

ORDINANCE 2022-03

AN ORDINANCE TO AMEND AND SUPPLEMENT
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)

AN ORDINANCE AMENDING CHAPTER 200 LAND USE; PART 4, ZONING
ARTICLE XVIII, REGULATIONS FOR BUSINESS DISTRICTS, SECTION 200-203, B-3
BUSINESS DISTRICT (RETAIL NODE) USE, BULK AND AREA REGULATIONS,
ITEM C; AND ELIMINATING ITEM F WITHIN THIS SECTION

BE IT ORDAINED by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, as follows:

Section 1. Chapter 200 of the Code of the Township of West Windsor, Land Use, Part 4, Zoning, Article XVIII, Regulations for Business Districts, Section 200-203, B-3 Business District (Retail Node) use, bulk and area regulations, Item C. is hereby amended as follows. Added text is underlined, and text being eliminated is ~~struck through~~.

C. Maximum FAR: ~~40%~~ 16% for the district as a whole.^[1]

[1] Editor's note: The B-3 District previously established a FAR of 10%, with a bonus FAR of up to 15% for the provision of low- and moderate-income housing. The Nassau Park and Nassau Pavilion Center was granted this bonus by the Planning Board on October 22, 2003 (PB 02-12) by providing low- and moderate-income housing through a regional contribution agreement (RCA), among other ways. The Board approved a subsequent FAR increase to 15.62% on the basis of the Center's purchase of recreational preservation development credits. The Zoning Board of Adjustment later granted variance relief for a FAR of 15.78% for the construction of an addition to the Wegman's Food Markets (ZB 13-06). As of the date of the adoption of this ordinance, the FAR is 15.73%.

Section 2. Chapter 200 of the Code of the Township of West Windsor, Land Use, Part 4, Zoning, Article XVIII, Regulations for Business Districts, Section 200-203, B-3 Business District (Retail Node) use, bulk and area regulations, Items F. and Items G. are hereby amended as follows. Added text is underlined, and text being eliminated is ~~struck through~~.

~~F. Increased FAR and maximum improvement coverage for provision of low- and moderate-income housing.~~

~~(1) The maximum FAR shall be increased to 15% for the district as a whole and the maximum improvement coverage shall be increased to 55% for the district as a whole if the applicant enters into a developer's agreement with the Township in which it agrees to provide in the manner set forth in Subsection F(2) below the number of low- and moderate-income units equal to the quotient derived from dividing the floor area of all uses other than those set forth in Subsections B(8)~~

and (9) of this section by 6,600 square feet. Only floor area approved after the effective date of this Part 4 shall be included in such computation.

- (2) ~~The board of jurisdiction shall determine the manner in which the low and moderate income units are provided for among one or more of the following:~~
- ~~(a) On-site construction.~~
 - ~~(b) Through a regional contribution agreement.~~
 - ~~(c) Through a fee to the Township, pursuant to a developer's agreement, in an amount equal to 1% of the equalized assessed value of any development in the district approved after the effective date of this Part 4, plus a fee of \$2.60 per square foot for any square footage of said development above the square footage permitted by an FAR of 10%. The per square foot rate shall be increased or decreased by the same percentage that the Council on Affordable Housing or its successor increases or decreases the \$20,000 per unit rate it has established for regional contribution agreements. The amount of the per square foot fee shall be established at the time of preliminary approval. Such fee may be used only to provide low and moderate income units in addition to those units which sites in the Township's affordable housing program are designed to generate, assuming maximum development of the sites, except that, if such funds are used for a site for which a development proposal is pending, they shall be used to provide low and moderate income units in addition to those proposed. In addition, the applicant may propose one or more of the following, in which case the board of jurisdiction may choose from among such proposals and from the methods set forth in Subsections F(2)(a) through (c) above in deciding the manner in which the applicant's obligation to provide low and moderate income housing shall be met.~~
 - ~~(d) Off-site construction on a site zoned for low and moderate income housing, provided that the low and moderate income units proposed are in addition to the number of such units the site is designated or proposed to generate. If no development proposal is pending for the site at the time the application for the planned commercial development is approved, the number of low and moderate income units for which the site is designed shall be determined by assuming maximum development of the site. If a development proposal is pending, the number of low and moderate income units proposed shall govern.~~
 - ~~(e) Off-site construction on a site not zoned for low and moderate income housing, provided that the site is acceptable to the board of jurisdiction.~~
 - ~~(f) An on or off-site land donation which shall be utilized for providing low and moderate income housing. Such donation may be made in lieu of all or a part of the cash contribution.~~

- ~~(3) The low and moderate income units shall comply with the affordability and other standards set forth in § 200-237.~~
- ~~(4) If the low and moderate income units are provided on site, they shall:

 - ~~(a) Meet the unit type, bulk and density standards for the R-4B District.~~
 - ~~(b) Either be integrated into the retail center or be accessible to the common open space, entertainment and outdoor recreation facilities, public facilities, retail uses and public transportation; be buffered in the manner set forth in § 200-227; and be provided with active recreational facilities consistent with § 200-36C of Part 1, Site Plan Review, of this chapter.~~~~
- ~~(5) If the board of jurisdiction determines that a cash contribution shall be made in lieu of construction of the units, a regional contribution agreement or a land contribution, 10% of the contribution due for each building shall be due prior to issuance of the building permit for the building in question and the balance shall be due prior to the issuance of 60% of the certificates of occupancy for the building in question. The contribution for each building shall be calculated by multiplying the average per square foot of floor area contribution for the development as a whole by the square footage of the building. Any land which the board of jurisdiction agrees to accept in lieu of all or part of the cash contribution shall be conveyed to the Township prior to the issuance of the first building permit.~~

G. F. Planned retail development design and bulk requirements.

- (1) District requirements.
 - (a) Minimum setback from state highways: 125 feet.
 - (b) Minimum setback from public streets: 75 feet.
 - (c) Minimum setback from private streets: 35 feet.
 - (d) Minimum setback from district boundary lines which are not within or adjacent to rights-of-way or easement areas for public or private streets: 50 feet.
 - (e) Minimum distance between the retail center pervious and impervious surfaces and on- and off-site dwelling units: 175 feet.

[Amended 9-15-2008 by Ord. No. 2008-21]

- (2) Individual lot requirements. There shall be no maximum FAR or limitation on maximum improvement coverage for individual lots, provided that the planned commercial development conforms to a site plan approved by the board of jurisdiction, lot widths, frontages, rear yards, side yards, front yards, lot dimensions, parking lot locations and building distances may be freely arranged and disposed of. A lot need not front on a street, and there are no minimum distances between individual buildings. The intent of this provision is to permit individual stores to exist as separate lots. However, each individual lot shall be subject to and may only be improved in accordance with the final site plan

approval for the planned commercial development in accordance with these district regulations. Final subdivision approval may be granted only as part of or subsequent to final site plan approval for the planned commercial development. The board of jurisdiction shall condition final subdivision approval upon submission by the applicant and approval by the board attorney of a declaration of covenants and restrictions or other suitable instrument setting forth the mechanisms by which and providing adequate assurances that security, outside cleaning and other routine external maintenance, external repainting, maintenance of the common open space, garbage collection, snow removal and other appropriate items will be provided for the planned commercial development.

- (3) Planning principles. The planned commercial development shall be designed to create a cohesive environment integrating the developed and undeveloped portions of the district, with a strong visual identity, physically linked by pedestrian connections, plazas or other amenities, and related by a single design theme. Accordingly, the design shall be guided by the following objectives:
- (a) The architectural style of the planned commercial development shall be designed to avoid a big-box commercial center appearance through facade ornamentation, building offsets and entry treatments and upgraded building material and colors.
 - (b) Buildings shall be sited to form a progression of pedestrian oriented open spaces with visual as well as pedestrian connections between such spaces.
 - (c) Open air or enclosed pedestrian spaces shall act as connectors of buildings and shall contain such amenities as changes in level, benches, water features, opportunities for entertainment and seating areas to provide a sense of place and orientation for its users. There shall be a pedestrian corridor connecting the retail facilities in the portion of the district which is not developed with the portion of the district which already contains retail facilities. Such corridor shall include the amenities set forth in this subsection.
 - (d) One or more entertainment or outdoor facilities constituting a design focus of the planned commercial development and acceptable to the board of jurisdiction shall be provided.
 - (e) At least 18% of the district acreage shall be devoted to pedestrian spaces, including but not limited to sidewalks in front of stores, and associated landscaping and water features, including but not limited to fountains, plazas, any lawn or landscaped areas, parking islands and the like (but not preserved open space) and entertainment and outdoor recreation amenities.
 - (f) At least 30% of the district shall be devoted to preserved open space, which may include walking trails, except that such trails shall not intrude upon or otherwise be proximate to the Port Mercer area and to the bermed areas and detention basins.

- (g) Canal Pointe Boulevard shall not be extended to or through any portion of the B-3 District in order to prevent disturbance to the integrity of the greenbelt and preserved open space, detention facilities, internal circulation, parking and pedestrian flows and unified site and building arrangements.
 - (h) Access for service and deliveries shall not obstruct overall site traffic patterns. All service areas shall be isolated from main public circulation drives and screened from public view.
- (4) Open space. All portions of the planned commercial development not allocated to buildings or improvements shall be allocated to deed-restricted passive recreational space, greenbelt space or other open space.
 - (5) Any one store and/or building may contain any number and combination of the uses permitted. ~~{1}~~ [2]

~~{1}~~ [2] Editor's Note: Original Subsections 22-6.5 and 22-6.6 pertaining to regulations in the B-3 Business District (Mixed use Commercial Center) were repealed in their entirety by Ord. No. 91-01, adopted 2-11-1991.

Section 3. In the event of any conflict between the provisions and requirements of this section and the provisions and requirements of any other section of this chapter, the provisions and requirements of this section shall govern.

Section 4. This ordinance shall take effect twenty days after action or inaction by the Mayor as approved by law, or an override of a mayoral veto by the Council, whichever is applicable; upon filing with the Mercer County Planning Board; and upon publication according to law.

Introduction: March 28, 2022
 Planning Board Approval:
 Public Hearing:
 Adoption:
 Mayor Approval:
 Effective Date: