

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 35, LAND USE, OF THE CODE OF THE BOROUGH OF LITTLE FERRY, BERGEN COUNTY, NEW JERSEY, TO ESTABLISH A NEW RF-A RIVERFRONT DEVELOPMENT INCLUSIONARY OVERLAY A ZONE ENCOMPASSING BLOCK 25 AND ALSO SETTLING LITIGATION

WHEREAS, the Borough of Little Ferry seeks to facilitate the private sector's development of previously developed and vacant land along the Hackensack River waterfront within the Borough so as to further the purposes of the Municipal Land Use Law, create economic development opportunities and, through such development, meet the Borough's affordable housing obligations as determined by the Court in Donald Nuckel, et als., vs. Borough of Little Ferry, et als., DOCKET NO.: BER-L-717-06; and

WHEREAS, the Borough of Little Ferry seeks to promote such private sector development within the entirety of Block 25, which lies wholly outside of the jurisdiction of the New Jersey Meadowlands Commission; and

WHEREAS, the development of this area in a manner that enhances the quality, appearance and economic vitality of the riverfront area in Little Ferry was contemplated in the 2003 Master Plan Reexamination Report for the Borough of Little Ferry; and

WHEREAS, the Mayor and Council of the Borough of Little Ferry have determined that private sector development efforts should be encouraged and are preferred over public sector redevelopment and that creating an "overlay zone" that will permit the private sector to accomplish such development while continuing to permit the uses allowed by the current zoning of the properties encompassed by the overlay zone until such time as an owner or developer chooses to avail itself of the overlay zoning provisions will accomplish the objectives of the 2003 Master Plan Reexamination Report as well or perhaps better than public sector redevelopment; and

WHEREAS, the Mayor and Council have determined that the use of the overlay zoning provisions confers a substantial benefit upon any owner/developer of land within the overlay zone due to the significant increase in density and intensity of land use achievable through the additional building heights permitted and required as compared to the underlying zoning, and that this substantial benefit justifies the adoption of overlay zoning provisions that will ensure, first, that residential development will occur within the Riverfront Overlay Area, and, second, that any such residential development will be subject to an affordable housing set-aside.

REVISED February, 2012
Per Order Entered Feb. 10, 2012 1
by The Honorable Alexander H. Carver, III, JSC
Docket No. BER-L-717-06

WHEREAS, the Council of the Borough of Little Ferry had adopted (and has since repealed) provisions for an RF Riverfront Development Inclusionary Overlay Zone, which had encompassed all of Blocks 5.01 and 25; and

WHEREAS, on May 27, 2009, 110 Bergen Turnpike, LLC, had filed an action in lieu of prerogative writ in the Superior Court of New Jersey against the Borough of Little Ferry, *110 Bergen Turnpike, LLC vs. Borough of Little Ferry, et al.*, Docket No.: BER-L-4803-09, contesting some of the provisions of the adopted (and now repealed) RF Riverfront Development Inclusionary Overlay Zone; and

WHEREAS, said case was dismissed with prejudice by Order of the Court entered on December 8, 2010, but the original builder's remedy lawsuit is still pending; and

WHEREAS, the Borough of Little Ferry and the Planning Board of the Borough of Little Ferry are desirous of resolving said builder's remedy litigation by achieving a settlement with 110 Bergen Turnpike, LLC, to provide affordable housing on its site; and

WHEREAS, the within zoning amendment creates an overlay zone (the RF-A Zone) along a portion of the Little Ferry riverfront that permits appropriate development of all of the properties within Block 25, including the property of 110 Bergen Turnpike, LLC, consistent with the intent of the Borough for the riverfront area but tailored to the specific problems and issues associated with the properties located to the south of Route 46; and

WHEREAS, the within zoning amendment is consistent with the terms of a Agreement among the parties to the litigation that was fully executed on July 2, 2011, and is also consistent with the recommendations of the adopted 2003 Master Plan Reexamination Report and consistent with the Housing Element and Fair Share Plan of the Borough of Little Ferry as amended in 2011 and is designed to effectuate such documents;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Little Ferry, in the County of Bergen, State of New Jersey, that, consistent with the finding of the Land Use Board of the Borough of Little Ferry, the Council does hereby adopt the following amendment to Chapter 35, Land Use, of the Code of the Borough of Little Ferry:

SECTION 1. Amend the Borough of Little Ferry Zoning Map to create a new RF-A Riverfront Development Inclusionary Overlay A Zone encompassing all of Block 25.

SECTION 2. Add or amend the following definitions at Section 35-3.B.:

ACTIVE ADULT RESIDENTIAL/INDEPENDENT LIVING SENIOR UNITS - Residential units with at least one member of the household residing therein being at least fifty-five

REVISED February, 2012

Per Order Entered Feb. 10, 2012 2

by The Honorable Alexander H. Carver, III, JSC

Docket No. BER-L-717-06

(55) years of age. All such dwelling units shall be deed restricted for occupancy by households having at least one member aged fifty-five (55) years of age or older and having no person less than nineteen (19) years of age as a permanent resident.

ASSISTED LIVING FACILITY - A facility licensed by the New Jersey Department of Health and Senior Services which is designed and operated to provide apartment-style housing and congregate dining while assuring that assisted-living services are available, as needed, to adult persons unrelated by blood, marriage or adoption to the proprietor or governing authority. Each assisted living unit in such facility shall offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance. Assisted living facilities may include dementia care facilities, which are facilities designed in such a way as to accommodate the special needs of frail elderly persons afflicted with Alzheimer's Disease or other dementia. Dementia care facilities within an assisted living facility are not required to have a kitchenette and a lockable door.

BUILDING HEIGHT - The vertical distance from the base flood elevation plus one (1) foot to the level of the highest point of the roof surface, exclusive of any parapet, fixtures or screening carried on or above the roof surface if the roof is flat, or in the case of sloping roofs, to a point one-half (1/2) the distance between the plates and the top of the uppermost point of the roof. This specified height shall not apply to church steeples, chimneys, cupolas, flagpoles, or solar panels. The height limitations shall not preclude the placement of heating, air conditioning and water supply apparatus nor elevator housings on the surface of the roof, provided that not more than twenty-five percent (25%) of the roof surface shall be devoted to such appurtenances and provided further that provision is made for architectural screening in harmony with the architecture of the building so that such equipment is not visible from the surrounding properties and streets.

CONDOMINIUM HOTEL UNIT - A unit within a building or group of buildings that is/are constructed, maintained, operated and managed as a hotel, as defined herein, but that is available for individual ownership and that has full in-room or in-suite kitchen facilities, including cooking burners and an oven. A condominium hotel unit shall have no limitation on the duration of occupancy.

CONTINUING CARE RETIREMENT COMMUNITY (CCRC) - An age-restricted development that provides a continuum of accommodations and care, from independent living and/or assisted living units to residential health care units to nursing home/long term care facility, all as defined below, in which the proprietor or governing authority enters into contracts with prospective residents to provide lifelong care and accommodations in exchange for the payment of entrance fees and monthly fees. CCRCs may contain related social, recreational and dining facilities and a health-care

center, which may include an outpatient clinic and therapy areas in addition to State-mandated facilities for each of its components.

FITNESS CENTER - An establishment that provides apparatus and/or instruction in various aerobic and athletic exercises, including, but not by way of limitation, dance, yoga, martial arts and weight training, and that may include facilities and uses such as, but not limited to, spa tubs, pools, steam rooms and/or saunas, and shower and locker rooms.

HOTEL - A building or group of buildings containing at least eight (8) stories and also containing a minimum of 100 guest rooms that are intended or designed to be used, or which are used, rented or occupied for sleeping purposes to transient guests limited to not more than 30 days' stay and that may also contain condominium hotel units as defined above. Guest rooms shall contain a minimum of one bathroom for each sleeping room or suite and may also include a refrigerator, extra sink and microwave oven but not cooking burners and not an oven. A hotel may also include retail shops and services; banks; travel agencies; concierge and ticketing services and the like; restaurants, provided that any restaurant accessible directly to the out-of-doors shall provide indoor table service and, in season, shall provide outdoor (sidewalk) table service; fitness centers; spas; theaters; meeting and banquet rooms; entertainment facilities; and indoor and/or outdoor recreational facilities.

NURSING HOME/LONG TERM CARE FACILITY - An institution or distinct portion thereof that is licensed or approved to provide health care under medical supervision for twenty-four (24) or more consecutive hours to more than two residents who are not related to the proprietor or governing authority by marriage, blood or adoption. Such facility shall be serviced 24 hours per day by a registered nurse and shall provide medical services and facilities, meals, housekeeping, social services and physical therapy to its residents.

RESIDENTIAL HEALTH CARE FACILITY - An institution or distinct portion thereof that is licensed by the State of New Jersey Department of Health and Senior Services to provide health care under medical supervision to two or more patients unrelated to the proprietor or governing authority by marriage, blood or adoption. The facility provides independent living units but also offers meals, social services, medical and/or personal services and emergency medical care, as needed.

SPA - An establishment that offers a combination of personal grooming and medical or non-medical therapeutic services and facilities such as hair, nail and skin care or treatment and other services typically found in a beauty shop; massage therapy and similar therapeutic treatments for the human body; and that may also include facilities and uses such as, but not limited to, spa tubs, pools, steam rooms and/or saunas, and shower and locker rooms.

REVISED February, 2012
Per Order Entered Feb. 10, 2012 4
by The Honorable Alexander H. Carver, III, JSC
Docket No. BER-L-717-06

SECTION 3. Create a new Section 35-17.2 within Chapter 35, Land Use, of the Code of the Borough of Little Ferry, as follows:

Section 35-17.2 RF-A Riverfront Development Inclusionary Overlay A Zone (hereafter, "this Section").

A. Purpose. The purpose of the RF-A Riverfront Development Inclusionary Overlay A Zone is to create a realistic opportunity for the construction of affordable housing through mixed use development, in which there is a mandatory residential component with an affordable housing set-aside, in a setting that will also provide opportunities for economic development of regional business uses and an incentive to improve the riverfront area for the benefit of all residents of the Borough of Little Ferry. Development under the RF-A Riverfront Development Inclusionary Overlay A Zone is intended as an as-of-right alternative to, and not as a replacement of, the existing underlying zoning.

B. Outside Agency Approvals. The applicant shall provide the Land Use Board secretary and Land Use Board engineer with copies of all applications for outside agency approvals at the time such applications are submitted. The applicant shall submit all homeowner or condominium association documents to the Land Use Board Attorney and Borough Attorney contemporaneously with their submission to the Department of Community Affairs.

C. Special Application Requirements. Connections shall be provided to Bergen Turnpike/River Street at appropriate locations approved by Bergen County at the time of site plan review to facilitate public access to and through the entire Riverfront area. Additionally, each developer shall be required to pay its pro rata share of reasonable and necessary costs for sewer, water, traffic and drainage improvements needed to support the development contemplated.

D. Interpretation. If a developer of land in the RF-A Riverfront Development Inclusionary Overlay A Zone elects to develop in accordance with the RF-A Riverfront Development Inclusionary Overlay A Zone regulations presented herein and there is a conflict between this Section and any other provision of the Land Use Chapter of the Little Ferry Code or any other ordinances or regulations of the Borough of Little Ferry and the standards outlined herein (for all development) or within the RSIS (for residential development), the standards outlined herein (for all development) or within the RSIS (for residential development) shall apply.

E. Permitted Uses (land and buildings).

1. Principal Uses.

- a. Hotels, as defined herein, on lots of three (3) acres or more, which may also contain other permitted uses.
- b. Offices and office buildings, which may include medical offices and facilities such as clinics, laboratories, urgent care and same day surgery facilities.
- c. Retail and service business uses.
- d. Theaters and auditoriums.
- e. Fitness centers, spas, and facilities that combine elements of these uses, either as part of a hotel, office or residential building or use or as stand alone facilities.
- f. Commercial or membership indoor recreational facilities.
- g. Day care facilities.
- h. Restaurants.
- i. Multi-family residential buildings consisting of both market rate and affordable housing units as provided and required in Subsection F.9. herein.
- j. Continuing Care Retirement Communities (CCRCs) on lots of three (3) acres or more, which may also contain other permitted uses, provided that all elements of the CCRC shall be considered as part of the non-residential portion of the development.
- k. Assisted living facilities.
- l. Active adult/independent living senior housing units and residential health care facilities (that are not part of a CCRC) consisting of both market rate and affordable housing units consistent with the provisions of Subection F.9. herein.
- m. Nursing homes, provided that such uses shall be treated as part of the non-residential portion of the development whether or not they are constructed as part of a CCRC.
- n. Mixed use buildings consisting of any or all of the above permitted uses.

2. Accessory Uses.

- a. Outdoor dining facilities and areas, but only in conjunction with a permitted restaurant use.
- b. Outdoor common open space and common recreational facilities, which may include, but not by way of limitation, pools, tennis courts, sitting areas, game and picnic tables, for use by residents and employees and guests of the development, and which may also include such areas as “green” roof-decks and rooftop recreational areas.
- c. Public or publicly-accessible open space, promenades and parking areas at ground level, which may include, but not by way of limitation, sitting and picnic areas, playgrounds, open lawn areas, dog parks and gardens.
- d. Marinas, ferry docks and other similar waterfront-related uses and associated offices and facilities for the management and operation of same.
- e. Surface level parking areas and structured parking facilities (parking garages).
- f. Storm water management and utility facilities and structures approved as part of the site plan approval.
- g. Fencing approved as part of the site plan approval.
- h. Signage in accordance with Section 134-17.1 L.
- i. Retaining walls, subject to site plan approval; and bulkheads, subject to approval by the NJDEP or other applicable authority.
- j. Temporary sales and construction trailers, to be removed upon the application for the final Certificate of Occupancy for the development.
- k. Trash enclosures containing dumpsters and recycling bins.
- l. Model dwelling units.
- m. Sales and management office(s).
- n. Maintenance facilities and structures approved as part of the site plan approval.
- o. Other accessory uses and structures customarily incidental to the permitted principal uses.

F. Tract Development Standards for RF-A Riverfront Development Inclusionary Overlay A Zone.

1. Minimum Non-Residential Development. A floor area equal to at least 15% of the sum of the ground floor areas of all of the buildings in the proposed development, taken together, shall be required to be devoted to uses such as retail shops and services; banks; travel agencies; concierge and ticketing services; cafeterias and restaurants, provided that any cafeteria or restaurant accessible directly to the out of doors shall provide indoor table service and, in season, shall provide outdoor (sidewalk) table service; spas; fitness centers; lobby areas open to the public; and the like. To the extent practicable, such uses shall be oriented toward and directly accessible from public ways and spaces along the river and/or along any roadways and driveways providing public access from Bergen Turnpike to the river.

2. Minimum and Maximum Residential Development. The number of residential units to be constructed within each RF-A Riverfront Development Inclusionary Overlay A Zone development shall be calculated as follows: a minimum of 25 residential units per each acre of site area and a maximum of 60 residential units per each acre of site area. Components of a CCRC shall not be considered a residential development for the purposes of applying these calculations. Notwithstanding the foregoing, it is acknowledged that the Agreement with 110 Bergen Turnpike, LLC, affecting Lot 2 in Block 25 and fully executed on July 2, 2011, which provides for the construction of up to twenty-eight (28) low and moderate income units without mandating the construction of any market-rate residential units, exempts the developer of that lot from the minimum residential development requirement set forth herein. Such an exemption also may be requested by any developer and approved by the Borough for any other development in the RF-A Riverfront Development Inclusionary Overlay A Zone based on an executed agreement between the developer and the Borough of Little Ferry wherein the developer will provide the number of affordable units otherwise required based upon the mandatory residential component without having to construct any market-rate residential units.

a. Except as specified in paragraph F.2. above with regard to Lot 2 in Block 25, development within the RF-A Riverfront Development Inclusionary Overlay A Zone shall include a mixture of residential uses and non-residential uses. The required and permitted non-residential uses shall be constructed in addition to the required and permitted residential development.

b. All residential density figures shall be calculated based upon the gross site area, after deducting the existing rights-of-way along Bergen Turnpike and Route 46.

c. Except as specified in paragraph F.2. above with regard to Lot 2 in Block 25, a minimum of twenty percent (20%) of all of the residential units constructed shall be provided as affordable housing units in accordance with Section F.8.a. herein, except that if all of the proposed affordable housing units will be maintained as rental units, then only a minimum of 15% of all residential units constructed need to be provided as affordable housing units.

3. Maximum Building Height - Building height shall be inclusive of all parking levels and all habitable floors of the building and shall be measured in accordance with the definition of building height in Section 35-3.B. Building height shall be varied on each site to avoid the appearance of a monolithic building mass. Within the first 100 feet of Bergen Turnpike, no building or portion thereof shall exceed a height of four (4) stories and 48 feet. Within the first 200 feet of Bergen Turnpike, but beyond the first 100 feet of said streets, no building or portion thereof shall exceed a height of eight (8) stories and 96 feet. Buildings or portions thereof located at least 200 feet from Bergen Turnpike may be constructed to a height of up to twelve (12) stories and 144 feet, provided however, that the twelve (12) stories and 144 feet may be increased to a maximum of fourteen (14) stories and 168 feet where the footprint of all stories over the tenth story is reduced to 85 percent of the footprint of the 10th story (comparing the measurement of the outer extent of any private balconies on the floors above the 10th story to the measurement of the outer limits of the 10th story walls). To the extent practicable, the resulting step-backs shall be oriented west, toward Bergen Turnpike, and north, toward Route 46. Notwithstanding the foregoing, for any building located adjacent to a proposed street or private way that will provide public access to the river, the façade of all stories above the first six (6) stories shall be stepped in at least 6 feet from the façade of the first six (6) stories, provided that this requirement shall only apply to the building façade or facades that actually face such street or private way.

4. Maximum Building Coverage - 75 percent of the tract area.

5. Maximum Lot Coverage (impervious surface coverage) - 80 percent of the tract area.

6. Minimum Building and Parking Setbacks - 50 feet from the Hackensack River (unless a greater setback is required by a State or federal agency); 12 feet from all other side or rear property lines; and 25 feet from the right-of-way line of Bergen Turnpike and from any at-grade portions of Route 46. These setback requirements shall not apply to site improvements such as retaining walls, detention basins, signs and fencing, unless otherwise required by this Section.

7. Minimum Open Space - At least 20% of the site shall consist of open space, exclusive of buildings, parking lots, access drives and any minimum required

distances between such features, and such open space shall be designated and improved for use so as to create a riverfront promenade in addition to other walkways, sitting and picnic areas, playgrounds, open lawn areas, dog parks, permitted active or passive outdoor recreational uses, and surface and rooftop gardens. Said open space may be dedicated for public use or may be retained in private ownership but at least half of said open space, including the entirety of the riverfront promenade, shall be accessible for public use and enjoyment. Open space intended for public use and enjoyment shall be accessible to the public or shall be made to be accessible to the public from off-site by means of roadways, parking areas and/or walkways. The location and proposed use and ownership of all open space shall be shown on the approved site plan for the development.

8. Minimum Affordable Housing Requirements.

a. Except as specified in paragraph F.2. herein with respect to Lot 2 in Block 25, all developments in the RF-A Riverfront Development Inclusionary Overlay A Zone shall provide low and moderate income housing units at the rate of one affordable unit for each 5.67 market-priced dwelling units constructed, if the affordable units will be for rent, and at the rate of one affordable unit for each 4 market-priced dwelling units constructed, if the affordable units will be for sale. Components of a CCRC shall not be considered residential development for the purposes of applying these calculations.

b. The required low and moderate income housing units may be constructed on-site or off-site but within the Borough of Little Ferry provided any off-site affordable housing construction shall be subject to applicable zoning regulations and shall require a separate site plan approval, which shall occur simultaneously with or shall precede site plan approval for the balance of the development. All of the low and moderate income housing units created in or as a result of the RF-A Riverfront Development Inclusionary Overlay A Zone shall comply with all applicable requirements of N.J.A.C. 5:97-1, et seq. (NJDCA's rules) and N.J.A.C. 5:80-26-1, et seq. (Uniform Housing Affordability Controls) and the Affordable Housing Ordinance of the Borough of Little Ferry in effect at the time of the grant of preliminary approval for the affected portion of the development.

c. The low and moderate income affordable units shall be constructed pursuant to the phasing schedule, bedroom distribution and low/moderate income split required by NJDCA's Rules and Little Ferry's Affordable Housing Ordinance, whether the affordable units are constructed on or off site. If constructed on site without the use of public subsidies, the affordable units shall be integrated throughout the development and shall utilize the same method of heating as the market units. If the affordable units are proposed to be separately financed through NJHMFA, Low Income Tax Credit financing or similar State or federal funding program(s), they may be located in a separate stand-alone building containing 100% affordable units, which building may be

subdivided from the rest of the development following site plan approval to facilitate financing. However, in such cases, NJDCA's Rules pertaining to the phasing schedule for the construction of the market units in the balance of the development, the bedroom distribution and the low/moderate income split shall be applicable to the separate affordable housing units. In the case of Lot 2, Block 25, which is covered by a Court-approved Agreement, the phasing schedule for the construction of the low and moderate income units shall be subject to the review and approval of the Court-appointed Master.

d. All of the affordable units created in the Borough shall be affirmatively marketed in accordance with the Borough's adopted Affirmative Marketing Plan.

e. A Developer's Agreement shall be executed between the applicant and the Mayor and Council setting forth with specificity the number of affordable housing units to be provided, the tenure of the affordable housing units to be provided (which affects the number), a commitment to comply with the terms of this Ordinance and NJDCA's Rules and Regulations, the UHAC Rules and the Borough's Affordable Housing Ordinance and Affirmative Marketing Plan, and a phasing plan that will ensure that the affordable units will in fact be built and phased in as part of the overall development of the site to ensure their completion and occupancy prior to the completion of the other components of the development.

G. Building Standards.

1. Minimum Building Setback from Internal Street or Parking Space - 5 feet.
2. Maximum Building Height - See Section F.3. above.
3. Minimum Distance Between Buildings - 50 feet, which distance may be reduced to not less than 30 feet if, at the time of site plan approval, the Board is satisfied, based upon expert testimony presented at the hearing, that the lesser distance will not impair access by emergency vehicles or create other safety problems that could be avoided with the 50 foot distance.

H. Parking and Loading.

1. Parking requirements for residential uses shall be not less than required by RSIS standards. Parking requirements for non-residential uses shall be as otherwise required in the Little Ferry Land Use Code. In a mixed use development, a shared parking plan may be proposed that includes a reduction in the total additive parking requirement by up to 30% of that requirement, provided that the applicant submits, and the Board approves, a parking study demonstrating the adequacy of the shared parking

REVISED February, 2012

Per Order Entered Feb. 10, 2012

11

by The Honorable Alexander H. Carver, III, JSC

Docket No. BER-L-717-06

arrangement to meet the parking demands of the uses on the site. Parking may be provided as either surface parking lots or garages or a combination of both.

2. Loading areas required for non-residential uses shall be provided as otherwise required in the Land Use Code. All loading areas shall be oriented to the north or south, i.e., away from existing streets and the Hackensack River; shall be located at least 100 feet from Bergen Turnpike; and shall be screened from view from off-site by a fence, hedge or wall of at least six (6) feet in height.

I. Solid Waste/Recycling. There shall be within each building a designated area for the temporary storage of solid waste and recyclable materials. At the applicant's option, dumpsters and recycling bins may be located outside of the buildings in appropriately screened enclosures, subject to site plan approval.

J. Signs.

1. A permanent entrance sign shall be permitted having a maximum area of up to 24 square feet, except that sites of five (5) acres or more shall be entitled to up to two (2) entrance signs having a maximum area of 50 square feet each.

2. Non-residential building wall signs shall be permitted, provided such signs are approved as part of a comprehensive sign plan for each development. Except for buildings containing multiple retail and service business uses, no more than two wall signs shall be permitted for each building and no individual wall sign shall exceed an area of 5% of the building facade to which it is attached. Buildings containing multiple retail and service business uses may be permitted to have a wall signage system that also allows each retail and service business use to have an exterior building sign, but all such signs must be part of a coordinated sign plan (as to color choices, lettering style and size and sign placement) approved for the development by the Land Use Board at the time of site plan approval, and no individual retail or service business wall sign shall exceed a maximum area of 20 square feet nor a maximum vertical sign dimension of two (2) feet.

3. Building locator and wayfinding signs shall be permitted without restriction provided that the maximum area of any such sign is eight (8) square feet per sign and no such sign is placed above the first floor level. Such signs shall be permitted for all residential buildings and for all other permitted facilities on the site.

4. Permanent signs shall not be located within required sight triangles.

5. Minimum sign setback to perimeter property line: 3 feet.

6. Sign maintenance shall be the responsibility of the owner of the property or of the homeowners' or condominium association, if there be one.

7. Exterior illumination of signs shall be permitted subject to site plan approval. No flashing or moving lights shall be permitted.

8. There shall be no limitation on the number of directional signs that shall be permitted within the development, provided such signs are shown on the approved site plan.

9. No other permanent signage shall be permitted on the site.

10. All permanent signage shall be subject to site plan review.

11. Temporary sales, directional signs and construction vehicular movement signs shall be permitted as needed with a maximum area of 8 square feet per sign except that one temporary two-sided sales sign having a maximum area of 20 square feet shall be permitted at the site entrance, within 3 feet of the property line, but outside of any required sight triangle.

K. Lighting.

1. Street lighting shall be provided at all street and driveway intersections and shall be consistent with the Borough's streetscape design requirements. All proposed street lighting shall be subject to site plan review.

2. The maximum height for lighting fixtures in parking lots shall be 20 feet. Selection and placement of parking lot lighting fixtures shall be subject to site plan review.

3. All lighting shall be shielded to prevent overhead skyglow and to prevent light from shining off-site and into residential units or other bedrooms within the development.

4. Energy efficient, solar powered or other "green technology" lighting is encouraged.

L. Sidewalks/Walkways. Sidewalks or walkways shall be provided along all roadways, as necessary, to comply with applicable RSIS standards. In addition, sidewalks or walkways shall be provided as needed to connect parking and recreational areas to the entrances of residential buildings and to create safe public access to

REVISED February, 2012

Per Order Entered Feb. 10, 2012 13

by The Honorable Alexander H. Carver, III, JSC

Docket No. BER-L-717-06

riverfront recreational areas. All proposed sidewalks and walkways shall be subject to site plan review.

M. Street Trees and Landscaping.

1. Shade and ornamental trees shall be planted along all streets and driveways, along the riverfront, and within surface parking lots. Within surface parking lots, the tree planting rate shall be at least one tree for every 20 parking spaces. All new trees shall have a minimum diameter of two and one-half (2.5) inches, measured six (6) inches above the ground. Such trees shall be planted 40 to 60 feet apart (averaging 50 feet).

2. All areas of the site not covered by buildings or pavement shall be attractively landscaped with shrubs, trees, lawns and perennial plantings designed to complement views of the riverfront; to enhance the use and appearance of outdoor open spaces, including the publicly accessible outdoor open spaces; and to soften views of the buildings from off-site.

3. The landscaping and tree planting plans shall be subject to site plan review and approval by the Land Use Board.

N. Maintenance of Open Space and Common Areas.

1. The owner or any homeowners' or condominium association that may be established shall be responsible for the maintenance of the open space and other common areas in the development. If a homeowners' or condominium association has been established, all unit or building owners shall be required to be members of the association. The review of the documents establishing any homeowners' or condominium association shall be subject to the sole jurisdiction of the NJ Department of Community Affairs; however, courtesy copies of these documents shall be provided to the Land Use Board Attorney and Borough Attorney.

2. The owner and/or homeowners' or condominium association shall not dispose of any open space, by sale or otherwise, without first offering to dedicate the same to the Borough of Little Ferry.

3. If a homeowners' or condominium association is established, the continued maintenance of the open space shall be enforced through the procedures outlined at N.J.S.A. 40:55D-43(b) and (c).

O. Phasing. If the applicant proposes to phase the development, it shall submit a phasing plan as part of the site plan application consistent with the following principles:

1. Each phase or section shall be located and designed to function as if no further development will occur with respect to a safe and convenient circulation system, storm water control, utility services, fire hydrants and access for emergency vehicles.

2. COAH's Rules for the phasing of the construction of the low and moderate income units shall be complied with at all times.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5. Short Title. The short title of the above Ordinance shall be "RF-A Riverfront Development Inclusionary Overlay A Zone Amendment to the Land Use Ordinance".

SECTION 6. Repealer. All ordinances or parts thereof inconsistent herewith are hereby repealed as to the extent of such inconsistency only.

SECTION 7. Effective Date. This Ordinance shall take effect upon passage and publication in accordance with N.J.S.A. 40:49-2(d). The Borough Clerk shall serve copies of the adopted Ordinance on the Bergen County Planning Board and the Borough Tax Assessor within 30 days of adoption.

ATTEST:

BOROUGH OF LITTLE FERRY

Barbara Maldonado, Borough Clerk

Mauro Raguseo, Mayor

REVISED February, 2012
Per Order Entered Feb. 10, 2012 15
by The Honorable Alexander H. Carver, III, JSC
Docket No. BER-L-717-06

Introduced: _____

Motion by: _____

Second by: _____

Introduction Roll Call:

Ayes:

Nayes:

Absent:

Abstain:

Adopted: _____

Motion by: _____

Second by: _____

Adoption Roll Call:

Ayes:

Nayes:

Absent:

Abstain:

I hereby certify the foregoing to be a true copy of an Ordinance adopted by the Mayor and Council at a meeting held on _____, 2012.

Barbara Maldonado, Borough Clerk

REVISED February, 2012
Per Order Entered Feb. 10, 2012 17
by The Honorable Alexander H. Carver, III, JSC
Docket No. BER-L-717-06

NOTICE

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at the Regular Business Meeting of the Governing Body of the Borough of Little Ferry held in the Municipal Building on the ____ day of _____, 2012, and the same shall come up for public hearing at the Regular Business Meeting of the Governing Body to be held on the ____ day of _____, 2012, at 7:00 P.M., at which time any persons interested shall be given the opportunity to be heard concerning said Ordinance. Following the public hearing, said Ordinance shall be considered for final adoption.

Barbara Maldonado, RMC, Borough Clerk