

CITY OF ENGLEWOOD

RESOLUTION #267-08-08-23

**RESOLUTION SETTING FORTH REASONS FOR THE CITY COUNCIL'S
ADOPTION OF ORDINANCE NO. 23-22 DESPITE PLANNING BOARD
DETERMINATION OF INCONSISTENCY WITH THE MASTER PLAN
AS REQUIRED UNDER N.J.S.A. 40:55D-62a**

WHEREAS, the City of Englewood ("City") filed a Complaint in the matter captioned In the Matter of the Application of the City of Englewood, Docket No. BER-L-4069-19 ("DJ Litigation"), seeking a declaration from the New Jersey Superior Court that its affordable housing compliance plan is constitutionally compliant; and

WHEREAS, Fair Share Housing Center ("FSHC") has been designated as an interested party in the DJ Litigation pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) ("Mount Laurel IV"); and

WHEREAS, the City negotiated and executed a Settlement Agreement with the Fair Share Housing Center ("FSHC") dated November 1, 2022, which resolves all of the differences between them with regard to the DJ Litigation including an agreement on the extent of the City's affordable housing fair share obligation for the period from 1999 to 2025 and the methods the City intends to use to satisfy the obligation; and

WHEREAS, a Fairness Hearing was held on January 10, 2023, during which the FSHC Settlement Agreement was approved, and said approval was memorialized by an Order entered by the Court on January 20, 2023; and

WHEREAS, as per the terms of the FSHC Settlement Agreement and the Court's January 20, 2023 Order, the City's Affordable Housing Planner prepared a Housing Element and Fair Share Plan ("HEFSP"); and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board held a public hearing on and adopted the HEFSP on April 27, 2023, and adopted a Memorializing Resolution on July 27, 2023; and

WHEREAS, the HEFSP included the mechanisms agreed to in the FSHC Settlement Agreement and the January 20, 2023 Court Order approving same; and

WHEREAS, the HEFSP recommends the creation of affordable housing overlay zones which permit multi-family and single-family attached townhouse residential development with a minimum twenty percent (20%) affordable housing set-aside for certain real property located in the City of Englewood; and

WHEREAS, the City introduced Ordinance No. 23-22, which amends and supplements Chapter 250, Land Use, of the City Code to create those affordable housing overlay zones for the properties identified in the Ordinance; and

WHEREAS, after introduction, Ordinance No. 23-22 was referred to the Planning Board in accordance with N.J.S.A. 40:55D-64 to determine consistency of said Ordinance with the Master Plan of the City and the HEFSP and to make any recommendations with regard to said Ordinance in accordance with N.J.S.A. 40:55D-26a; and

WHEREAS, on August 3, 2023, the Planning Board found that Ordinance No. 23-22 is inconsistent with the Master Plan; and

WHEREAS, the City intends to adopt, or has adopted, Ordinance No. 23-22 on August 8, 2023; and

WHEREAS, in accordance with N.J.S.A. 40:55D-62a, the City desires to set forth the reasons for the adoption of Ordinance No. 23-22 despite its inconsistency with the Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Englewood, County of Bergen, State of New Jersey, by affirmative vote of a majority of its fully authorized membership, that the Governing Body has determined to proceed with the adoption of Ordinance No. 23-22 despite the inconsistencies as articulated by the Planning Board at their meeting of August 3, 2023 for the following reasons:

1. The implementation of the terms of the Settlement Agreement, including the requirement that the City adopt Ordinance No. 23-22 to create affordable housing overlay zones which require a twenty percent (20%) set-aside of affordable units, assists the City's efforts to provide a realistic opportunity for the construction of affordable housing and advances the City's position in the DJ Litigation that it is entitled to a Judgment of Compliance and Repose confirming the satisfaction of the City's affordable housing obligation. By Order dated January 20, 2023, the Court in the DJ Litigation approved the terms of the Settlement Agreement and ordered the City to adopt Ordinance No. 23-22.

2. While the Planning Board found that Ordinance No. 23-22 is inconsistent with the Master Plan, the HEFSP adopted on April 27, 2023 with a Memorializing Resolution adopted on July 27, 2023 recommends the creation of overlay zones that permit multi-family and single-family attached townhouse residential development with a minimum twenty percent (20%) affordable housing set-aside for the properties identified in the Ordinance consistent with the November 1, 2022 Settlement Agreement.


3. In accordance with N.J.S.A. 40:55D-62, the City Clerk is hereby directed to record these reasons and this Resolution in the official minutes of the City Council.

4. The City Clerk and all appropriate officials, employees and professionals of the City are hereby authorized and directed to take any steps necessary as required under law with regard to this Resolution.

5. This Resolution shall take effect simultaneously with the adoption of Ordinance No. 23-22.

COUNCIL	MOTION	AYES	NAYS	ABSTAIN	ABSENT
<i>Cobb</i>		X			
<i>Maron</i>		X			
<i>Rosenzweig</i>	X	X			
<i>Wilson</i>			X		
<i>Wisotsky</i>		X			

I, Yancy Wazirmas, Clerk of the City of Englewood, County of Bergen, do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Governing Body at the August 8, 2023 Meeting.



Yancy Wazirmas
City Clerk, City of Englewood