

**ORDINANCE No. 2020-05**

**AN ORDINANCE OF THE BOROUGH OF CHESTER, COUNTY OF MORRIS, STATE OF NEW JERSEY ADOPTING A REDEVELOPMENT PLAN TO GUIDE THE FUTURE LAND USE IN AND REDEVELOPMENT OF BLOCK 101, LOTS 13, 14, 15 & 16 IN THE BOROUGH OF CHESTER DESIGNATED A NON-CONDEMNATION REDEVELOPMENT AREA BY THE BOROUGH OF CHESTER MAYOR AND COUNCIL ON MAY 6, 2014 AND PURSUANT TO THE BOROUGH OF CHESTER 2019 HOUSING PLAN ELEMENT AND FAIR SHARE PLAN AND THE JULY 9, 2019 ORDER OF THE SUPERIOR COURT APPROVING CHESTER BOROUGH'S THIRD ROUND AFFORDABLE HOUSING PLAN.**

**WHEREAS**, the governing body of the Borough of Chester designated Block 101, Lots 13, 14, 15 & 16, known locally as the Larison's Tract or Larison's Corner, a Non-condemnation Redevelopment Area on May 6, 2014 in accordance with N.J.S.A. 40A:12A-1 et seq; and

**WHEREAS**, in response to the New Jersey Supreme Court's decision In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. I (2015), on or about July 2, 2015, Chester Borough filed a declaratory judgment action with the Superior Court of New Jersey ("Court"), entitled In the Matter of the Application of the Borough of Chester, County of Morris, Docket No. MRS-1661-15, seeking a Judgment of Compliance and Repose approving Chester Borough's Third Round Affordable Housing Plan (Third Round Plan), in addition to related reliefs (the "Compliance Action"); and

**WHEREAS**, on or about August 14, 2015, Larison's Corner, LLC (hereinafter "LC) and Turkey Farms Acquisitions, LLC (hereinafter "TF") filed a Motion to Intervene in the Compliance Action ("Developer Intervention") and such intervention was granted by the Court on September 14, 2015; and

**WHEREAS**, TF is the owner of the real property located on the corner of Route 206 and West Main Street, with a street address of 2 West Main Street and designated on the Borough of Chester Tax Map as Block 101 Lots 13,14,15 & 16 (the "TF Parcel" or "TF Site"). LC is owner of real property located on Mill Ridge Lane and designated on the Borough of Chester Tax Map as Block 101, Lots 12.07, 12.08, 12.10 & 12.11 (the "LC" or "MRL" "Parcel" or "Site"); and

**WHEREAS**, the Borough of Chester and TF & LC entered into a settlement agreement on the Developer Intervention on October 4, 2018 (hereinafter "the TF & LC Settlement" or "Settlement Agreement") setting forth the terms and conditions for certain development of the TF Site and LC Site, which is conditioned upon the Court's approval of the Borough of Chester's third round affordable housing settlement agreement with the

Fair Share Housing Center (FSHC) (hereinafter referred to as the “Third Round Settlement”), dated November 1, 2018, and signed on November 6, 2018; and further conditioned upon certain NJ Highlands Council and NJDEP approvals upon which development of the TF and LC Sites are dependent; and

**WHEREAS**, thirty-six (36) affordable rental apartments are a constituent element of the Borough’s Settlement with TF and LC, which are to be developed on the TF Site; and

**WHEREAS**, the 36-affordable rental apartments are a substantial component of the Borough’s Plan to address its Third Round affordable housing obligations and are included in the Third Round Settlement Agreement with FSHC; and

**WHEREAS**, the Superior Court of New Jersey issued a December 14, 2018 Order In The Matter Of The Application Of The Borough Of Chester For A Determination Of Mount Laurel Compliance, finding that Chester Borough’s Third Round Settlement with FSHC is fair and reasonable to the poor; and on July 9, 2019 the Court issued a Conditional Judgment of Compliance and Repose (Conditional JOR) approving the Borough’s Third Round affordable housing plan, which includes the condition that Chester Borough undertake its best efforts to secure approvals from the NJ Highlands Council for development of the TF and LC Sites, including the thirty-six (36) affordable rental apartments to be developed on the TF Site; and

**WHEREAS**, the NJ Highlands Council staff determined that a Highland Center designation will facilitate a New Jersey Department of Environmental Protection (NJDEP) approval of an amendment to the Chester Borough Chapter of the Morris County Wastewater Management Plan to permit an expansion of the Borough’s existing centralized wastewater collection and treatment system, as well as an individual on site wastewater treatment facility to serve TF and LC development, including 36-affordable rental apartments that are part of Chester Borough third round affordable housing plan; and

**WHEREAS**, Chester Borough sought Highlands Center designation for Chester Borough through Plan Conformance, which the Borough initially obtained NJ Highlands Council approval of its petition for Highlands Regional Master Plan Conformance on 21 July, 2016 and obtained NJ Highlands Council approval of Chester Borough’s petition for Highlands Center designation on January 16, 2020, which became effective on or about 30-days later, which Center designation approval satisfied the Court’s condition that Chester Borough undertake its best efforts to secure the Highlands Council’s approval to implement the Borough’s Settlement with TF & LC and the Borough’s Third Round Settlement Agreement with FSHC to address affordable housing obligations; and

**WHEREAS**, adoption of a Redevelopment Plan in accordance with certain Settlement Agreement exhibits identifying future development of the TF site (Block 101, Lots 13, 14, 15 & 15) designated An Area in Need of Redevelopment on May 6, 2014 (Resolution 2014-46) in accordance with N.J.S.A. 40A:12A-6.b.(5)(b), is a stipulation of settlement in the Borough’s Settlement Agreement and a condition of the July 9, 2019 NJ Superior

Court Conditional JOR granted to Chester Borough toward satisfaction of Chester Borough's Third Round affordable housing obligations;  
**NOW, THEREFORE, BE IT ORDAINED, as follows:**

**Section One.** This ordinance shall be known as the "Block 101, Lots 13, 14, 15 & 16 Redevelopment Plan, Borough of Chester, NJ", dated March 2020 and hereinafter referred to as the "Redevelopment Plan, Block 101, Lots 13, 14, 15 & 16.

**Section Two.** Chapter 163 of the Code of the Borough of Chester, Article IX Zoning – Zone Requirements, Section 163-68 Zone Map, is hereby amended and supplemented by designating Tax Block 101, Lots 13, 14, 15 & 16 "Redevelopment Area" on the Zone Map.

**Section Three.** Chapter 163 of the Code of the Borough of Chester, Article IX Zoning – Zone Requirements, Section 163-74 "(Reserved)" is hereby amended and supplemented by replacing "(Reserved)" with the following new § 163-74, entitled "Redevelopment", as follows:

§ 163-74 Redevelopment

**Section Four.** Chapter 163 Land Development and Procedures of the Code of the Borough of Chester, Article IX Zoning – Zone Requirements, Section 163-74 "Redevelopment" is hereby amended and supplemented by adding the following new § 163-74.1, entitled "Redevelopment Plan, Block 101, Lots 13, 14, 15 & 16, as follows:

§ 163-74.1 Redevelopment Plan for Block 101, Lots 13, 14, 15 & 16

- A. Purpose. The purpose of this Redevelopment Plan for Block 101, Lots 13, 14, 15 & 16 is as follows:
1. To provide development standards for the comprehensive redevelopment of Block 101, Lots 13, 14, 15 & 16 in accordance with Chester Borough's Third Round Affordable Housing Settlement Agreement between the Borough of Chester and Larison's Corner LLC & Turkey Farms Acquisitions, LLC, dated 4 October, 2018 (TF & LC Settlement) *appended hereto as Attachment A*), including (1) thirty-six affordable rental apartments), (2) a 20,000 sq. ft. medical office building, (3) a 5,000 sq. ft. office building, (4) an organic farm, (5) a 6,500 sq. ft. restaurant, (6) a 1,500 sq. ft. Pharmacy, and (7) an on-site sewage package treatment plant; and
  2. To provide a zoning framework to implement a portion of Chester Borough's Amended Third Round Housing Plan Element and Fair Share Plan, dated May 2019, and comply with Chester Borough's NJ Superior Court Conditional JOR, dated July 9, 2019 to enact a Redevelopment Plan for the construction of 36-affordable rental apartments.

- B. Duration. This Redevelopment Plan shall remain in effect for at least 30-years from the initial date of occupancy of all 36-affordable rental apartments authorized by permanent certificates of occupancy on Block 101, Lots 13, 14, 15 & 16 and the date affordable housing deed restrictions are recorded in the Morris County Clerk’s office in conformity with all applicable affordable housing provisions set forth in Chapter 77, Affordable Housing, of the Code of the Borough of Chester, whichever is later.
1. Notwithstanding the provisions cited above, this Redevelopment Plan shall not be amended or rescinded except upon the application or consent of the Developer (Larison’s Corner, LLC (“LC”) and Turkey Farms Acquisitions, LLC (“TF”) or by Order of the Court for a period of at least 30 years. The Borough may amend this Redevelopment Plan to address public health, safety and the general welfare, which shall require the consent of the Developer, which shall not be unreasonably withheld.
- C. Highlands Applicability. This Redevelopment Plan shall be subject to applicable provisions set forth in Chapter 163 Land Development and Procedures, Article XV Highlands Land Use, as may be amended in conformity with Chester Borough’s Highlands Center designation.
- D. Redevelopment Plan Permitted Uses. This Redevelopment Plan identifies future use and development of Block 101, Lots 13, 14, 15 & 16 (the tract), including non-residential and affordable housing development as set forth in Chester Borough’s TF & LC Settlement, dated October 4, 2018, and as generally depicted on Exhibit A, “Concept Plan for TF Site,” dated 8/14/18, which is subject to Highlands Council approval. More than one permitted non-residential use may be located on a single lot. The following uses are principal permitted uses, pursuant to the October 4, 2018 Settlement Agreement:

	Settlement Agreement ¶ No.	Permitted Use
1.	1.3.1	Affordable Housing: 36 Affordable rental units in two buildings, which buildings may be connected by a community room/resident services structure. A playground shall be provided and may be located on the north side of affordable housing units, north of the Highlands Land Use Capability Zone LUCZ)Map Existing Community Zone (ECZ).
2.	1.3.2	Medical Facility: The building shall not exceed two (2) stories and 20,000 sq. feet and shall only be used for medical services, medical office and related medical purposes. <sup>1</sup>
3.	1.3.3	Office Building: 5,000 Square Foot and no more than two (2) stories with a maximum building footprint of 2,600 sq. ft.

<sup>1</sup> May be increased to 25,000 at the sole discretion of the Land Use Board, provided that parking is not increased above the number of parking spaces required for a 20,000 sq. ft. building, no reduction in front yard setback is required and this plan’s landscaping, connectivity, public access, and architectural design objectives are found to be acceptable to the Board.

4.	1.3.4	Organic Farm: In lieu of constructing any structures on this portion of the property consistent with existing zoning, TF shall apply to the Morris County Agriculture Development Board for the sale of the existing development rights through the Farmland Preservation Program, and shall accept the award granted through that program. Until such time as that application is made and the property is entered into the Farmland Preservation Program, the area described as the existing "Organic Farm" on Exhibit A shall remain in agricultural use. Consistent with TF's application, a non-severable exception area may be created on this portion of the property for the purpose of constructing a residence for the farm within the "Country Store" building. All existing agricultural structures, including the "Country Store" building, barn and farm equipment storage buildings shall be located on the Organic Farm, in substantially the location as shown on Exhibit A, consistent with the development restrictions that may be placed upon this land as part of any farmland preservation transaction.
5.	1.3.5	Restaurant: A restaurant of not more than 6,500 square feet plus seasonal outdoor patio area shall be permitted and shall be developed in a manner consistent with the design and architectural standards of the existing Turkey Farm restaurant or in accordance with Article XI of this Chapter (i.e. historic design standards); It is acknowledged that the existing restaurant building is not required to remain; however, the architectural design of the 6500 sq. ft. restaurant proposed on the Concept Plan shall be consistent with the Borough's ordinances.
6.	1.3.6	The Pharmacy shall not exceed 15,000 sq. ft. and shall include an attached drive through window situated at the west side of the building appropriately screened so as to preclude direct view from West Main Street, which screening may include a fence, berm, landscaped screen or a combination of the three, as may be determined by the Board. The exterior design shall be substantially consistent with the Larson Design Group Exterior Elevation, Sheet A5c, dated 22 October, 2019, and subject to refinement concerning such features as, but not limited to additional roof dormers, and exterior color consistency with Benjamin Moore Historical Colors palette and approval by the Board.
7.	1.3.7	On-site sewer package treatment facility in the location depicted in Exhibit A. In no event shall the sewer package treatment facility or its disposal fields be located outside the ECZ. A Utility easement no more than 50 feet in width shall be allowed in the Highlands Forest Protection Zone to connect the sewer and water service utilities between Mill Ridge Lane residential development and the sewer treatment facility and disposal beds on the TF Site.

		The on-site sewer package treatment plant and collection facilities shall be designed to accommodate only the wastewater needs of the uses authorized in the Borough's Agreement with TF & LC, dated October 4, 2018.
8.	1.3.8	The permitted uses in this Redevelopment Plan shall be substantially consistent with Exhibit A, of the October 4, 2018 Chester Borough settlement with TF & LC, entitled "Concept Plan for TF Site," dated 8/14/18, attached hereto as Exhibit A.
9.	1.3.9	Cell Tower: In accordance with the Settlement Agreement, TF shall evaluate masking the cell tower in a silo, or similar stealth design feature. In no event shall the stealth design include a pine tree branching stealth design. In the event that TF /Developer cannot achieve an acceptable stealth design solution for the existing cell tower, then there shall be no upgrades or replacements to the existing cellular antennas and/or transmission equipment or any other cellular antenna supply facility without prior approval by the Land Use Board.
10	1.3.10	Existing Community Zone (ECZ): All buildings associated with the Project as it relates to the TF Site shall be developed in the ECZ as constituted on the NJ Highlands Council RMP Land Use Capability Zone Map, except to the extent the farming activities and related structures are permitted in conjunction with the preservation of the Organic Farm pursuant to D. 4 above, and Article 1.3.4 of the Settlement Agreement).
11.	1.3.11	All improvements associated with the Project on the TF Site shall be connected to a new centralized treatment facility, which shall be located in the ECZ as constituted on the NJ Highlands Council RMP Land Use Capability Zone. However, the Pharmacy, D. 6 above may be serviced, temporarily, by the temporary septic system located in the ECZ as shown in Exhibit A.

- E. Affordable housing requirements. The 36-affordable rental apartment units shall comply with the following requirements:
1. At least 50% of the units shall be low-income units;
  2. 50% of the units shall be moderate-income units.
  3. Affordable units shall comply with Uniform Housing Affordability Controls (UHAC), applicable COAH affordable housing regulations, any applicable order of the Court, other applicable laws or term or condition of the Borough's Third Round Settlement with FSHC.
  4. At least 13% of the affordable units shall be very low-income units (i.e. a minimum of 13% very low-income units, very low-income is defined as 30% or less of the regional income) embodied in the Fair Housing Act in lieu of the UHAC requirement as to low income. The 13% very low-income units may be included within the units designated as low-income.

5. The affordable units shall remain affordable rental units for a period of at least thirty (30) years from the date of their initial occupancy ("Deed-Restriction Period") and shall otherwise comply with UHAC in terms of duration of the controls, commencement of controls and all other requirements so that the Borough may count the units against its obligations to provide family rental affordable housing. This obligation includes, but is not limited to TF's obligation to comply with (1) bedroom distribution requirements, (2) income split requirements, (3) pricing requirements, (4) affirmative marketing requirements; (5) candidate qualification and screening requirements, (6) deed restriction requirements, which shall acknowledge that the Borough reserves the right to reserve to extend affordability Controls for an additional 30-year period, subject to the then applicable UHAC regulations or other requirements for extension of controls that may control.
6. Bedroom and income distribution requirements:
  - i. Eight (8) three-bedroom units (2 very low-, 2 low- and 4 moderate-);
  - ii. Twenty-one (22) two-bedroom units (3 very low-, 9 low- and ten moderate-); and
  - iii. Six (6) one-bedroom units (1 very low-, 2 low- and 3 moderate-).

F. **Redevelopment Objectives.** The designation of the Redevelopment Area and adoption of this plan is both a means of addressing an important component of Chester Borough's affordable housing obligation by providing safe, decent affordable housing addressing regional low-and moderate-income housing needs, and a means of facilitating economic utility of the Block 101, Lot 13, 14, 15 & 16 Redevelopment Area in a manner that is consistent with the location of the Site within the municipality and Chester Borough's designation as a Highlands Center in the Highlands Regional Master Plan. This plan calls for (1) exterior architectural building design that is consistent with Chester Borough's Historic District ordinance design standards, (2) where feasible, the reasonable retention of site features, such as existing trees and topography that serve to establish the essential character of the site as a prominent landmark site within Chester Borough, (3) landscaping and design elements that reinforce and maintain the "green" open character of the site, (4) appropriate and effective landscaping and buffering between affordable rental housing and permitted non-residential uses, (5) parking and driveway public access improvements to Larison's Woods, and (6) a wastewater management collection and treatment system that is capable of serving only the redevelopment permitted in this plan. Site plan applications submitted to the Board for redevelopment within the Redevelopment Area shall demonstrate to the satisfaction of the Board that compliance with these General Redevelopment Plan objectives is achieved.

G. **Development Standards, Design Requirements and Land Use Requirements.**

- A. All structures within the redevelopment plan area shall be located, designed, configured and situated as generally depicted on Exhibit A, of Chester Borough's Settlement Agreement with TF & LC, entitled "Concept Plan for TF Site," dated 8/14/18, with proper consideration of their relationship to other buildings and

adjoining land use, including existing and proposed buildings and uses inside and outside of the Redevelopment Area.

- B. All permitted development within the Redevelopment Area shall be subject to the standards, requirements and application procedures set forth in Chapter 163, Land Development and Procedures. The requirements of Chapter 163 shall control except to the extent modified herein. Where standards conflict between the requirements of Chapter 163 and this Redevelopment Plan, the requirements and standards set forth in this Redevelopment Plan shall control.
- C. The design, configuration and location of all structures shall ensure the adequate provision of light, air and usable open space, access to public rights-of-way and off-street parking.
- D. The height and bulk of all structures shall be designed, configured and located with due consideration to the provision of adequate air, light, open space and aesthetic appearance, which shall be determined by the Land Use Board, and shall conform to the following standards.

<b>Bulk Requirements</b>	
Item	
Min. Lot Area	25 acres
<b>Principal structure setbacks</b>	
Min. Front yard setback – West Main Street	75'
Min. Front yard setback – Route 206	40'
Min. Side yard setback	50'
Max. Building coverage	10%
Max. Impervious coverage	30%
Max. Building height	2-1/2 stories / 35'
<b>Parking requirements:</b>	
Plans shall indicate the total number of off-street parking spaces required for the use or combination of uses indicated in the application. The schedule below represents standards acceptable to the Borough. It is the intent of this chapter to provide for parking demand by requiring off-street parking. Since a specific use may generate a parking demand different from those enumerated below, documentation and testimony shall be presented to the Board as to the anticipated parking demand. Based upon such documentation and testimony, the Board may:	
<ul style="list-style-type: none"> <li>(a) Require construction of a lesser number of spaces (banked parking), provided that adequate provision is made for construction of the required spaces in the future.</li> <li>(b) In the case of nonresidential uses, require that provision be made for the construction of spaces in excess of those required hereinbelow, to ensure that the parking demand will be accommodated by off-street spaces.</li> </ul>	
<b>Use</b>	<b>Standard</b>
OFFICE:	1 SPACE PER 250 SF
MEDICAL OFFICE:	1 SPACE PER 180 SF
AFFORDABLE UNITS:	2 SPACES PER UNIT
PHARMACY:	1 SPACE PER 180 SF
COUNTRY STORE:	1 SPACE PER 180 SF
RESTAURANT:	1 SPACE PER 3 SEATS

\* RSIS STANDARDS APPLY TO RESIDENTIAL USES.

"BANKED PARKING" SHALL BE REQUIRED IF IT IS DETERMINED THAT SPECIFIC USES DO NOT



NEED THE FULL AMOUNT OF PARKING INDICATED BY THE STANDARD.

NOTES:

1. PORCHES, DECKS, AND PATIOS ARE NOT INCLUDED IN MINIMUM SETBACK REQUIREMENTS.
2. THE REQUIREMENTS FOR THE REDEVELOPMENT AREA SHALL NOT BE CONSTRUED TO PROHIBIT SUBDIVISION. BULK STANDARDS FOR INDIVIDUAL LOTS SHALL BE DETERMINED AT THE TIME OF SUBDIVISION, WHICH SHALL TAKE INTO CONSIDERATION ALL DEVELOPMENT OF THE REDEVELOPMENT AREA, INCLUDING THE DISTRIBUTION OF PARKING, LANDSCAPING, LIGHTING, AND SHARED ACCESS AND MAINTENANCE OF DRIVEWAYS AND COMMON AREA IMPROVEMENTS.

- E. Architectural building design. The architectural design of all buildings shall be subject to the requirements of Article XI of this Chapter (i.e. historic design standards) and shall be designed to be attractive from all vantage points, including all building facades and the roof designs.
- a. Architectural style shall complement and blend into the environment and shall incorporate traditional design elements of historic buildings in Chester Borough.
  - b. Roof treatments shall incorporate traditional roof pitch not less than 5:12; however, may include traditional Victorian mansard design.
  - c. Fenestration, shall include double-hung windows, traditional style exterior doors with windows that occupy at least one-third of the face of the door. Building design shall be articulated with attractive corner moldings, soffits, fascia, water table, etc., so that decorative articulation is provided in conjunction with the exterior siding system and architecture of the building.
  - d. Exterior residential building design should vary from building to building so that no two buildings in the development are identical in exterior appearance. Building designs should include variations in articulation, detail and materials, and may be thematically coordinated in style and color. Building design shall be subject to review and approval by the Land Use Board, which shall not be unreasonably withheld.
- F. Lighting.
- a. Lighting shall conform to the standards and requirements set forth at Article VI of this Chapter, Site Plan Review and the following:
    - i. All exterior lighting shall be downward directed and shielded such that no glare of direct view of the light source shall be visible to occupants of the development or visible from off site.
    - ii. Decorative, traditional light fixture design consistent with the Borough's historic lighting fixtures shall be utilized throughout the Redevelopment Area in accordance with § 163-47.A.(41) and, which shall be modified with an LED lamp emitting light 3,000° - 4000°K .
    - iii. Walkways shall be appropriately illuminated with bollard type fixtures.
    - iv. Minimum levels of illumination that are necessary for safety shall be the design standard so as to avoid unnecessary off site lighting impacts and to minimize contribution to 'sky-glow' in the area.

G. Signs.

- a. Signs shall conform to the requirements of Article XII of this Chapter– Zoning – Signs.
- b. Freestanding signs shall be permitted in accordance with the standards in Article XII, § 163-89.B.

H. Buffering.

- a. In addition to the requirements set forth in Article VI of this Chapter, Site Plan Review, the requirements and standards of § 163-81 Green parking buffer and parking area landscaping shall apply to buffering the affordable housing development and nonresidential uses within the Redevelopment Plan, which shall be approved at the time site plan approval is sought and obtained for the first non-residential use within the Redevelopment Area.

I. Public open space driveway, parking and trail access.

- a. A public access driveway, dedicated parking for at least 6 passenger vehicles and trail access shall be provided adjacent to the Larison’s Woods open space tract (Block 101, Lot 25) that is located on the north side of the Redevelopment Area.
  - i. The public driveway, parking and trail access shall be suitably improved to accommodate vehicular public access and shall be a minimum improved width of 18’.
  - ii. An emergency vehicle drive-through turn-around (as opposed to a K-turn) shall be provided at the vehicle parking area and trail head.
  - iii. Construction details for the driveway, parking, and emergency turn-around shall be subject to approval by the Land Use Board Engineer.
  - iv. The preferred public access driveway alignment from West Main Street is the existing driveway that provides access to the portion of the Redevelopment Area in the vicinity of the existing building commonly known as Sunnyside. The stone pillars located on each side of the existing driveway shall be either maintained or relocated to occupy each side of a new driveway through which public driveway access to Larison’s Woods shall be provided, subject to site plan approval.
  - v. The public driveway, parking trail access and emergency vehicle turn-around area shall be dedicated to the Borough in a public access easement that shall permit unfettered, perpetual, public access to the Larison’s Woods open space tract and reasonable provisions allowing construction and maintenance access, which shall be subject to approval by the Land Use Board Attorney and Borough Attorney.
    1. The driveway easement width shall be not less than 36’ in width (i.e. to accommodate an ultimate driveway width of 24’ with a 6’ shoulder on each side of the 24’ driveway)

and include parking, trail head access and emergency turn-around area.

J. Public electric vehicle charging infrastructure.

- a. The Site Plan shall include not less than three (3) individual public electric vehicle charging infrastructure stations.
  - i. The charging stations shall be capable of providing electrical vehicle charging a variety of manufacturers vehicles and not limited to a single manufacturer's electric vehicles.

K. General Administrative Requirements.

- a. Deviation - The Land Use Board may grant deviations from the regulations contained within this Redevelopment Plan, where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions, pre-existing structures or physical features uniquely affecting a specific piece of property, the strict application of any area, yard, bulk or design objective-or regulation adopted pursuant to this Redevelopment Plan, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property. The Land Use Board may also grant a deviation from the regulations contained within this Redevelopment Plan related to a specific piece of property where the purposes of this Redevelopment Plan would be advanced by such deviation from the strict application of the requirements of this Redevelopment Plan; and the benefits of granting the deviation would substantially outweigh any detriments of this Redevelopment Plan and the Borough of Chester Master Plan. The Land Use Board may grant deviations from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions for site plan review and/or subdivision approval within this Redevelopment Plan, if the literal enforcement of one or more provisions of this Redevelopment Plan is impracticable or would exact undue hardship because of peculiar conditions pertaining to the site. No deviations may be granted under the terms of this section unless such deviations can be granted without resulting in substantial detriment to the public good and will not substantially impair the intent and purpose of this Redevelopment Plan. No deviations may be granted which will result in permitting a use that is not a permitted use within this Redevelopment Plan. An application requesting a deviation from the requirements of this Redevelopment Plan shall provide public notice of such application in accordance with the public notice requirements set forth in NJSA 40:55D-12.a.&b.
- b. Subdivision. Subdivision or consolidation of lots and parcels of land within the Redevelopment Area shall be in accordance with this Redevelopment Plan's requirements and the Chester Borough Land Subdivision Ordinance.

- c. Site Plan Approval. Site plan approval for development authorized within the Redevelopment Plan shall be required in accordance with the provisions of the Chester Borough Site Plan ordinance and the requirements and standards set forth herein. Requirements of the Chester Borough Site Plan ordinance that are not specifically modified, amended or replaced by the standards in this Redevelopment Plan shall be applicable to all development permitted in this Redevelopment Plan.
  - i. The Land Use Board shall not authorize any development within the Redevelopment Area except in strict accordance with the terms and conditions set forth in the Settlement Agreement between the Borough of Chester and Larison's Corner LLC & Turkey Farms Acquisitions, LLC, dated 4 October, 2018.
  - ii. All development approved by the Land Use Board shall be conditioned upon the sequencing of development approvals and posting of required guarantees as set forth in the Settlement Agreement between the Borough of Chester and Larison's Corner LLC & Turkey Farms Acquisitions, LLC, dated 4 October, 2018.

L. Impact Fees. Any approval for development under this Redevelopment Plan shall include a recommendation from the Land Use Board for the collection of impact fees from the developer to the governing body. The Chester Borough Governing Body shall determine at its sole discretion the impact fee required pursuant to any recommendation made by the Land Use Board. In formulating its recommendation to the governing body, the Land Use Board shall consider development impacts without limitation and may include, but not be limited to (1) general and specific infrastructure impacts and costs, (2) community services, (3) recreation facilities, (4) affordable housing impacts, etc. Redevelopment Plan approval by the Land Use Board shall be conditioned upon evidence that the governing body has considered the Land Use Board's impact fee recommendation(s) and resolved such recommendation to the satisfaction of the governing body.

M. Redevelopment sequencing and requirements.

- a. In accordance with Article II, "SEWER AND PHASING" of Chester Borough's TF & LC Settlement, dated October 4, 2018, redevelopment approvals within the Redevelopment Area shall conform to the following requirements, which shall be made conditions of approvals granted by the Land Use Board:
  - i. Pharmacy Temporary Septic System (Section 3.1 of the Settlement Agreement). A temporary septic system, to be constructed in the location shown on Exhibit A adjacent to the proposed Pharmacy, shall be permitted to facilitate the construction and use of the Pharmacy until such time that the centralized treatment facility is complete, provided, however, that a Temporary Certificate of Occupancy (TCO) will be issued until the Pharmacy is connected to and operating via the centralized treatment facility at which

point a CO will be issued as long as Developer complies with the affordable housing and sewer treatment plant phasing requirements in Article 3.4-3.8 of the Settlement Agreement.

1. The temporary septic system shall be designed to accommodate only the needs of the Pharmacy retail store and no other development shall be permitted to connect to the temporary septic system.
  2. The temporary septic system shall be abandoned once the PHARMACY store is connected to the centralized treatment facility, at which time the area of the site utilized for the temporary septic system shall be restored, suitably landscaped and incorporated into final site design as open area to remain undeveloped. This shall be a condition of any approval granted by the Board.
- ii. Performance Bond(s) (Section 3.2 of the Settlement Agreement).
1. The developer shall post a performance bond for the first eighteen (18) affordable housing units in an amount of \$2,250,000 (\$125,000 per unit) as a condition of any approval that may be granted for the PHARMACY.
  2. The developer shall post a performance bond in the amount of \$1,200,000.00 for construction of the on-site sewer package treatment facility as a condition of any approval that may be granted for the PHARMACY.
- iii. PHARMACY Construction Permit (Section 3.3 of the Settlement Agreement). There shall be no construction permit issued for construction of the PHARMACY until the WQMP amendment for centralized wastewater collection and treatment is secured in final and unappealable form from NJDEP. As a condition precedent for the issuance of a TCO for the PHARMACY, Developer shall post the aforesaid sewer package plant performance bond for the sewer package treatment facility.
- iv. Pharmacy TCO (Section 3.4 of the Settlement Agreement). Eighteen (18) of the affordable units must be completed within two (2) years of the issuance of the TCO issued for the PHARMACY. The TCO may be extended in the event that TF is diligently proceeding with the development and construction of the affordable units.
- v. Certificates of Occupancy, Redevelopment Area & Mill Ridge Lane Townhomes that are not included in Redevelopment Area (Section 3.5 – 3.8 of the Settlement Agreement).
1. Prior to the completion of the first 18 affordable units, the first five (5) Townhomes on Mill Ridge Lane (not part of the Redevelopment Area) may be granted provided that the 18 affordable units are under construction as defined in this Settlement. (Section 3.5)

2. Upon completion of the first 18 affordable units (50% of the total affordable units), Developer shall be entitled to final CO's for 50% of the total market project including ten (10) townhomes, the Pharmacy and the 5,000 sq. ft. office building. (Section 3.6)
  3. COs for Townhomes 11-20 may be issued upon posting of a performance bond with the Borough, naming the Borough as the secured party, to pay the full cost of construction and delivery of the remaining 18 affordable units, which shall be posted in the amount of not less than \$2,250,000. (\$125,000 per unit), or in an amount that may be determined by the Borough Engineer and Tax Assessor, whichever is less; alternatively, in the event that the affordable units receive LIHTC financing or other State aid, that award shall govern completion of the affordable units provided such financing is provided in an amount sufficient to construct and deliver the remaining 18 affordable units. (Section 3.7)
  4. The remaining market development (medical office, building and the restaurant) will be completed upon 25% building completion of the remaining 18 affordable units, and if issuance of the COs for the remaining 18 affordable units has not been completed at time of completion of Townhomes 11-20, COs may be issued upon posting of a performance bond in the amount of \$2.25 million as described in Article 3.7 above.
- vi. Construction permits, generally (Section 3.9 of the Settlement Agreement) No construction permit for any development contemplated in this agreement shall be issued for any building other than the Pharmacy until the WQMP amendment for centralized wastewater collection and treatment is authorized in an unappealable NJDEP approval and the wastewater collection and treatment facilities are constructed at the sole expense to the Developer.

N. Local Redevelopment and Housing Law Outline of Planning & Redevelopment.

At N.J.S.A. 40A:12A-7(a), the Law requires that a Redevelopment Plan “shall include an outline for the planning, development, redevelopment, or rehabilitation of the project area sufficient to indicate statutory planning considerations found at N.J.S.A. 40A:12A-7(a) (1)-(8), which are addressed as follows:

- (1) “N.J.S.A. 40A:12A-7(a) (1) Its relationship to definite local objectives as to appropriate land uses, density of population, and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements. . .”

Appropriate Land Uses, Density of Population. The Redevelopment Plan is an opportunity to correct conditions of persistent vacancy, clear dilapidated structures, and redevelop the Redevelopment Area with economically beneficial uses. This Redevelopment Plan directs the future use of the Larison's Turkey Farm that formerly occupied Block 101, Lots 13, 14, 15 & 16 for decades as a regional landmark. Beginning with new ownership in approximately the early 2000's, the economic viability of the approximately 25-acre site declined through a series of efforts to maintain the restaurant, which all failed and ultimately resulted in vacancy and a steady erosion in the physical condition of site improvements. During this time, the Site fell into a pattern of stagnancy with the primary use, the Larison's Turkey Farm Restaurant ultimately ceasing all operations with buildings on site currently vacant and shuttered. The permitted uses identified in § 163-74.1.D. above will serve the local objective of revitalizing this underutilized land resource that is centrally located in the Chester Borough commercial corridor at the corner of US Route 206 and Main Street in Chester Borough. The Redevelopment Plan will serve to expand commercial, office and medical services available in Chester Borough, as well as facilitate development of an organic farm with retail produce retail to the general public. These land uses are generally consistent and compatible with existing development within the Route 206 corridor that includes three regional scale shopping centers and highway-oriented commercial uses and the Borough's Master Plan economic development objectives. At the same time, improvements authorized within the Redevelopment Area will provide public access to public open space that adjoins the redevelopment area to the north, which is consistent with local open space objectives for public access and use of public open space.

Population. Thirty-six (36) affordable rental apartments will be constructed on the north side of the redevelopment Area adjacent to the organic farm. This affordable housing resource responds to Chester Borough's objectives to satisfy affordable housing obligations and the planned affordable rental housing is appropriately scaled for compatibility with the scale and character of existing development in Chester Borough and the other uses programmed for development within the Redevelopment Area. Chester Borough is predominantly comprised of single-family residential neighborhoods; however, within and adjacent to the commercial core of the Borough, attached housing resources exist and the density of affordable rental housing planned in this Redevelopment Plan is within a range of density that is compatible with the Borough's character. Affordable housing responds to the objective of providing a diversity of housing choice within a variety of affordability ranges, consistent with Master Plan objectives.

Improved Traffic & Transportation Network. Redevelopment within the Redevelopment Area will include new and improved access driveways that will be coordinated with the NJDOT and Morris County Engineer's office because the site adjoins Route 206 and West Main Street, which are State and

County roads. It is anticipated that NJDOT will require adjustments to the current alignment of the intersection to improve traffic safety and traffic flow. Safe and efficient traffic flow is a Circulation Plan Element objective that is advanced by the development proposed in this Redevelopment Plan.

Utilities. The Redevelopment Area will be served by a centralized wastewater collection and treatment system that will be constructed within the Redevelopment Area. This is a condition of the Borough's Settlement Agreement with TF & LC. Public water is provided in Chester Borough by NJ American Water Company, which will serve the Redevelopment Area. A long-standing utility services objective in Chester Borough is the establishment of expanded wastewater capacity to support beneficial development and existing development. In this Redevelopment Plan, the wastewater treatment facilities planned for the Redevelopment Area support new economic and affordable housing development.

Recreational and Community Facilities. The redevelopment Area is situated between West Main Street and Larison's Woods, which is Chester Borough-owned open space. The Redevelopment Plan requires the provision of public access through the Redevelopment Area to Larison's Woods, which is consistent with Recreation Plan objectives for access to open space areas for residents and the general public.

Vital tax base improvements. The disuse and steady decline of improvements existing within the Redevelopment Area has resulted in a decline of local tax revenue collectable on the property. The Redevelopment Plan provides for substantial, modern, new buildings and site improvements that will enhance Chester Borough's tax revenue base. Reducing the burden of local property taxes on the local residential tax base through an expansion and diversification of economically beneficial land uses is a long-standing local objective advanced through the development provided for in this Redevelopment Plan.

- (2) "N.J.S.A. 40A:12A-7(a) (2) Proposed land uses and building requirements in the project area. . ."

§ 163-74.1.D. above identifies the proposed land uses in the Redevelopment Area. Building requirements for buildings within the Redevelopment Area are identified in § 163-74.1.G. below. Additional requirements include (1) appropriate buffering between affordable housing development and permitted non-residential land uses within the Redevelopment Area, (2) building architecture and design that is compatible Chester Borough's historic character and is consistent with the Chester Borough Historic District development standards found in Article XI of this Chapter (i.e. historic design standards).



- (3) “ N.J.S.A. 40A:12A-7(a) (3) Adequate provision for the temporary and permanent relocation, as necessary, of residents in the project area, including an estimate of the extent to which decent, safe and sanitary dwelling units affordable to displaced residents will be available to them in the existing local housing market. . .”

Existing improvements within the Redevelopment Area are essentially vacant, with no improvements providing housing for residents except for one apartment that is owned and occupied by family members of the property owner. The Redevelopment Plan permits this residential use to continue as a component of permitted development in the Redevelopment Plan. Any temporary relocation to address these housing needs of this family member will be addressed by the property owner coordinating the development of planned improvements to accommodate this residential use.

- (4) “N.J.S.A. 40A:12A-7(a) (4) An identification of any property within the redevelopment area which is proposed to be acquired in accordance with the redevelopment plan. . .”

The Redevelopment Area was designated a Non-condemnation Redevelopment Area through adoption of Resolution No. 2014-46 on May 6, 2014 in accordance with 40A:12A-6.b.(5)(b). No real property acquisition and/or eminent domain is proposed, contemplated or anticipated as part of this Redevelopment Plan.

- (5) “N.J.S.A. 40A:12A-7(a) (5) Any significant relationship of the redevelopment plan to (a) the master plans of contiguous municipalities, (b) the master plan of the county in which the municipality is located, and (c) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," P.L. 1985, c.398 (C.52:18A-196 et al).”

- a. Adjoining Municipality - There is no significant relationship between Redevelopment Plan for Block 101, Lots 13, 14, 15 & 16 and Chester Township, which is the only municipality that Chester Borough adjoins. The Borough’s boundaries with Chester Township are .4 miles to the south, 1.3 miles to the west and 2.7 miles to the north of the Redevelopment Area. There is no redevelopment proposal in this Redevelopment Plan that directly adjoins Chester Township. Existing land uses on both sides of the municipal boundary are not expected to be impacted by permitted development in the Redevelopment Plan.
- b. Morris County Plans –
  - i. Wastewater Management - The Chester Borough Chapter of the Morris County Wastewater Management Plan will require an amendment to the County’s Wastewater Management Plan to accommodate Redevelopment Plan development, which will be consistent with Highlands Regional Master Plan designation

of Chester Borough as a Highlands Center that was approved on January 16, 2020 and became effective approximately 30-days thereafter.

- ii. Farmland Preservation - Morris County Farmland Preservation Program (FPP) policies appear to permit the preservation of the organic farm in conjunction with the organic produce retail sales. The proposed preservation of economically viable agriculture and direct sales to the public of locally-grown produce advances Morris County FPP goals and objectives.
  - c. The Highlands Regional Master Plan (RMP) Land Use Capability Zone (LUCZ) Map identifies an Existing Community Zone (ECZ) designation for the portion of Block 101, Lots 13, 14, 15 & 16 within which building and hardscape development is permitted in this Redevelopment Plan. The RMP LUCZ Map designates a “Protection Zone” for the portion of Block 13, 14, 15 & 16 within which this Redevelopment Plan permits continuation of farming, the organic farm and retail produce sales. Redevelopment Plan permitted uses are consistent with these Highlands RMP designations. As a recently designated Highlands Center, this Redevelopment Plan appropriately calls for development that is compatible with Chester Borough’s two main commercial corridors – US Route 206 and Main Street. Chester Borough’s Highlands Center designation will facilitate the development of wastewater collection and treatment facilities within the Redevelopment Area, which are infrastructure improvements that are consistent with Highlands RMP policies for Highlands Center development.
  - d. The State Development and Redevelopment Plan (State Plan) designations, which have not been comprehensively updated since initially adopted in 2001, recognize Chester Borough as an Existing Town. The Redevelopment Plan permitted uses including affordable housing and other redevelopment serving the needs of the residents of the region is appropriate to both the State Plan and Highlands RMP designations for Chester Borough. The State Plan has not been periodically updated as required in the State Planning Act. The outdated State Plan is currently under review and in the process of being evaluated for update by a recently expanded planning staff at the Office of Smart Growth in Trenton. No clear direction is currently available for municipalities from the Office of Smart Growth indicating when an update to the State Plan may occur.
- (6) “N.J.S.A. 40A:12A-7(a) (6) As of the date of the adoption of the resolution finding the area to be in need of redevelopment, an inventory of all housing units affordable to low and moderate income households, as defined pursuant to section 4 of P.L.1985, c.222 (C.52:27D-304), that are to be removed as a result of implementation of the redevelopment plan, whether as a result of subsidies or market conditions, listed by affordability level, number of bedrooms, and tenure.”

- a. As of May 6, 2014, the date of adoption of Resolution No. 2014-46 designating Block 101, Lots 13, 14, 15 & 16 an Area in Need of Redevelopment, there were no affordable housing units within the Investigation Area. There have never been affordable units existing within the Area in Need of Redevelopment prior to, or since the designation was made by Chester Borough Mayor and Council.
- (7) “N.J.S.A. 40A:12A-7(a) (7) A plan for the provision, through new construction or substantial rehabilitation of one comparable, affordable replacement housing unit for each affordable housing unit that has been occupied at any time within the last 18 months, that is subject to affordability controls and that is identified as to be removed as a result of implementation of the redevelopment plan ...”
  - a. Because there have never been any affordable units included within the Area in Need of Redevelopment, no displacement or temporary relocation needed for low- and moderate-income households. The 36-affordable rental apartments that will be built within the Area in Need of Redevelopment are part of Chester Borough’s Third Round Plan for affordable housing and will address a portion of Chester Borough’s affordable housing obligations.
- (8) “N.J.S.A. 40A:12A-7(a) (8) Proposed locations for public electric vehicle charging infrastructure within the project area in a manner that appropriately connects with an essential public charging network.”
  - a. The Redevelopment Plan requires the site plan to include a minimum of three (3) individual public electric vehicle charging infrastructure stations. The Redevelopment Plan requires the electric vehicle charging stations to be capable of charging a variety of manufacturers vehicles and not limited to a single manufacturer’s electric vehicles.

O. Certificates of Completion. Upon the inspection and verification by the Chester Borough redevelopment entity (i.e. Borough of Chester Construction Code and Sub-code officials, Borough Engineer, Tax Assessor) that the redevelopment of a parcel subject to a redeveloper agreement has been completed, a Certificate of Completion and Compliance shall be issued to the redeveloper and such parcel shall be deemed no longer in need of redevelopment.

P. Anticipated Timeline and Development Process.

- a. The anticipated timeline and development process in this Redevelopment Plan (N.J.A.C. 5:97-6.6 Redevelopment in COAH’s Chapter 97) is subject to the terms, conditions and provisions of Chester Borough’s Superior Court-approved Settlement Agreement between the Borough of Chester and Larison's Corner LLC & Turkey Farms Acquisitions, LLC, dated 4 October, 2018.

**Section Four.** This ordinance may be renumbered for codification purposes.

**Section Five.** This ordinance shall not take effect until it is approved by the NJ Highlands Council.

**Section Six.** Severability. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall in no way affect the validity of the Redevelopment Plan as a whole, or of any other portion thereof.

**Section Seven.** EFFECTIVE DATE. This article shall take effect after final passage and publication in the manner required by law.

Dated: March 17, 2020

---

Janet Hoven, Mayor

Attest:

---

Denean Probasco, Municipal Clerk

**LEGAL NOTICE OF PENDING ORDINANCE**

Notice is hereby given that the Ordinance published herewith was introduced and passed upon first reading at a meeting of the Mayor and Council of the Borough of Chester, in the County of Morris, New Jersey, held on the 17th day of March 2020. It will be further considered for final passage after public hearing thereon, at a meeting of said Mayor and Council to be held in the Chester Borough Hall, 50 North Road, in said Borough, on April 21<sup>st</sup>, 2020 at 7:00 p.m., and during the week prior and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's office in said Borough Hall building to members of the general public who shall request the same.

---

Denean Probasco, Municipal Clerk