7.8) of the State of New Jersey and the New Jersey Stormwater Best Management Practices Manual published by the NJDEP dated April 2004 and amended thereafter.

D. SETBACKS FROM TRACT BOUNDARIES FOR PRINCIPAL BUILDINGS.

- (1) Single family detached units and duplex units
 - Minimum lot area: 5,500 square feet
 - Minimum lot width and frontage: 55 ft.
 - Minimum lot depth: 100 ft.
 - Front yard setback: 20 ft.; with open porch permitted within 15 feet to the front lot line
 - Side yard (each): Minimum seven and one-half feet (7.5 feet) for residential dwellings having a maximum height of twenty-six feet (26 ft.) and 8 feet for residential dwellings having a height greater than twenty-six feet (26 ft.) but not to exceed a maximum height of thirty-five feet (35 ft.).
 - Rear yard: 25 feet
 - Maximum building coverage: In accordance with Subsection C (7)

- Maximum impervious coverage: In accordance with Subsection C (8). The maximum impervious coverage permitted for each individual lot for single family detached units shall not exceed fifty-five (55) percent.
- Maximum building height: 35 feet

(2) Townhouses dwellings

- Townhouse dwellings shall not exceed eight (8) units in one overall structure
- Minimum setback to R-4 zone district: one hundred (100) feet
- Minimum setback to other tract boundaries: fifty (50) feet
- Maximum building height: 35 feet
- Minimum distance between end unit to end unit: 20 feet
- Minimum distance between rear of unit to rear of unit: 50 feet
- Minimum distance to single-family dwelling unit: 60 feet

(3) Apartment/multi-dwelling unit building(s)

- Minimum setback to R-4 zone district: 500 feet
- Minimum setback to P zone district: 100 feet
- Minimum setback to other lot boundaries in the R-7 zone district in the event of a minor or major subdivision: 50 feet
- Maximum building height: 45 feet
- Minimum distance between like buildings: 25 feet
- Minimum distance between rear of unit to rear of unit: 65 feet

E. SETBACKS FROM TRACT BOUNDARIES FOR ACCESSORY BUILDINGS AND STRUCTURES.

(1) Setback from tract boundaries for accessory buildings and structures. The minimum setback for accessory buildings and structures shall be as follows:

- (a) Community center and all outdoor recreation facilities shall maintain a minimum distance of one hundred (100) feet from all tract boundaries.
- (b) Individual or group mailboxes may be permitted within one (1) foot of the curb.
- (c) Signage in accordance with Subsection L, herein.
- (d) A gatehouse shall maintain a minimum distance of fifty (50) feet from the right-of-way of the major arterial road.

F. MINIMUM OFF-STREET PARKING REQUIREMENTS.

(1) The number and design of parking spaces for the residential dwellings shall conform to the requirements of sections 5:21-4.14 and design standards of 5:21-4.15 and 5:21-4.16 of the Residential Site Improvement Standards (N.J.A.C. 5:21-1.1 et seq.)

- (2) Off-street parking for the community center shall be provided at a ratio of two (2) parking spaces per one thousand (1,000) square feet of gross floor area.

G. DESIGN ELEMENTS.

It is anticipated that the low and moderate-income units will be located in one or more multi-unit buildings separate and apart from the age-restricted market units whether situate within the same overall tract or established on a separate lot(s) subject to subdivision approval by the Planning Board. To the maximum extent practicable the façade treatment and roof pitch of the low and moderate income unit building(s) shall be compatible with the market rate units.

H. PEDESTRIAN CIRCULATION NETWORK.

Sidewalks having a minimum width of four (4) feet shall be provided along both sides of all internal streets. All sidewalks shall be provided with appropriately scaled lighting to ensure public health and safety. Separate walking trails may be permitted as a component of the open space/recreation plan but shall not serve as a substitute for sidewalks.

I. LANDSCAPING, STREET TREES, AND BUFFERS.

- (1) A landscape plan, prepared by a certified landscape architect, shall be required to provide for the following:
 - (a) Off-street parking areas for the community center building and the low and moderate-income family unit building(s) shall be screened to provide with year-round landscaping and/or decorative fencing. All screening materials shall be planted at a minimum height of five (5) feet.
 - (b) Street trees shall be installed on both sides of all streets planted at a distance not to exceed forty (40) feet on-center. Trees shall be spaced evenly along the street between the curb and sidewalk within a planting strip not less than five (5) feet in width with a second row of trees to be planted along the interior edge of the sidewalk.
 - (c) The interior and perimeter edge of stormwater basins shall be suitably planted with trees and shrubbery.. All woody and herbaceous plants shall be species indigenous to the area and/or tolerant to typical wet/dry floodplain conditions.

J. COMMUNITY CENTER / NEIGHBORHOOD PARK.

There shall be a minimum of one community center building for market units consisting of at least fifteen (15) square feet of gross floor area for each market residential dwelling unit within the development providing for a range of social and recreational facilities for the residents and their guests which may include, but

is not limited to, a kitchen, dining area, offices, recreational and social activity rooms.

There shall be a minimum of one park for the low and moderate-income residential units consisting of at least twenty-five (25) square feet for each residential dwelling within the low and moderate-income family unit portion of the development. The park shall be located within a reasonable walking distance to the units and shall be designed and equipped with amenities including, but not limited to, benches, lighting and landscaping for the use of the residents. Active recreational facilities within the park shall be permitted, subject to approval by the Planning Board but such facilities shall not be required.

K. OPEN SPACE.

A minimum of fifty (50) percent of the tract shall be set aside for open space as common property for the benefit of the residents or offered to the Township for public purposes. The open space component of the development shall adhere to the limitations established for all residential districts as set forth in this Chapter with regard to the exclusion of stormwater facilities and the limitation of freshwater wetlands to no more than twenty-five (25) percent of the open space area. Active and passive recreation facilities, excluding the community center, may be calculated towards the open space acreage.

L. DEVELOPMENT SIGNS

- (1) Development signage may be permitted subject to the following standards, notwithstanding §400-95 B(5) of this chapter:
 - (a) The development identification signs shall be limited to one monument sign for the market units and one monument sign for the low and moderate-income units as defined in §400-6 of this chapter. The maximum height of the entire monument sign structure shall not exceed twelve (12) feet from grade. The maximum sign area shall not exceed thirty (30) square feet. No part of the sign shall have internal illumination. The location for a development identification signs shall maintain a minimum setback of twenty-five (25) feet from a tract boundary.
 - (b) A maximum of three (3) directory signs may be permitted within the development. The maximum sign area per sign shall not exceed four (4) square feet and shall not exceed a mounting height of six (6) feet. Directional signs shall have no internal or external means of illumination. Directional signs shall be limited to the common areas and shall not be located in any public right-of-way. The location shall be subject to Planning Board approval.

M. TRASH STORAGE AREAS

Trash and recycling receptacles shall be stored internally within all residential buildings and the community center building except for the time period necessary to make such containers available for collection. The Planning Board may permit trash and recycling receptacles for residential buildings to be located outside the building(s) provided that suitable enclosures are provided to completely screen such receptacles from view. Screening materials may include solid wood or synthetic material, brick or solid block. Chain link fence enclosures, with or without privacy slats shall be prohibited.

N. PHASING PLAN.

The developer shall submit a phasing plan for approval by the Planning Board. The community center and all exterior recreational facilities shall be constructed and available for use no later than the point where fifty (50) percent of the Certificates of Occupancy of the total approved market residential units in the development have been issued.

A phasing plan for the low and moderate income units shall be provided at the time of preliminary site plan and/or subdivision in accordance with the following schedule:

Percentage of market rate units completed	Minimum percentage of low and moderate income units completed
25	0
25 + 1	10
50	50
75	75
90	100

O. COMPLIANCE WITH AFFORDABLE HOUSING STANDARDS.

The developer shall provide the Planning Board with appropriate documentation at the time of application for preliminary site plan and/or preliminary major subdivision to demonstrate compliance with the requirements for the low and moderate income units as set forth in §400-85 of this chapter.

P. Permanent Deed Restrictions. The following permanent deed restriction shall be imposed as part of any approval pursuant to this section which restrictions shall be reviewed and approved by the Planning Board with the advice of its Board Attorney.

Age Restrictions.

(A) Restrictions.

- (1) Occupancy. Occupancy of any Unit in the Condominium is restricted to households with at least one (1) Age-Qualified Person and with no person less than nineteen (19) years of age provided that visitors less than nineteen (19) years of age are permitted for

no more than eight (8) weeks during any twelve (12) month period. In particular, occupancy is restricted to the following persons:

- (a) any Age-Qualified Person;
- (b) a spouse or companion, nineteen (19) years of age or over residing with the Age-Qualified Person;
- (c) children residing with the Age-Qualified Person or residing with the spouse or companion of the Age-Qualified Person, provided the children are nineteen (19) years of age or over; or
- (d) an individual, nineteen (19) years of age or over, residing with and providing physical or economic support to an Age-Qualified Person.

(2) Visitation by Persons Under Age 19. No restriction herein is intended to prohibit the visitation by persons under nineteen (19) years of age who are family members or guests of the Permanent Occupants. Permitted visitations must not exceed eight (8) weeks during any twelve (12) month time period.

(3) Amendments. This provision shall only be amended in accordance with the bylaws of the Community after approval of such amendment is obtained from the Township of Mt. Olive Planning Board and any other governmental agencies having jurisdiction over such amendment.

(B) Enforcement. In connection with the initial sale of the Units, the Developer shall enforce this Article. As to all subsequent sales of Units, the Association, through the Board, shall enforce this Article. The Developer and/or the Board shall not permit permanent occupancy of any Unit if such occupancy violates this Article.

(C) Applications.

(1) Required Evidence. A person seeking to buy, rent, or occupy a Unit shall submit to the Developer and an Owner seeking to transfer, sell, gift, lease, assign, or grant any Unit shall submit to the Board the following:

- (a) full written disclosure of the names, addresses, and ages of all prospective Permanent Occupants;
- (b) satisfactory evidence that at least one Permanent Occupant of the Unit is an Age-Qualified Person; and
- (c) satisfactory evidence that none of the other Permanent Occupants is under nineteen (19) years of age.

- (2) Form of Evidence. Such evidence shall be in the form of age certifications from each prospective Permanent Occupant and copies of driver's licenses, birth certificates, or similarly recognized documentation satisfactory to the Developer or the Board.
- (3) Action by Developer or Board. Neither the Developer nor the Board shall deem applications complete or grant approval of an application unless and days of receipt of all required evidence in accordance with the following:
- (a) If the prospective Permanent Occupants include at least one prospective Permanent Occupant who is an Age-Qualified Person and none of the prospective Permanent Occupants is under nineteen (19) years of age, then the Developer, the Board, or their respective designated agents shall approve the application.
 - (b) If a prospective Permanent Occupant is under nineteen (19) years of age, the Developer, the Board, or their respective designated agents shall deny the application.
 - (c) The Developer, the Board, or their respective designated agent shall not approve any application under this Article if:
 - (i) none of the prospective Permanent Occupants is an Age-Qualified Person;
 - (ii) any prospective Permanent Occupant is under nineteen (19) years of age; or
 - (iii) the approval of the application would violate or threaten to violate this Article.
 - (d) Failure to Act. If the Developer, the Board, or their respective designated agents fail to act within ten (10) days of receipt of all required evidence and at least one prospective Permanent Occupant is an Age-Qualified Person and no prospective Permanent Occupants are under nineteen (19) years of age, the Developer or the Board will be deemed to have approved the application.
 - (e) Notice of Denial. If the Developer, the Board, or their respective designated agents deny an application, the Developer, the Board, or such agents must set forth in writing the reasons for the denial and deliver written notice to the person or Owner making the application at the time the Owner is informed of the decision.
 - (f) Hearing. If an Owner is dissatisfied with the decision, the Owner may request a hearing before the Board, with or

without legal counsel present, which hearing will be scheduled to occur within thirty (30) days of the Owner's request. All Board decisions after the hearing must be set forth in writing. The Board shall render a written decision and deliver such decision to the Owner within 5 business days of the hearing. The right to a Board hearing pursuant to this Article is limited solely to an Owner and an attorney acting on an Owner's behalf and may not be exercised by any other person seeking to appeal the denial of an application.

(D) Transfers.

- (1) Prior Approval Required. A person shall not buy, rent, or occupy and an Owner shall not transfer, sell, gift, lease, assign, or grant any Unit until such person or Owner submits an application to and receives the approval of the Developer or the Board, as the case may be, pursuant to Article.
 - (2) Transfers on Death. If a Unit Owner dies, with or without a will, leaving as beneficiaries or heirs one or more persons who are not Age-Qualified Persons under this Master Deed, the restrictions in this Article are not deemed to restrict the ownership of the Unit by such beneficiaries or heirs. The beneficiaries or heirs, their successors or assigns, shall not reside in the Unit until the Board's approval has been obtained as required by this Article. A beneficiary or heir who is under the age of 19 shall not occupy the Unit until such beneficiary becomes an Age-Qualified or lives with someone who is an Age-Qualified Person. The foregoing shall not apply to any Permanent Occupant who is an Age-Qualified Person.
 - (3) Binding Agreements with Prospective Owners. Before entering into any binding agreement transferring, selling, gifting, leasing, assigning, or granting the Unit to a Prospective Owner, other than an agreement whose enforceability is expressly contingent on approval from the Board with a prospective Owner, existing Owners shall submit the required evidence to the Board pursuant to this Article. An Owner shall not execute any form of binding agreement with respect to the transfer, sale, gift, lease, assignment, or grant of their Unit without first obtaining the Board's written approval.
- (E) Annual Compliance Review. On an annual basis, Owners shall provide the Board with information verifying that each Unit is currently occupied by at least one Age-Qualified Person and that no Permanent Occupant of the Unit is under the Age of 19 years. If a Unit is not owned by a Permanent Occupant, the Owner shall provide this information. The verification provided to the Board shall be in the form of copies of driver's licenses, birth certificates, or other similar documentation. The Board, in its sole discretion, may also require that all Permanent Occupants sign certifications acknowledging the ages of Permanent Occupants in the Unit they occupy. The Board shall forward all documents obtained in connection with its annual compliance review to the Township Attorney

for the Township of Mt. Olive and such other state or federal agencies as may have jurisdiction.

- (F) Failure to Comply At any time after the approval of an application, an Owner or Permanent Occupant, if an Owner or Permanent Occupant fails to qualify with regarding to the terms of this Article, the Permanent Occupant shall vacate the Unit within 90 days of said failure to comply. Such Permanent Occupant shall be subject to a summary dispossess action in a court of competent jurisdiction if the Permanent Occupant otherwise fails to comply.

Q. MAINTENANCE OF COMMON ELEMENTS.

The developer shall submit documentation regarding the ownership and maintenance of common elements pursuant to Homeowners' Association documents in accordance with §400-52 of this Chapter.

Section 2.

The Schedule of Limitations for Residential Districts and the 1999 Zoning Map, revised through April 2005 as referenced in §400-77, G entitled "Zoning districts and map" shall be revised to reflect the R-7 zone district and the standards for same as set forth herein.

Section 3.

If any section or subsection of this ordinance shall be found or declared to be invalid, illegal or unconstitutional, that shall not affect the remainder thereof, which shall remain in full force and effect.

Section 4.

This ordinance shall take effect upon final adoption, publication, and publication of a notice for final adoption and the filing of same with the Morris County Planning Board.

ATTEST

Lisa Lashway, Township Clerk

Raymond T. Perkins, Council President