

TOWNSHIP OF MENDHAM ORDINANCE NO. 12-2014

**AN ORDINANCE AMENDING AN ORDINANCE ENTITLED " AN
ORDINANCE CREATING A NEW "REUSE OF EXISTING BUILDINGS
OVERLAY DISTRICT" IN A PORTION OF THE R-10 ZONE,
PERMITTING THE REUSE OF EXISTING BUILDINGS FOR
MULTIPLE USES AS A CONDITIONAL USE, AMENDING CHAPTER
XXI "ZONING REGULATIONS" OF THE LAND USE ORDINANCE OF
THE TOWNSHIP OF MENDHAM**

**BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF MENDHAM, IN THE COUNTY OF MENDHAM, NEW
JERSEY, as follows:**

SECTION 1. Chapter XXI, Section 21-2.1, Zone Districts, of the Land Use Ordinance is hereby amended to insert a new overlay zone district as follows:

“Reuse and Reconstruction of Existing Buildings Overlay Zone within the R-10 Zone district retaining the underlying R-10 zone plan and requirements”

SECTION 2. Section 21-2.2, Zoning Map and Schedule of Requirements of the Land Use Ordinance of the Township of Mendham is hereby amended to read as follows: “21-2.2 Zoning Map and Schedule of Requirements. The property designated on the official tax map of the Township of Mendham as Block 100, Lot 17.03, which is also delineated and designated on the map entitled 'Township of Mendham, Mendham County, New Jersey, Zoning Map,) including the Schedule of Requirements appearing thereon, is hereby designated as an overlay zone district within the R-10 Zone entitled the 'Reuse and Reconstruction of Existing Buildings Overlay Zone.”

SECTION 3. A new section, section 21-5B is *hereby* created to read as follows:

**21-5B REUSE AND RECONSTRUCTION OF EXISTING BUILDING OVERLAY
ZONE**

21-58.1 Alternate reuse of existing buildings. In addition to the uses permitted in the underlying R-10 Zone, any combination of the following uses are permitted as a conditional use provided that the standards of section 21-4.6.g., Reuse and Reconstruction of Existing Buildings, are met:

a. Principal permitted uses

- (1) Governmental uses.
- (2) Churches, houses of worship, and related religious uses.
- (3) Elementary, intermediate and high schools teaching academic subjects.
- (4) subjects.
- (5) Public assembly hall or theater ancillary to (1), (2), or (3) above.

- (6) Non-profit office uses.
- (7) Assisted living facility.
- (8) Hospice.
- (9) Intermediate Care Facility
- (10) Long-term Care Facility
- (11) Age restricted residences.
- (12) Day care facility.
- (13) Gymnasium use in the existing gymnasium building.
- (14) Residences for onsite employees of the uses located in the Reuse and Reconstruction of Existing Buildings Overlay district.
- (15) Administrative offices for building owners.

b. Permitted accessory uses: Any use normally accessory and incidental to the principal permitted use.

c. Affordable Housing Obligation The developer using this overlay option shall either construct affordable housing units off-site or make a payment in lieu of construction, such election shall be made prior to the approval of the first construction permit. The number of affordable units to be constructed off-site or the amount of payment in lieu of construction shall be equal to five percent (5%) of the total number of dwelling units proposed in the project. In the alternative, the developer may elect to pay a "development fee" equal to three quarters of one percent (.0075) of the equalized assessed value of the new and or reconstructed units at the site consistent with applicable Council on Affordable Housing (COAH) regulations.

Payment of the Fee

- (1) Developers shall pay 50% of the estimated development fee to the Township at the issuance of building permits. At the issuance of certificates of occupancy for each unit, the appropriate development fee shall be based on the percent of equalized assessed value of the development and the remaining portion of the fee, as appropriate, shall be paid. The developer shall be responsible for paying the difference between the fee calculated at building permit and paid at issuance of a certificate of occupancy.
- (2) In the event any of the conditions described in N.J.A.C. 5:97-8-13(a) occur, the Council shall be authorized, on behalf of the municipality, to direct the manner in which all funds in the affordable housing trust fund shall be expended. Such revenues shall immediately become available for expenditure once the Council has notified the Municipal Clerk and Chief Financial Officer that such a condition has occurred. In furtherance of the foregoing, Mendham Township shall, in establishing its housing trust fund pursuant to N.J.A.C. 5:97-8.1, ensure that the Township has provided written authorization, in the form of an escrow agreement, to permit the Council to direct the disbursement of such revenues from the account following the delivery to the bank of the aforementioned written

notification provided by the Council to the Township's Clerk and Chief Financial Officer.

(3) Fees shall be collected and held in escrow until COAH has approved the Township Affordable Housing Plan or other use is approved.

(4) Imposed and collected developer's fees that are challenged shall be placed in an interest-bearing escrow by Mendham Township. If all or a portion of the contested fees are returned to the developer, the accrued interest on the returned amount shall also be returned.

(5) Payment and collection shall be as prescribed in Form N-RDF or any authorized replacement.

c. Housing trust fund

(1)

There is hereby created an interest-bearing housing trust fund to be maintained in a designated depository institution approved by the Township Committee for the purpose of receiving the development fees from residential (and nonresidential) developers. All development fees paid by developers pursuant to this subsection shall be deposited in this fund. No money shall be expended from the housing trust fund unless the expenditure conforms to a spending plan approved by COAH.

[Amended 12-17-2008 by Ord. No. 41-08]

(2)

If COAH determines that the Township of Mendham is not in conformity with COAH's rules on development fees, COAH is authorized to direct the manner in which all development fees collected pursuant to this section shall be expended. Such authorization is pursuant to this subsection, COAH's rules on development fees and the written authorization from the Township Committee to the depository for the fund.

(3)

In establishing the housing trust fund, the Township shall provide written authorization, in the form of a three-party escrow agreement among the Township, the bank and COAH, to permit COAH to direct the disbursement of funds as provided for in N.J.A.C. 5:97-8.13(b). This three-party escrow agreement shall be submitted to COAH within seven days from the opening of the trust fund account. All interest accrued in the housing trust fund shall be affordable housing activities approved by COAH.

d. Use of funds.

(1)

Money deposited in a housing trust fund may be used for any activity approved by COAH for addressing the Township's low- and moderate-income housing obligation. Such activities may include, but are not necessarily limited to: housing rehabilitation, new construction, regional contribution agreements, the purchase of land for low- and moderate-income housing, extensions and/or improvements of roads and infrastructure to low- and moderate-income housing sites; assistance designed to render units to be more affordable to low- and moderate-income households, and administrative costs necessary to implement Mendham Township's housing element. The expenditure of all money shall conform to a spending plan approved by COAH.

(2)

At least 30% of the revenue collected shall be devoted to render units more affordable. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region. Examples of such activities include, but are not limited to, down payment assistance, low-interest loans, rental assistance, and rehabilitation.

(3)

No more than 20% of the revenues shall be expended on administrative costs necessary to develop, revise or implement the housing element. Examples of eligible administrative activities include: personnel, consultant services, space costs, consumable supplies, and rental or purchase of equipment.

(4)

Development fee revenues are not to be expended to reimburse Mendham Township for housing activities that preceded first- or second-round substantive certification.

(5)

Mendham Township shall complete and return to COAH all monitoring forms included in the annual monitoring report related to the collection of development fees from residential and nonresidential developers, payment in lieu of constructing affordable housing on-site and funds from the sale of units with extinguished controls, and the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

SECTION 5. Section 21-4.6, CONDITIONAL USES, is hereby amended to add a new subsection to read as follows:

“21-4.6.g., REUSE AND RECONSTRUCTION OF EXISTING BUILDINGS. Existing buildings in the Reuse and Reconstruction of Existing Buildings Overlay Zone district may be reused for any of the uses listed in section 21-5B.1 provided the following

regulations and standards are met. For the purposes of this Section "principal building" shall mean the original mansion and the attached wings. All of the remaining structures on the site shall be considered "accessory buildings".

1. Any reuse of existing buildings involving a change of use shall require conditional use approval in accordance with this section. The developer shall have the right to demolish accessory buildings and, at the discretion of the developer, to reconstruct them in accordance with the strict limitations set forth in Section 3(b) below of this ordinance.
2. The lot area must be at least 18 acres in Mendham Township.
3. (a) No new principal building floor area shall be created except for minor alterations that may be needed for code compliance, handicapped access, elevator installations or other improvements that do not significantly alter the building area and except for the construction of penthouses on top of the existing wings of the principal building provided that the height of the penthouses does not exceed the highest point of the existing principal building. Any minor alteration of the principal building shall not result in the minimum building setback from property boundaries being less than 80 feet.

(b) Reconstruction of accessory buildings shall be subject to the following requirements:
 - (1) Minimum setback from property boundaries: 80 feet.
 - (2) Maximum height: 35 feet.
 - (3) Minimum portion of each existing building footprint upon which reconstructed building to be located:
25%
 - (4) Maximum increase of area of each existing footprint: 20%
4. The total impervious surface coverage shall be no more than 218,000 square feet. Underground parking areas that are not below buildings and are covered by natural or landscaped surfaces shall not be included in the calculation for the impervious coverage limitation. However, such areas shall be considered as impervious coverage for stormwater management purposes.
5. Any use providing medical care shall provide its own ambulance service for its patients.
6. The amount of existing building floor area devoted to the uses permitted in the Reuse and Reconstruction of Existing Buildings Overlay Zone shall be shown on the site plan together with a calculation of the total floor area proposed to be devoted to each use. The following parking standards shall be utilized as a gauge for determining the maximum intensity of use. For the purpose of this section higher intensity uses are those that generate more need for parking. Accessory uses shall be counted as the principal use for

these purposes. The total intensity of reuse and reconstruction of buildings for any combination of permitted uses shall not exceed a total of 200 parking spaces theoretically needed as calculated utilizing the following standards

BUILDING FLOOR AREA DEVOTED TO:	PARKING SPACES
Church services and other worship	One for each three seats or one for each 72 inches of bench seating; however, there shall be no theoretical parking need generated if services are limited to weekends and/or evenings after 5:00 P.M.
Public assembly hall, theater	One for each three seats or one for each 75 sq. ft. of assembly area; however, there shall be not theoretical parking need generated if such uses are limited to weekends and/or evenings after 5:00 P.M.
Non-profit office and governmental uses	One for each 200 sq. ft.
Hospice, Intermediate and longterm care facilities.	One per unit
Gymnasium use	One for each 200 sq. ft.
Assisted living facility	0.5 per unit
On-site employee residences	One per unit
Age restricted residences	Two per unit
Day care facility	One per every 600 sq. ft.
Elementary school	Two per classroom
Intermediate school	2 per classroom
High school	2 per classroom

The above parking standards are solely intended for calculating the maximum intensity of use. The ability to physically provide more than 200 parking spaces on site shall not constitute a valid reason to reuse or reconstruct building space with a higher percentage of higher intensity uses.

[Added 12-17-2008 by Ord. No. 41-08]

SECTION 6.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason found to be unconstitutional or unenforceable, such decision shall not affect the remaining portion of this ordinance.

SECTION 7.

All ordinances of the Township of Mendham which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 8.

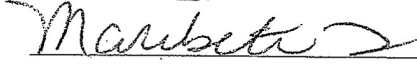
This Ordinance shall take effect after final passage and publication pursuant to law.

I, Elizabeth Rego, Acting Clerk of the Township of Mendham hereby certify the forgoing to be a true copy of an ordinance introduced by the Township Committee of the Township of Mendham and duly adopted by the Governing Body.

Introduction 12/8/14

Adoption 12/23/14


Elizabeth Rego, Acting, Clerk


Maribeth Thomas, Mayor