

TOWNSHIP OF WEST CALDWELL

Ordinance No. 1903

By: Councilman Wolsky

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 20 “ZONING” TO ADD A NEW SUBSECTION 9H “R-9B MULTI-FAMILY RESIDENCE OVERLAY DISTRICT” AND TO SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO

WHEREAS, the Township of West Caldwell has a constitutional obligation to create a realistic opportunity for the construction of its fair share of the region’s need for affordable housing; and

WHEREAS, on March 20, 2024, Governor Philip D. Murphy signed P.L.2024, c.2 into law an Amendment to the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.)(“Amended FHA”); and

WHEREAS, the West Caldwell Planning Board adopted the 2025 Housing Element & Fair Share Plan on June 23, 2025, which was endorsed by the Township Council on June 24, 2025, pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1 et seq., which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, two challenges were filed during the permitted challenge window, one by Fair Share Housing Center (“FSHC”) on August 29, 2025 and one by Danbro Properties, LLC on August 30, 2025; and

WHEREAS, the Township participated in mediation to resolve the concerns raised in the two challenges; and

WHEREAS, the Township has entered into a Mediation Agreement with FSHC to address their issues and said Mediation Agreement requires the Township to create a new inclusionary residential overlay district on Block 2101, Lots 7 through 12.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of West Caldwell, in the County of Essex, as follows:

Section 1: Chapter 20 of the Township Code entitled “Zoning”, Subsection 5.1 entitled “Zone Districts” is hereby amended and supplemented with the following underlined text:

R-9B Multi-Family Residence Overlay District
R-10 Planned Residence Overlay District

Section 2: Chapter 20 of the Township Code entitled “Zoning”, is hereby amended and supplemented with a new Subsection 9H entitled “R-9B Multi-Family Residence Overlay District”, which shall read as follows:

§20-9H **R-9B MULTI-FAMILY RESIDENCE OVERLAY DISTRICT.**

The following standards shall apply to the development within the R-9B Multi-Family Residence Overlay District. When the standards herein conflict with other provisions of Chapter 20, the standards herein shall apply.

§20-9H.1 **Principal Permitted Uses.**

- a. Multi-family residential units, including stacked townhomes. Stacked townhomes shall be defined as a one-family unit in a row of three such units, where units are stacked on each other. Units may be multi-level; however, all units shall have common fire-resistant walls and have direct access from the outside.

§20-9H.2 **Permitted Accessory Uses.**

- a. Off-street parking areas.
- b. Residential amenities including, but not limited to, clubrooms, lounges, game rooms, mail rooms,

leasing office, and similar interior common resident amenities incorporated into a larger building design. These accessory uses shall not be in stand-alone structures.

- c. Fences and walls complying with Subsection 20-21.14.
- d. Signs.
- e. Trash enclosures.
- f. Public and private utilities.

§20-9H.3 Height, Area, Bulk and Other Requirements.

- a. Minimum Lot Area – 10 acres.
- b. Minimum Lot Width – 750 feet.
- c. Minimum Front Yard Setback – 40 feet.
- d. Minimum Side Yard Setback Abutting a Non-residential Use – 30 feet.
- e. Minimum Side Yard Setback Abutting a Residential Use – 50 feet.
- f. Minimum Rear Yard Setback – 50 feet.
- g. Maximum Building Height – 4 stories and 50 feet. However, buildings within 100 feet of the rear lot line, which is opposite of Passaic Avenue, shall be no more than 3 stories and 40 feet.
- h. Maximum Building Coverage – 30%
- i. Maximum Lot Coverage – 65%
- j. Maximum Density – 20 units per acre.

§20-9H.4 Affordable Housing Requirements.

- a. A minimum of twenty percent of all units shall be set aside for low- (including very-low-) and moderate-income households, regardless of tenure, for all new multi-family residential developments of five units or more.
- b. Affordable units shall be governed by deed restrictions ensuring long-term affordability controls in accordance with Chapter 23, Affordable Housing.
- c. The development, unit distribution, income distribution, bedroom distribution, and marketing of all affordable units shall be undertaken consistent with Chapter 23, Affordable Housing, and all other applicable law, rules, and regulations, including applicable COAH regulations, the Fair Housing Act, and the Uniform Housing Affordability Controls in effect at the time of application. Affordable units shall comply with the Uniform Housing Affordability Controls in effect at the time of application.
- d. The developer shall be responsible for all costs associated with the initial rental and/or sale of the affordable units, and for the continuing administration of the affordable units and the preservation of the creditworthiness of the units.

§20-9H.5 Buffer.

- a. A minimum landscaped buffer of 50 feet shall be provided along the side and rear lot lines coincident with residential uses.
- b. Existing trees and shrubs within the buffer shall remain, except those that are dead, diseased or invasive.
- c. The existing plants within the buffer shall be supplemented as needed to provide a year-round screen. The buffer area shall provide, at a minimum:

1. One shade tree for every 100 linear feet of buffer; and
 2. Two evergreen trees for every 50 linear feet of buffer.
 3. Twenty evergreen shrubs for every 50 linear feet of buffer.
 4. Existing trees and shrubs within the buffer area may be counted in fulfilling the required buffer planting.
- d. Buffer plants shall be the following size at the time of planting:
1. Shade trees shall be planted at a minimum three-inch caliper.
 2. Evergreen trees shall be planted at a minimum height of six feet.
 3. Evergreen shrubs shall be planted at a minimum height of three feet.
- e. No more than 25% of the proposed plantings shall be of the same species and/or variety of plant.
- f. Proposed buffer planting shall be arranged in a natural, staggered pattern and shall not be lined up in straight, single rows.

§20-9H.6 Parking and Circulation Requirements.

- a. Parking shall be provided in accordance with the Residential Site Improvement Standards, except that the specified required parking spaces shall be minimums.
- b. All internal roads and alleys shall comply with the Residential Site Improvement Standards.
- c. Parking spaces shall measure nine feet wide by 18 feet long.
- d. Parking areas shall comply with Subsections 20-23.3 and 20-23.5.

§20-9H.7 Architecture.

- a. Buildings shall avoid long, monotonous, uninterrupted walls or roof planes. Building wall offsets, including projections such as canopies and recesses, shall be used in order to add architectural interest and variety and to relieve the visual effect of a simple, long wall. Similarly, in the case of a pitched roof, roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.
- b. The maximum spacing between building wall offsets shall be 50 feet.
- c. The minimum projection or depth of any individual vertical offset shall be one foot.
- d. The maximum spacing between roof offsets shall be 50 feet.
- e. The architectural treatment of the front facade shall be continued in its major features around all visibly exposed sides of a building. All sides of a building facing a public street shall be architecturally designed to be consistent with regard to style, materials, colors, and details.
- f. Fenestration shall be architecturally compatible with the style, materials, colors, and details of the building. Windows shall be vertically proportioned.
- g. All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, etc.
- h. Heating, ventilating and air-conditioning systems, utility meters and regulators, exhaust pipes and stacks, satellite dishes and other telecommunications receiving devices shall be screened or otherwise specially treated to be, as much as possible, inconspicuous as viewed from the public right-of-way and adjacent properties.

- i. All rooftop mechanical equipment, inclusive of solar equipment, shall be screened from view from all vantage points at grade or below the roof.
- j. Placement of any packaged terminal air-conditioner units within the facade is prohibited.
- k. Decks attached to a principal building shall be permitted along the rear façade of the structure. Patios attached to a principal building shall be permitted along the rear façade of the structure. Decks and patios are not permitted in minimum side or rear yard setbacks. Stoops, comprised of a platform with or without a small set of steps, which lead to the front entrance of a unit may project no more than four feet into the front yard setback.

§20-9H.8 Landscaping.

- a. Street trees shall be provided on average every 50 feet. Street trees shall have a caliper of three inches at installation.
- b. Parking areas containing a row of parking stalls running in a straight line for more than 20 spaces shall provide a landscaped island between every 20 spaces. Said island shall be no less than 162 square feet and landscaped with at least one shade tree and low ground cover. Said shade tree shall have a caliper of three inches at installation.
- c. Parking spaces within 25 feet of an adjacent residential property line shall be screened with a six-foot-tall fence or evergreen trees of at least four feet in height to shield vehicular headlights.
- d. Seventy-five percent of the perimeter of multi-family buildings and twenty-five percent of the perimeter of stacked townhome buildings shall be surrounded by a landscaped, planted strip at least three feet in width. Walkways leading to pedestrian entrances and driveways may cross this landscape strip.
- e. Tree removal shall comply with Chapter 24, Tree Protection and Removal Standards.

§20-9H.9 Lighting.

- a. Pedestrian walkways shall be illuminated with a minimum average of 0.5 footcandle.
- b. Parking areas shall be illuminated with a minimum average of 1.0 footcandle.
- c. Illumination shall not exceed 0.5 footcandle at the property line. However, this regulation shall not apply to entrance and/or exit driveways.

§20-9H.10 Trash.

- a. All trash/recycling storage areas shall be enclosed on all four sides and screened. Trash may be stored inside the buildings/units.

§20-9H.11 Signs.

- a. Signs shall be permitted in accordance with Subsection 20-24.2 and 20-24.3.
- b. One identification sign shall be permitted per parcel, which shall be free-standing, and no more than 40 square feet in size and 6 feet in height. Said sign may be internally or externally illuminated and shall be set back at least 10 feet from any property line.

Section 3. Severability.

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of the Ordinance, but shall be confined in its effect to this section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy with respect to which said judgment shall have been rendered, and all other provisions of this Ordinance shall remain in full force and effect.

Section 4. Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed, but only to the extent of such inconsistencies.

Section 5. Effective Date.

This Ordinance shall take effect upon approval by the Superior Court in conjunction with Docket No. ESX-L-601-25.