

**PUBLIC MEETING
MINUTES**

The Public Meeting of the Mayor and Council was held in the Council Chambers and called to order at 7:37PM. Adequate notification was published in the official newspaper of the Borough of Montvale. Fire Chief Miller led the Pledge of Allegiance to the Flag, and roll call was taken.

OPEN PUBLIC MEETING STATEMENT

Adequate notice of this meeting was provided to The Bergen Record and/or The Ridgewood News, informing the public of the time and place according to the provisions of the Open Public Meeting Law (Chapter 231, P.L. 1975).

Also Present: Mayor Mike Ghassali; Borough Attorney, Joe Voytus; Borough Engineer, Andy Hipolit; Administrator/Municipal Clerk, Maureen Iarossi-Alwan; and Deputy Municipal Clerk, Fran Scordo

ROLL CALL:

| | |
|-------------------------|-------------------------------|
| Councilmember Arendacs | Councilmember Koelling |
| Councilmember Curry | Councilmember Lane |
| Councilmember Gloeggler | Councilmember Weaver - absent |

Montvale Snow Angels 2018 season

This program will help residents in need of snow removal; Mayor Ghassali presented 6 volunteers with shovels and a list of residents that need help;

ORDINANCE:

PUBLIC HEARING ORDINANCE NO. 2017-1436 AN ORDINANCE OF THE BOROUGH OF MONTVALE AMENDING AND SUPPLEMENTING CHAPTER 128 OF THE BOROUGH CODE TO ESTABLISH THE MIXED-USE PLANNED UNIT DEVELOPMENT DISTRICT AND TO SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO

(Adopted Planning Board Resolutions)

WHEREAS, Block 2702, Lot 1 and Block 2801, Lot 2 (also known as 1 and 3 Mercedes Drive) and Block 3201, Lot 6 (also known as 1 Glenview Road) (collectively, the “Mercedes Properties”) are currently owned by the S. Hekemian Group, LLC and/or its subsidiaries or affiliates; and

WHEREAS, in compliance with the New Jersey Supreme Court’s decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015), on or about July 6, 2015, the Borough filed an action with the Superior Court of New Jersey (“Court”), entitled In the Matter of the Application of the Borough of Montvale, County of Bergen, Docket No. BER-L-6141-15, seeking a Judgment of Compliance and Repose approving its Affordable Housing Plan (as defined herein), in addition to related reliefs (the “Compliance Action”); and

WHEREAS, on August 7, 2017, the Court granted The S. Hekemian Group’s Motion to Intervene in the Compliance Action; and

WHEREAS, in order to partially settle the Compliance Action, the Borough of Montvale and the Montvale Planning Board approved a Settlement Agreement with The S. Hekemian Group, LLC, at their public meetings of November 14, 2017 and November 21, 2017, respectively; and

WHEREAS, the Borough is desirous of adopting an Ordinance intended to implement the provisions of the Settlement Agreement.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Montvale, as follows:

Section 1. Chapter 128 of the Code of the Borough of Montvale, Section 128-2.1, “Classes of districts,” is hereby amended and supplemented by adding the underlined text alphabetically, as follows:

§128-2.1 Classes of districts.

M-PUD Mixed-Use Planned Unit Development District

Section 2. Chapter 128 of the Code of the Borough of Montvale, Section 128-3.1, “Definitions and word usage,” is hereby amended and supplemented by adding the underlined text alphabetically, as follows:

§128-3.1 Definitions and word usage.

Dinner theater – A venue that combines a restaurant-style meal and/or drinks with either: (i) a movie; or (ii) a live performance. Live performances include musical acts, theatrical acts (including stand-up comedy), plays or any combination of these, or similar activity performed live by one or more persons. This does not include adult entertainment.

...

Discount/dollar store – A retail store that sells a wide range of inexpensive household goods, which may include product lines such as food and drink, personal hygiene products, small home and garden tools, office supplies, decorations, electronics, garden plants, toys, pet supplies, books, recorded media and motor and bike consumables. This type of store often sells many items for the price of one dollar.

...

Express Retail store- A retail store of a smaller version of the large-scale retail store engaged in selling goods and/or services.

...

Instructional - Uses for the teaching and practice of dance, drama, art, language, martial arts, music, aerobics, sports, fitness, photography and the like. These uses may, from time to time, hold group events, such as birthday parties. This definition shall not include public or private schools.

...

Educational office – A room or group of rooms used for conducting corporate training, which is generally furnished with desks, tables and communication equipment.

Section 3. Chapter 128 of the Code of the Borough of Montvale is hereby amended and supplemented by adding a new Section 128-5.15, “Mixed-Use Planned Unit Development District,” as follows:

§128-5.15 Mixed-Use Planned Unit Development District.

The following standards shall apply to development within the Mixed-Use Planned Unit Development District. All other provisions of Chapter 128, Zoning of the Montvale Code shall apply to development in the M-PUD District only where specifically indicated as applicable in §128-5.15 of the Montvale Code. When the standards herein conflict with other provisions of Chapter 128, the standards herein shall apply.

- A. Purpose. The Mixed-Use Planned Unit Development District is intended to repurpose the former Mercedes-Benz campus by constructing a mixed-use development that simultaneously provides credits towards the Borough’s affordable housing obligation. The M-PUD regulations are intended to capitalize on the district’s unique location between a lifestyle retail shopping center and the Garden State Parkway.

- B. Application requirements. Any application for development for any portion or the entirety of the M-PUD District shall be submitted as a planned development, in the nature of a preliminary site plan application. Such application shall describe any phasing of the proposed project, together with all on-site and off-site improvements needed to support such phases. The application for preliminary site plan approval may also include a request for final approvals with respect to such phase or phases. The following shall apply:
 - (1) Development within the M-PUD District shall be subject to the requirements of the district and to the mandatory findings for planned development as required by the Municipal Land Use Law, N.J.S.A. 40:55D-45.

 - (2) Contribution of the pro-rata share of off-site improvements, including, but not limited to, required roadways, traffic signals, utilities, lighting, landscaping, sidewalk/curbs and drainage.
 - (a) Off-tract improvements are required whenever an application for development requires the construction of off-tract improvements that are clearly, directly and substantially related to or necessitated by the proposed development. The Planning Board, as the

case may be, shall require as a condition of final site plan or subdivision approval that the applicant provide for such off-tract improvements. Off-tract improvements shall include water, sanitary sewer, drainage and street improvements, including such easements as are necessary or as may otherwise be permitted by law.

- (b) Determination of cost. When off-tract improvements are required, the Borough Engineer shall calculate the cost of such improvements in accordance with the procedures for determining performance guaranty amounts in N.J.S.A. 40:55D-53.4. Such costs may include, but not be limited to, any or all costs of planning, surveying, permit acquisition, design, specification, property and easement acquisition, bidding, construction, construction management, inspection, legal, traffic control and other common and necessary costs of the construction of improvements. The Borough Engineer shall also determine the percentage of off-tract improvements that are attributable to the applicant's development proposal and shall expeditiously report his findings to the board of jurisdiction and the applicant.
- (c) Improvements required solely for the application's development. Where the need for an off-tract improvement is necessitated by the proposed development and no other property owners receive a special benefit thereby, or where no planned capital improvement by a governmental entity is contemplated, or the improvement is required to meet the minimum standard of the approving authority, the applicant shall be solely responsible for the cost and installation of the required off-tract improvements. The applicant shall elect to either install the off-tract improvements or pay the municipality for the cost of the installation of the required off-tract improvements.
- (d) Improvements required for the applicant's development and befitting others. Where the off-tract improvements would provide capacity in infrastructure in excess of the requirements in Subsection B(2)(c) above, or address an existing deficiency, the applicant shall elect to either install the off-tract improvements, pay the pro-rata share of the cost to the Borough, or pay more than its pro-rata share of the cost to facilitate the construction of the improvement(s) and accept future reimbursement so as to reduce its payment to an amount equal to its pro-rata share. If a developer elects to address the required off-tract improvement(s) by making a payment, such payment shall be made prior to the issuance of any building permit. If the applicant elects to install the off-tract improvements or to pay more than its pro-rata share of the cost of the improvements, it shall be eligible for partial reimbursement of costs of providing such excess. The calculation of excess shall be based on an appropriate and recognized standard for the off-tract improvement being constructed, including but not limited to gallonage, cubic feet per second and number of vehicles. Nothing herein shall be construed to prevent a different standard from being agreed to by the applicant and the Borough Engineer. The process, procedures and calculation used in the determination of off-tract costs shall be memorialized in a PUD or developer's agreement to be reviewed and approved by the Borough Attorney, who may request advice and assistance from the Planning Board

Attorney. Future developers benefiting from the excess capacity provided or funded by the initial developer shall be assessed in their pro-rata share of off-tract improvement cost based on the same calculation used in the initial calculation. Such future developers shall pay their assessment, plus a two percent administration fee not to exceed \$2,000, to the Borough, at the time of the signing of the final plat or final site plan as a condition precedent to such signing. The Borough shall forward the assessment payment to the initial developer, less any administration fee, within 90 days of such payment.

- (e) Performance guaranty. If the applicant elects to construct the improvements, the applicant shall be required to provide, as a condition of final approval, a performance guaranty for the off-tract improvements in accordance with N.J.S.A. 40:55D-53 and §128-5.15 above.
 - (f) Certification of costs. Once the required off-tract improvements are installed and the performance bond released, the developer shall provide a certification to the Borough Engineer of the actual costs of the installation. The Borough Engineer shall review the certification of costs and shall either accept them, reject them or conditionally accept them. In the review of costs, the Borough Engineer shall have the right to receive copies of invoices from the developer sufficient to substantiate the certification. Failure of the developer to provide such invoices within 30 days of the Borough Engineer's request shall constitute forfeiture of the right of future reimbursement for improvements that benefit others.
 - (g) Time limit for reimbursement. Notwithstanding any other provisions to the contrary, no reimbursement for the construction of off-tract improvements providing excess capacity shall be made after 10 years has elapsed from the date of the acceptance of the certification of costs by the Borough Engineer.
- (3) Any application for development within the M-PUD District shall be accompanied by an Environmental Impact Statement that complies with §128-17.1 through §128-17.10 of this Chapter.

C. Permitted principal uses:

- (1) Within the M-PUD District parcels along Mercedes Drive (Block 2702 Lot 1 and Block 2801 Lot 2), the site plan application for development shall contain all of the following principal uses:
 - (a) Multi-family residential housing.
 - (b) Minimum of 40,000 square feet in the aggregate of professional, medical, educational and general offices.
 - (c) Hotel with a minimum of 150 rooms and 8,500 square feet of conference space.
 - (d) A retail component with a minimum of 30,000 square feet in the aggregate inclusive of one or more of the following uses:

- [1] Restaurants.
- [2] Child care center and adult daycare.
- [3] Lifestyle retail uses as set forth in §128-5.14(C)(2)(b).
- [4] Instructional uses.
- [5] Pharmacy.
- [6] Fitness uses.
- [7] Express Retail Store not exceeding 65,000 square feet.
- [8] Grocery Stores.

(2) Within the M-PUD District parcels along Mercedes Drive (Block 2702 Lot 1 and Block 2801 Lot 2, the development may contain one or more of the following principal uses:

- (a) Dinner theater.
- (b) Banks and financial institutions.
- (c) Any use permitted in §128-5.4 governing the OR Districts.

(3) Within the M-PUD District parcel at 1 Glenview Road (Block 3201 Lot 6), the development may contain the following principal uses:

- (a) Multi-family residential housing, either rental or “for sale”.
- (b) Any use permitted in §128-5.4 governing the OR Districts.

(4) Nothing in this Ordinance specifies or restricts the choice by the Developer as to the timing or sequence of construction of the various permitted uses in the M-PUD District. The General Development Plan may include either the Block 2702, Lot 1, Block 2801, Lot 2 and/or Block 3201, Lot 6 properties. Nothing contained herein shall require the General Development Plan to include all of these properties.

D. Permitted accessory uses:

- (1) Off-street parking and loading.
- (2) Freestanding parking garages, limited to two levels above grade surface parking, only on Block 2702 Lot 1 and Block 2801 Lot 2.
- (3) Parking incorporated into the building design.
- (4) Signs, subject to the requirements of §128-5.15(H)(1)(k) below.
- (5) Street furniture, planters, approved public art elements, gazebos, information kiosks, water features, waste/recycle receptacles, vehicle charging stations and bicycle racks in accordance.
- (6) Parks and open space facilities, including, but not limited to, walkways, bikeways, courtyards, plazas and gardens.
- (7) Fences and walls, including retaining walls, subject to the requirements of §128-5.15(H)(1)(i) below.
- (8) Landscaping and buffering in accordance with the requirements of §128-5.15(H)(1)(e) below.

- (9) Stormwater detention facilities.
- (10) Management office for development.
- (11) Lighting fixtures in accordance with the requirements of §128-5.15(H)(1)(j) below.
- (12) Automated teller machines, incorporated into a building’s design.
- (13) Outdoor dining, outside of the public right-of-way.

E. Prohibited uses.

- (1) Any use not specifically permitted shall be prohibited.
- (2) Gas stations.
- (3) Any drive-through or drive-in use or service, whether principal or accessory, other than in connection with a pharmacy use or a bank with no more than two (2) drive-thru lanes.
- (4) Adult stores.
- (5) Discount/dollar stores, except Express Retail Stores as permitted herein.
- (6) Tattoo parlors.
- (7) Nail salons and massage parlors, unless included as part of a day spa or full-service hair salon.

F. Bulk, area and other dimensional standards.

- (1) General standards for principal and accessory uses in the M-PUD District:

| Standard | Requirement |
|--|--|
| Minimums: | |
| Lot area | 32 acres |
| Lot frontage | 600 feet |
| Front yard setback (from centerline of street) | 60 feet |
| Side and rear yard setback | 50 feet |
| Setback between building façades | 60 feet |
| Maximums: | |
| | Building height 4 stories and 65 feet ¹ . For purposes of this section, all cellars and/or basements and levels used, in whole or in part, for parking shall not be |

¹ The building height measurement shall be measured from the proposed/final average grade, not the existing average grade. Where a building is situated on a slope the highest two building corners (which are the uphill corners) shall be used to determine the final average grade of the building. Except as previously set forth, building height shall be measured in accordance with the definition of “building height” set forth in Section 128-3.1. No fully subterranean level shall include any use other than parking or storage.

considered stories. Any level that contains residential shall be counted as a story.

| | |
|---|-----|
| Floor area ratio | 65% |
| Building coverage | 30% |
| Lot coverage (impervious surfaces) | 50% |
| Lot coverage (including pervious surfaces) ² | 65% |

(2) Standards for Block 3201 Lot 6:

| Standard | Requirement |
|---|-----------------------|
| Minimums: | |
| Lot area | 2 acres |
| Front yard setback (from center line of street) | 60 feet |
| Side and rear yard setback | 30 feet |
| Maximums: | |
| Building height | 3 stories and 45 feet |
| Building coverage | 35% |
| Lot coverage | 60% |

(3) Contiguous lots separated by public streets or rights of way, other than divided highways, may be combined for the purpose of calculating lot area. Land dedicated to wetlands, wetland buffers, streams, riparian zones, floodways, flood hazard areas, or similar purposes shall be included in all calculations.

G. Multi-family residential standards.

(1) General standards.

- (a) A maximum of 350 multi-family residential units are permitted on Block 2702, Lot 1 and Block 2801, Lot 2 and Block 3201, Lot 6. Of these, an aggregate minimum of 15 percent shall be low and moderate income housing units. For example, if 350 total units are constructed, 53 of those units shall be low and moderate income housing units.
- (b) A maximum of 310 multi-family residential units are permitted on Block 2702, Lot 1 and Block 2801, Lot 2.

(2) Market-rate residential unit standards.

- (a) Residential units located on Block 2702, Lot 1 and Block 2801, Lot 2 shall have the following minimum unit sizes:

² The maximum impervious lot coverage shall be 50% utilizing standard impervious parking techniques for all paved surfaces. However, alternative porous paving system and vegetative “green” roof areas may be used to attain total lot coverage of 65%, with no more than 50% of the lot coverage being impervious surface and up to an additional 15% of the lot coverage being pervious paving surfaces and green roof areas. Pavers over pervious base or turf blocks shall only be utilized for pedestrian and biking surfaces, overflow parking areas or emergency only access driveways. Porous pavement, suitable for more general and heavier-use vehicular surface applications, is also acceptable. Upon approval, an approved, bonded maintenance plan incorporating best management practices shall be required for all pervious paving surface areas to minimize siltation of porous paving areas.

[1] One-bedroom – 700 square feet

[2] Two-bedroom – 850 square feet

[3] Three-bedroom - 1,100 square feet

(b) A maximum of 10% of the market-rate units on Block 2702, Lot 1 and Block 2801, Lot 2 may be three-bedroom units.

(3) Affordable housing unit requirements.

(a) Fifteen percent (15%) of the total residential units shall be reserved for, and affordable to, low and moderate income households. For example, if 350 total units are constructed, 53 of those units shall be low and moderate income housing units (27 affordable to low income households (7 of which shall be affordable to very low income households) and 26 affordable to moderate income households). The units shall meet the low/moderate income split required by the Uniform Housing Affordability Controls and provide at least 13% of the units as very-low-income units.

(b) The affordable units shall have a minimum 30 year deed restriction. Any such affordable units shall comply with UHAC, applicable COAH affordable housing regulations, the Fair Housing Act, any applicable order of the Court, and other applicable laws.

(c) The units shall meet the bedroom distribution required by the Uniform Housing Affordability Controls.

(d) The units shall meet the low/moderate income split required by the Uniform Housing Affordability Controls and provide at least 13% of the units as very-low-income units as mandated by the Fair Housing Act. The distribution of the affordable housing units shall be in compliance with COAH's Round Two substantive regulations, N.J.A.C. 5:93.

(e) The developer shall be responsible for retaining a qualified Administrative Agent at the developer's sole cost and expense.

(f) The affordable units shall be family affordable units.

(g) The developer shall be responsible for paying the required development fees as outlined by the Statewide Non-Residential Development Fee Act applicable to the non-residential portion of the development.

H. Site standards.

(1) Site standards for Block 2702, Lot 1 and Block 2801, Lot 2.

(a) Circulation.

[1] Sidewalks shall be provided along all public street frontages. In addition, sidewalks and/or walkways shall link all buildings within the development to the sidewalks of all adjoining public streets.

- [2] Where sections of sidewalks branch off or join up, a decorative marker, signpost, or circle is recommended. Where sidewalks traverse vehicular driveways, crosswalks shall be provided and marked with textured paving in a contrasting material and color.
- [3] All sidewalks shall have a minimum clear paved walking width of at least five feet; however, sidewalks in front of all commercial storefronts and in other areas with high pedestrian traffic shall have a minimum clear paved walking width of at least seven feet and shall include decorative paving materials, rather than plain concrete.
- [4] Sidewalks adjacent to streets or circulation drives shall also include a landscape strip with street trees, grass and low planting that serve as water storage and infiltration. Where street trees are thus required, they shall be planted no more than 40 feet apart, on center, on average, with variation permitted for curb cuts, utility vaults and other site conditions.
- [5] Benches are encouraged to be located throughout the development along the pedestrian sidewalk network.
- [6] Bike racks shall be provided in clear view of storefront entrances, with at least one bike space for every 5,000 square feet of non-residential gross floor area. Said racks shall be served with night lighting.

(b) Off-street parking.

- [1] The standards in Section 128-7.1 (except for Subsections B, E, F, K, I and T) of Chapter 128 shall apply. The Planning Board may require compliance with Section 128-7.1(I) for hotel, or stand-alone office or retail pads. Rooftop parking shall be prohibited unless it is adequately screened from view from adjacent properties and streets.
- [2] Off-street parking spaces between the building façade and Grand Avenue shall be limited to no more than fifteen percent of the total parking spaces.
- [3] The following parking ratios shall apply to development within the M-PUD Zone:

| Use | Parking spaces |
|---|---|
| Banks and financial institutions | 1 per 300 sq ft. |
| Professional, medical, educational, and general offices | 1 per 300 sq ft |
| Restaurants | 1 per 3 seats + 1 per 2 employees (peak) |
| Lifestyle retail uses | 1 per 250 sq ft |
| Child care center and adult daycare | 1 per 300 sq ft |
| Instructional uses | 1 per 120 sq ft |

- [2] Buildings shall avoid long, monotonous, uninterrupted walls or roof planes. Building wall offsets, including projections such as canopies and recesses shall be used in order to add architectural interest and variety and to relieve the visual effect of a simple, long wall. Similarly, in the case of a pitched roof, roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.
 - [3] The maximum spacing between building wall offsets shall be 60 feet.
 - [4] The minimum projection or depth of any individual vertical offset shall be 1.5 feet.
 - [5] The maximum spacing between roof offsets shall be 60 feet.
 - [6] The architectural treatment of the front façade shall be continued in its major features around all visibly exposed sides of a building. All sides of a building facing a public street shall be architecturally designed to be consistent with regard to style, materials, colors and details.
 - [7] Fenestration shall be architecturally compatible with the style, materials, colors and details of the building. Windows shall be vertically proportioned.
 - [8] All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, etc.
 - [9] All ground-level retail and service uses that face a public space shall have clear glass on at least 60% of their facades between three and eight feet above grade.
 - [10] Heating, ventilating and air-conditioning systems, utility meters and regulators, exhaust pipes and stacks, satellite dishes and other telecommunications receiving devices shall be screened or otherwise specially treated to be, as much as possible, inconspicuous as viewed from the public right-of-way and adjacent properties. Section 128-6.4, regarding satellite antennas, shall apply.
 - [11] All rooftop mechanical equipment shall be screened from view from all vantage points at or below the level of the roof.
 - [12] Placement of any packaged terminal air conditioner units within the façade is prohibited.
 - [13] Balconies are prohibited, except for internal balconies not visible from the boundaries of the property which shall be permitted.
- (g) Building design for commercial/office pads.
- [1] A maximum of two free-standing commercial/office pads are permitted. The maximum building size of each such pad shall be 15,000 square feet per floor plate.

- [2] Offices are encouraged to be located on the upper floors of the free-standing commercial pads.
- [3] The maximum building height/stories shall be 4 stories and 65 feet.
- (h) Trash. All trash/recycling storage areas shall be enclosed on all four sides and screened using wood fencing or other attractive material. Trash may be stored inside the buildings.
 - (i) Fences and walls.
 - [1] To the extent possible, the use of retaining walls should be used in the form of terraces to accommodate severe grade changes, rather than single tall retaining walls. However, no retaining walls shall exceed a height of 15 feet. Where provided, retaining walls shall be screened with a variety of landscaping materials, in groupings, rather than utilizing hedges or uniform plant species and spacing.
 - [2] Ornamental walls utilizing loose laid stone may be provided throughout the site as appropriate, up to a height of four feet.
 - [3] Fences shall be installed along the tops of all retaining walls that exceed a height of three feet. Chain-link fencing, including vinyl-coated chain-link fencing, is prohibited.
 - [4] No fence on the site may exceed a height of four feet, except for fences for the screening of loading areas, utility enclosures and dumpsters.
 - (j) Lighting.
 - [1] LED (light-emitting diode) light of the soft white category shall be incorporated into site, service and parking lot lighting.
 - [2] All exterior lights shall be designed so as to reduce glare, lower energy usage and direct lights only to where they are needed.
 - (k) Signage.
 - [1] Section 128-9.7A.1 through Section 128-9.7A.4, shall apply. The standards in Section 128-9.7A.8 through Section 128-9.7A.15 of Chapter 128 shall also apply, except that Section 128-9.7A.9A(6), 128-9.7A.9F, 128-9.7A.9G and 128-9.7A.9S shall not apply.
 - [2] Signs permitted within the development shall be only those specified in the table below.

| Type | Location | Maximum Number | Total Area (sq. ft.) | Maximum Area of any 1 Sign (sq. ft.) | Maximum Height (feet) | Required setback from Property Line (feet) | Maximum Letter Height (feet) |
|-----------------------------------|--|----------------|----------------------------------|--------------------------------------|-----------------------|--|------------------------------|
| Primary Monument | Intersection of Mercedes Dr./ Grand Ave. | 1 | 100 | - | 12 | 10 | - |
| Entrance Monument | Mercedes Dr. Entrance | 2 | 36 | - | 6 | 5 | - |
| Wall* | - | 1 | 36** | - | - | - | 3 |
| Wall* (over 10,000 sq. ft tenant) | - | 2 | 36 per sign, 60 combined ** | - | - | - | 3 |
| Window | - | - | 20% of the aggregate window area | - | - | - | - |
| Pedestrian Wayfinding Directory | Key pedestrian ways, public activity areas | 4 | 60 | 12 | 6 | 100 | - |

* One additional projecting sign per tenant may be permitted but shall not exceed five square feet in size. If a projecting sign is utilized, then both a wall and a projecting sign may be allowed on the same façade. Otherwise, no tenant may locate two wall signs on the same façade.

** Per tenant.

- [3] Only external illumination shall be permitted for all non-wall-mounted signage. Wall-mounted signs may be individual, channel-cut letters with internal illumination or through LED backlighting of letters.
- [4] The primary monument sign shall be limited to the name of the development and three tenants who each occupy a minimum of 10,000 square feet of space. The entrance monument sign shall be limited to the name of the development. All other signs, including wall signs shall be limited to the identification of the tenant only and may include corporate or brand name logos.
- [5] No individual sign may exceed three colors. If white or black is used in the sign it shall not be counted as a color. The color limitation does not apply to projecting signs.

- [6] Awnings are permitted, but shall not be used for signage purposes nor contain any letters, number, logos or the like. No vinyl or white awning shall be permitted; their design shall be consistent with the overall design of the development. Awning panels shall be flat or sloped, but shall not be fluted or curved.
- [7] Monument signs shall utilize materials which closely resemble those materials used for the Shoppes at DePiero's Farm (AH-PUD) monument signs. A solid base surrounded by appropriate ornamental plantings shall be provided. No monument sign shall be located in a sight triangle.
- [8] In addition to the signs above, a tenant may also be permitted to install a sign or signs, limited to demonstrate or evidence membership in a retail or professional organization or credit card or credit association or required licenses, which signs shall be permitted to be attached to windows on the interior of the business use, provided that the aggregate area employed for such purpose shall not exceed 5% of the total window area. A tenant may also be permitted to install window signs indicating sales, promotions and the like, provided that the aggregate area employed for such purpose shall not exceed 15% of the total window area.

(2) Site standards for Block 3201, Lot 6.

(a) Circulation.

- [1] Sidewalks shall be provided to link all building entries through the site to the public street. Sidewalks shall also be provided along the public right-of-way.

(b) Off-street parking.

- [1] The standards in Section 128-7.1 (except for Subsections B, E, F and K) of Chapter 128 shall apply.
- [2] Off-street parking for residential uses shall be provided in accordance with the New Jersey Residential Site Improvement Standards.

(c) Landscaping.

- [1] A mix of deciduous and evergreen trees and low ground cover landscaping shall be planted along the entire site perimeter in order to form an effective year-round screening. Tree spacing shall be 40 feet on center, or closer. In addition, where a row of parking stalls runs in a straight line for more than 20 spaces, landscaped islands shall be provided between every 15 parking spaces, planted with trees and low ground cover.
- [2] The perimeter of the building(s) shall be surrounded on all sides by a landscaped, planted strip at least four feet in width. Paved walkways leading to pedestrian entrances may cross this landscape strip in a perpendicular fashion.

[3] The standards in Section 128-9.8 and Section 128-9.8.1 of Chapter 128 concerning berms shall apply.

(d) Architecture.

[1] Buildings shall avoid long, monotonous, uninterrupted walls or roof planes. Building wall offsets, including projections such as canopies and recesses shall be used in order to add architectural interest and variety and to relieve the visual effect of a simple, long wall. Similarly, roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.

[2] The maximum spacing between building wall offsets shall be 40 feet.

[3] The minimum projection or depth of any individual vertical offset shall be 1.5 feet.

[4] The maximum spacing between roof offsets shall be 40 feet.

[5] The architectural treatment of the front façade shall be continued in its major features around all visibly exposed sides of a building. All sides of a building shall be architecturally designed to be consistent with regard to style, materials, colors and details.

[6] Fenestration shall be architecturally compatible with the style, materials, colors and details of the building. Windows shall be vertically proportioned.

[7] All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, etc.

[8] Heating, ventilating and air-conditioning systems, utility meters and regulators, exhaust pipes and stacks, satellite dishes and other telecommunications receiving devices shall be screened or otherwise specially treated to be, as much as possible, inconspicuous as viewed from the public right-of-way and adjacent properties. Section 128-6.4, regarding satellite antennas, shall apply.

[9] All rooftop mechanical equipment shall be screened from view from all vantage points at or below the level of the roof.

[10] Placement of any packaged terminal air conditioner units within the façade is prohibited.

[11] Balconies are prohibited, except for internal balconies not visible from the boundaries of the property which shall be permitted.

(e) Trash. All trash/recycling storage areas shall be enclosed on all four sides and screened using wood fencing or other attractive material. Trash may be stored inside the buildings.

(f) Lighting.

[1] LED (light-emitting diode) lighting of the soft white category shall be incorporated into site, service and parking lot lighting.

[2] All exterior lights shall be designed so as to reduce glare, lower energy usage and direct lights only to where they are needed.

[3] Signage. The standards in Section 128-9.7A.5 and Section 128-9.7A.1 through Section 128-9.7A.4 of Chapter 128 shall apply. The standards in Section 128-9.7A.8 through Section 128-9.7A.15 of Chapter 128 shall also apply.

I. Additional applicable provisions to the M-PUD District. The following sections of the Montvale Zoning Code (Chapter 128) shall apply to development in the M-PUD District.

- (1) Article X, Enforcement.
- (2) Article XI, Interpretation.
- (3) Article XIII, Violations and Penalties.
- (4) Article XIV, Validity.
- (5) Article XVI, Effect.
- (6) Article XVIII, Site Work Permit.

Section 4. The Official Map shall be amended to include the M-PUD District.

Section 5. Planning Board review.

Upon approval of this Ordinance upon First Reading by the Mayor and Council of the Borough of Montvale, this Ordinance shall be transmitted to the Planning Board for its review and recommendation pursuant to *N.J.S.A.* 40:55D-26.

Section 6. Severability.

If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated and shall remain in full force and effect.

Section 7. Effective date.

This Ordinance shall take effect immediately upon final passage and publication as required by law and upon receipt of an Order from the Superior Court of New Jersey approving of the Settlement Agreement, dated November 14, 2017, between the Borough of Montvale, the Planning Board of the Borough of Montvale, and The S. Hekemian Group in the litigation *In re Montvale*, Docket No. BER-L-6141-15.

Section 8. Repeal of inconsistent ordinances.

All ordinances and parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Ordinance No. **2017-1436** was introduced for second reading by Councilmember Gloeggler; seconded by Councilmember Lane ; Clerk read by title only;
 Motion to open meeting to the public by Councilmember Lane; seconded by Councilmember Curry - all ayes
NO PUBLIC COMMENT
 Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Curry - all ayes

Motion to adopt on Second and Final Reading in Bergen Record by Councilmember Lane; seconded by Councilmember Curry; Clerk read by title only ----- A roll call vote was taken --- Councilmember Arendacs – No and Councilmembers Curry, Gloeggler, Koelling and Lane - Yes

PUBLIC HEARING ORDINANCE NO. 2017-1437 AN ORDINANCE OF THE BOROUGH OF MONTVALE AMENDING AND SUPPLEMENTING CHAPTER 128 OF THE BOROUGH CODE TO ESTABLISH THE AH-6A DEVELOPMENT DISTRICT AND TO SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO

(Adopted Planning Board Resolutions)

WHEREAS, Block 1903, Lot 7 (also known as 2 Paragon Drive) (the “Paragon Property”) is currently owned by Two Paragon Drive, LLC and/or its subsidiaries or affiliates; and

WHEREAS, in compliance with the New Jersey Supreme Court’s decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015), on or about July 6, 2015, the Borough filed an action with the Superior Court of New Jersey (“Court”), entitled In the Matter of the Application of the Borough of Montvale, County of Bergen, Docket No. BER-L-6141-15, seeking a Judgment of Compliance and Repose approving its Affordable Housing Plan (as defined herein), in addition to related reliefs (the “Compliance Action”); and

WHEREAS, in order to partially settle the Compliance Action, the Borough of Montvale and the Montvale Planning Board approved a Settlement Agreement with Two Paragon Drive, LLC, at their public meetings of November 14, 2017 and November 21, 2017, respectively; and

WHEREAS, the Borough is desirous of adopting an Ordinance intended to implement the provisions of the Settlement Agreement.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Montvale, as follows:

Section 1. Chapter 128 of the Code of the Borough of Montvale, Section 128-2.1, “Classes of Districts,” is hereby amended and supplemented by adding the underlined text alphabetically, as follows:

§128-2.1 Classes of Districts.

AH-6A- Affordable Housing District

Section2. Chapter 128 of the Code of the Borough of Montvale is hereby amended and supplemented by adding a new Section 128-5.16, “AH-6A Affordable Housing District,” as follows:

§128-5.16 AH-6A Affordable Housing District.

The following standards shall apply to development within the AH-6A Affordable Housing District. All other provisions of Chapter 128, Zoning of the Montvale Code shall apply to development in the AH-6A District only where specifically indicated as applicable in §128-5.16 of the Montvale Code. When the standards herein conflict with other provisions of Chapter 128, the standards herein shall apply.

- A. Purpose. The purpose of this ordinance is to fulfill a Settlement Agreement by and between the Borough of Montvale and Two Paragon Drive, LLC. The AH-6A Affordable Housing District is intended to repurpose the former A&P Headquarters by constructing an inclusionary housing development that provides credits towards the Borough’s affordable housing obligation. The AH-6A regulations are implemented in recognition of the Paragon Property’s unique topographic features and other regulatory constraints.
- B. Application requirements. Any application for development for any portion or the entirety of the AH-6A District shall be submitted, in the nature of a preliminary site plan application. Such application shall describe any phasing of the proposed project, together with all on-site and off-site improvements needed to support such phases. The application for preliminary site plan approval may also include a request for final approvals with respect to such phase or phases.
- C. Permitted principal uses:

1. Townhouses,
 2. Low and moderate Income units within townhouse buildings, which may be designed as one-over-one apartment flats within a townhouse configuration.
- D. Permitted Accessory uses:
1. Any use which is ordinarily subordinate and customarily incidental to the principal permitted uses allowed In the AH-6A Zone, including but not limited to patios, decks, swimming pool, and tennis courts,
 2. Signs, as otherwise regulated In the Borough ordinances,
 3. In conjunction with residential development, noncommercial swimming pools, tennis courts and other outdoor recreation facilities, off-street parking for private vehicles (excluding recreational vehicles, trailers and boats) and outdoor recreational facilities,
 4. Street furniture, planters, approved public art elements, gazebos, water features, waste/recycle receptacles, vehicle charging stations, cluster mailbox with or without roof structure and bicycle racks.
 5. Parks and open space facilities, including, but not limited to, walkways, bikeways, courtyards, plazas and gardens.
 6. Fences and walls, including retaining walls.
 7. Landscaping and buffering.
 8. Stormwater detention facilities, along with any other infrastructure improvement required for the project, i.e. pump station, etc.
 9. Temporary construction trailer, temporary sales trailer and temporary sales office in model home through final project CO.
- E. Prohibited uses.
1. Any use not specifically permitted shall be prohibited.
- F. Bulk, area and other dimensional standards.
- a. General standards for principal and accessory uses in the AH-6A District:
 - (a) Townhouse area, external yard and bulk requirements.³⁴
 - (i) Minimum lot area (acres): 12 acres⁵
 - (ii) Minimum setbacks:
 - a. Front yard: 70 feet (but not less than 50 feet from property line)
 - b. Side yard: 30 feet
 - c. Rear yard: 30 feet
 - (iii) Accessory building setbacks:
 - a. Minimum distance from principal buildings: 30 feet
 - b. Minimum distance to external lot lines: 40 feet⁵
 - c. No accessory buildings or structures (except for permitted signs) are allowed in any front yard
 - (iv) Maximum building lot coverage: 25 percent
 - (v) Maximum impervious lot coverage: 60 percent
 - (b) Townhouse Internal setback and building unit requirements.⁶

³ For purposes of this section, calculation of setbacks shall not include decks and patios, which may project a maximum of 10 feet from a building, and porches, eaves, stairs and chimneys which may project up to 5 feet from a building.

⁴ Fences and retaining walls up to 6 feet in height are exempt from these set-back requirements.

⁵ For cluster mailboxes and permitted signs only, the minimum distance to external lot lines shall be 20 feet.

- (i) Minimum distance between townhouse buildings:
 - a. Front-to-front: 60 feet
 - b. Front-to-side: 25 feet
 - c. Side-to-side: 25 feet
 - d. Side-to-rear: 30 feet
 - e. Rear-to-rear: 40 feet
- (ii) Maximum townhouse building length: 150 feet
- (iii) Maximum number of market rate units in single structure: 6 units, provided that 8 total units may be provided where there are stacked affordable units in the structure;
- (iv) Maximum building height: 45 feet with allowances for stepped foundations along building length, said measurement shall then apply to each stepped section.
- (v) Maximum number of stories: 3 stories
- (vi) Maximum number of units before horizontal break: 2 units
- (vii) Minimum front of building to cartway: 18 feet
- (viii) Minimum side & rear of building to cartway: 12 feet
- (ix) Minimum building to parking: 10 feet
- (c) Residential parking requirements:
 - (i) Townhouse dwelling units and low- and moderate-income dwelling units: Residential Site Improvement Standards (RSIS) apply.
 - (ii) Required off-street parking for townhouse units: At least one of the two stacked affordable units within a townhouse building shall have a minimum of one garage space. One additional parking space for this affordable unit shall be provided in its associated driveway in front of the garage. The second affordable unit, lacking a garage space, shall have one driveway space, with the additional required parking for both affordable units provided per RSIS standards within 150 feet of said units. Required off-street visitor parking for low- and moderate-income units, as required by RSIS, shall be located within 200 feet of the units serviced.
 - (iii) Each garage space shall be counted as 1.0 parking space. A one-car garage and driveway combination shall be counted as 2.0 parking spaces provided the driveway measures a minimum of 18 feet between the face of the garage door and the Internal roadway line. (RSIS §5.21-4.14(d)). Required visitor parking spaces for market rate units shall be provided within 200 feet of the units serviced.
- (d) Definitions: The following definitions shall apply to the AH-6A Zone.
 - (i) Gross Development Site Area: The total gross acreage of a development within existing streets and/or property lines prior to development or subdivision, including streets, easements and common open space portions of the development.
 - (ii) Building Height: Irrespective of any other definition in Chapter 128, building height shall be defined as the vertical distance between the lowest proposed grade adjacent to the individual unit to the Mean Roof Ridge Elevation of said unit.
 - (iii) Mean Roof Ridge Elevation: Irrespective of any other definition in Chapter 128, Mean Roof Ridge Elevation shall be defined as the average grade between the eaves above the highest living floor and the highest roof ridge elevation.
- (e) Density standards. A maximum of 80 multi-family residential units are permitted on Block 1903, Lot 7.

⁶ For purposes of this section, calculation of minimum distance shall not include decks and patios, which may project a maximum of 10 feet from a building, and porches, eaves, stairs and chimneys which may project up to 5 feet from a building.

⁵ However, lots used for open space shall be at least 4 acres.

G. Affordable housing unit requirements.

1. Twenty percent (20%) of the total residential units shall be reserved for, and affordable to, low and moderate income households. For example, if 80 total units are constructed, 16 of those units shall be for low and moderate income housing units (8 affordable to low income households and 8 affordable to moderate income households). The units shall meet the low/moderate income split required by the Uniform Housing Affordability Controls.
2. Low- and moderate-income (Mount Laurel) housing requirements:
 - (a) Minimum low- and moderate-income housing units located on-site:
 - (i) The low- and moderate-income units required to be provided by the developer, as noted herein, shall be distributed among the townhouse buildings proposed. No townhouse building shall have more than 4 low- and moderate-income units within its structure; such affordable units may be designed as one-over-one apartment flats within a townhouse configuration.
 - (ii) All low- and moderate-income housing units shall be in conformance with the latest applicable rules for affordable housing as determined by the Council on Affordable Housing, the Courts or other applicable authority, as determined appropriate, including such issues as phasing of building low- and moderate-income units in concert with market rate units.
 - (b) Bedroom distribution of low- and moderate-income housing units. Subject to the most current applicable COAH or other rules, the bedroom distribution of low- and moderate-income units for affordable units constructed in the AH-6A Zone shall be as follows:
 - (i) No more than 20 percent of the units shall be efficiency or one bedroom units.
 - (ii) At least 20 percent of the units shall be three bedroom units.
 - (iii) At least 30 percent of the units shall be two bedroom units.
 - (c) Low- and moderate- income unit split. The distribution of inclusionary affordable units to be provided as part of this development shall be in accordance with those requirements as set forth by COAH or otherwise deemed appropriate by the Court.
 - (d) Procedures regarding affirmative marketing of low- and moderate-income units and other requirements of inclusionary development units are subject to and determined by COAH rules or other rules determined appropriate by the Court.
 - (e) The affordable units shall be family affordable units.
 - (f) All necessary steps shall be taken to make the affordable units provided creditworthy pursuant to applicable law.

H. Site standards.

1. Site standards for Block 1903, Lot 7.

- (a) Landscaping
 - (i) Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, define entranceways, screen parking areas, mitigate adverse visual impacts and provide windbreaks for winter winds and summer cooling for buildings, and enhance buffer areas. The impact of any proposed landscaping plan at various time intervals shall be considered. Plants and other landscaping materials shall be selected in terms of aesthetic and functional considerations. The landscape design shall create visual diversity and contrast through variation in size, shape, texture and color. The selection of plants in terms of susceptibility to disease and insect damage, wind and ice damage, habitat (wet-site, drought, sun and shade tolerance), soil

conditions, growth rate, longevity; root pattern, maintenance requirements, etc., shall be considered. Consideration shall be given to accenting site entrances and unique areas with special landscaping treatment. Flowerbed displays are encouraged. Shade trees shall be provided a minimum of 50 feet on average along the public right-of-way. Any visitor parking areas visible from the public right of way shall be screened to a height of 6 feet.

- (ii) Landscaping within sight triangles shall not exceed a mature height of 30 inches. Shade trees shall be pruned up to an 8-foot branching height above grade.
- (iii) Parking rows longer than 20 parking spaces shall have a six foot wide landscaped island to break the pavement.
- (iv) Shade trees shall be a minimum 2.5 inch caliper with a canopy height of at least the minimum American Nursery and Landscape Association Standards for this caliper.
- (v) All plant material shall meet the minimum latest American Nursery and Landscape Association Standards.
- (vi) Landscape Plantings. A minimum of 30 percent of the plantings proposed shall be indigenous to the region.
- (vii) Foundation Plantings. The landscape plan shall include foundation plantings that provide an attractive visual setting for the development. These plantings shall include species that provide seasonal interest at varying heights to complement and provide pedestrian scale to the proposed architectural design of the buildings. The foundation planting shall incorporate evergreen shrubs and groupings of small trees in order to provide human scale to building facades and winter interest.
- (viii) Landscaping of any new stormwater management facilities shall be as required by the development in accordance NJDEP Best Management Plan requirements. Non-structural facilities shall be considered in the design of the proposed stormwater system to the extent practical.
- (ix) Landscape Plan Content. A landscape plan prepared by a certified landscape architect certified by the New Jersey State Board of Landscape Architects, or other qualified individual, shall be submitted with each major site plan or major subdivision application. In addition to the major site plan or subdivision submission requirements, the landscape plan shall include and identify the following information:
 - a. Existing and proposed underground and above ground utilities such as site lighting, transformers, hydrants, manholes, valve boxes, etc. existing wooded areas, rock outcroppings and existing and proposed water bodies.
 - b. Location of individual existing trees noted for preservation within the area of development and 30 feet beyond the limit of the disturbance. Trees 4 inches in diameter (measured 4 1/2 feet above the existing ground level) shall be located and Identified by name and diameter unless the wooded area is shown with a specific limit line. In this case, specimen trees shall be located within thirty feet of the line. Indicate all existing vegetation to be saved or removed.
 - c. Existing and proposed topography and location of all landscaped berms.

- d. Location, species and sizes of all proposed shade trees, ornamental trees, evergreen trees and shrubs and areas for lawns or any other ground cover. Different graphic symbols shall be used to show the location and spacing of shade trees, ornamental trees, evergreen trees, shrubs and ground cover. The size of the symbol must be representative of the size of the plant shown to scale.
 - e. A plant schedule indicating botanical name, common name, size at time of planting (caliper, height and spread), quantity, root condition and any special remarks (spacing, substitutions, etc.) for all plant material proposed. Plants within the plant schedule shall be keyed to the landscape plan utilizing the first letter of the botanical plant name.
 - f. Planting and construction details and specifications.
- (b) Lighting
- (i) All lighting fixtures and foot-candle standards for parking areas and recreation facilities should be consistent with the regulations of the Borough of Montvale.
 - (ii) A lighting plan prepared by a qualified individual shall be provided with site plan applications.
 - (iii) The intensity, shielding, direction and reflecting of lighting shall be subject to site plan approval by the approving authority.
- (c) Sidewalks:
- (i) In public rights of way: Sidewalks shall be required along adjoining public rights of way, as determined appropriate.
 - (ii) The development's private internal road network shall comply with RSIS.
- (d) Fences and walls.
- 1. To the extent possible, the use of retaining walls should be used in the form of terraces to accommodate severe grade changes, rather than single tall retaining walls. However, no retaining walls shall exceed a height of 6 feet. Where provided, retaining walls shall be screened with a variety of landscaping materials, in groupings, rather than utilizing hedges or uniform plant species and spacing.
 - 2. Ornamental walls utilizing loose laid stone may be provided throughout the site as appropriate, up to a height of four feet.
 - 3. Fences shall be installed along the tops of all retaining walls that exceed a height of three feet. Chain-link fencing, including vinyl-coated chain-link fencing, is prohibited.
 - 4. No fence on the site may exceed a height of six feet.
- (e) Signage
- (i) Section 128-9.7A.1 through Section 128-9.7A.5, shall apply. The standards in Section 128-9.7A.8 through Section 128-9.7A.15 of Chapter 128 shall also apply.

(ii) Signs permitted within the AH-6A Zone shall be only those specified in the table below.

| Type | Location | Maximum Number | Maximum Area of any 1 Sign (sq. ft.) | Maximum Height (feet) | Required setback from Property Line (feet) | Maximum Letter Height (feet) |
|-------------------|-------------------|--------------------|--------------------------------------|-----------------------|--|------------------------------|
| Entrance Monument | Driveway Entrance | 1 at each location | 36 | 6 | 5 | - |

(iii) Only external illumination shall be permitted for all non-wall-mounted signage.

Uplighting or other forms of external illumination shall be permitted on proposed entrance sign.

(iv) The entrance monument sign shall be limited to the name of the development and developer name.

(v) No individual sign may exceed three colors. If white or black is used in the sign it shall be counted as a color.

(vi) Monument signs shall utilize a solid base surrounded by appropriate ornamental plantings. No monument sign shall be located in a sight triangle.

(f) Additional applicable provisions to the AH-6A District. The following sections of the Montvale Zoning Code (Chapter 128) shall apply to development in the AH-6A District.

(i) Article X, Enforcement.

(ii) Article XI, Interpretation.

(iii) Article XIII, Violations and Penalties.

(iv) Article XIV, Validity.

(v) Article XVI, Effect.

(vi) Article XVIII, Site Work Permit.

Section 3. The Official Map shall be amended to include the AH-6A District.

Section 4. Planning Board review.

Upon approval of this Ordinance upon First Reading by the Mayor and Council of the Borough of Montvale, this Ordinance shall be transmitted to the Planning Board for its review and recommendation pursuant to *N.J.S.A. 40:55D-26*.

Section 5. Severability.

If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated and shall remain in full force and effect.

Section 6. Effective date.

This Ordinance shall take effect immediately upon final passage and publication as required by law and upon receipt of an Order from the Superior Court of New Jersey approving of the Settlement Agreement, dated

November 14, 2017, between the Borough of Montvale, the Planning Board of the Borough of Montvale, and Two Paragon Drive, LLC in the litigation *In re Montvale*, Docket No. BER-L-6141-15.

Section 7. Repeal of inconsistent ordinances.

All ordinances and parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Ordinance No. **2017-1437** was introduced for second reading by Councilmember Gloeggler; seconded by Councilmember Lane; Clerk read by title only;
Motion to open meeting to the public by Councilmember Lane; seconded by Councilmember Curry - all ayes
NO PUBLIC COMMENT
Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Curry - all ayes
Motion to adopt on Second and Final Reading in Bergen Record News by Councilmember Lane;
seconded by Councilmember Curry; Clerk read by title only ----- A roll call vote was taken --- all ayes

INTRODUCTION OF ORDINANCE NO. 2017-1438 AN ORDINANCE OF THE BOROUGH OF MONTVALE AMENDING AND SUPPLEMENTING CHAPTER 128 OF THE CODE OF THE BOROUGH OF MONTVALE TO ESTABLISH A NEW AH-26 AFFORDABLE HOUSING DISTRICT AND TO SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO
(public hearing 12/26/17)

A motion to Introduce Ordinance **2017-1438** for first reading was made by Councilmember Gloeggler; With an amendment to section E3 ei to be removed; seconded by Councilmember Lane; Clerk read by title only; Councilmember Curry made a motion that this ordinance be passed on first reading and advertised in the Bergen Record; seconded by Councilmember Koelling - A roll call was taken – Councilmember Arendacs - No and Councilmembers Curry, Gloeggler, Koelling and Lane - Yes
The borough attorney clarified that the removal of section E3 had to do with permanent sign to be installed along the building.

INTRODUCTION OF ORDINANCE NO. 2017-1439 AN ORDINANCE TO PROVIDE FOR THE PRESERVATION OF TREES ON RESIDENTIAL PROPERTIES THROUGHOUT THE BOROUGH OF MONTVALE AND CREATING A NEW CHAPTER 119A IN THE BOROUGH CODE ENTITLED “TREES AND PLANTS”
(public hearing 12/26/17)

A motion to Introduce Ordinance **2017-1439** for first reading was made by Councilmember Gloeggler; seconded by Councilmember Lane; Clerk read by title only; Councilmember Curry made a motion that this ordinance be passed on first reading and advertised in the Ridgewood News; seconded by Councilmember Koelling - A roll call was taken – all ayes

MEETING OPEN TO PUBLIC:

Agenda Items Only
Motion to open meeting to the public by Councilmember Lane; seconded by Councilmember Curry – all ayes

Susan Hameyer, 64 Summit Ave

Object to the term indiscriminate; homeowners usually have a reason to cut down trees on their property; Ms. Hameyer had a few more suggestions which she will email the Mayor and attorney to be reviewed.

Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Arendacs – all ayes

MEETING CLOSED TO PUBLIC:

Agenda Items Only

MINUTES:

September 26, 2017

A motion to accept minutes by Councilmember Lane; seconded by Councilmember Curry – all ayes

November 28, 2017

A motion to accept minutes by Councilmember Lane; seconded by Councilmember Gloeggler – all ayes

MINUTES CLOSED/EXECUTIVE SESSION:

November 14, 2017

A motion to accept minutes by Councilmember Lane; seconded by Councilmember Koelling – all ayes

November 28, 2017

A motion to accept minutes by Councilmember Lane; seconded by Councilmember Koelling – all ayes

RESOLUTIONS:

229-2017 Special Item Of Revenue And Appropriation - Chapter 159

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item appropriation for an equal amount, and

WHEREAS, the Borough of Montvale has been awarded \$10,000.00 from KPMG and wishes to amend its 2017 Budget to include this amount as a revenue;

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Montvale hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2017 in the sum of \$10,000.00 which is now available as a revenue from:

Miscellaneous Revenues: Special Items of General Revenue Anticipated with Prior Written Consent of the

Director of Local Government Services: Public and Private Revenues Off-Set with Appropriations:

Donation: Police – Other Expenses, and

BE IT FURTHER RESOLVED that a like sum of \$10,000.00 be and hereby appropriated under the caption of:

General Appropriations (a)Operations Excluded from "CAPS"

Public and Private Programs Off-Set by Revenues: Donation: Police – Other Expenses

Introduced by: Councilmember Lane; seconded by Councilmember Curry - All ayes

230-2017 Emergency Appropriation

WHEREAS, an emergency has arisen with respect to the Current Fund of the Borough of Montvale, as a result of the increased development and traffic control, and no adequate provision was made in the 2017 municipal budget for the aforesaid purpose, and N.J.S.A. 40A:4-46 provides for the creation of an emergency appropriation for the purpose above mentioned, and

WHEREAS, the total amount of emergency appropriations created including the appropriation to be created by this resolution is \$425,000.00

and three percent of the total operations in the Current Fund budget

for the year 2016 is \$436,183.53

NOW, THEREFORE, BE IT RESOLVED (not less than two-thirds of all the members thereof affirmatively concurring) that in accordance with N.J.S.A. 40A:4-48,

- 1) An emergency appropriation be and the same is hereby made for:

General Appropriations

Operations – Within “CAPS”

Police:

Salaries and Wages

\$175,000.00

=====

That said emergency appropriation shall be provided in full in the 2018 municipal budget.

- 2) That two certified copies of this resolution be filed with the Director of the Division of Local Government Services.

Introduced by: Councilmember Lane; seconded by Councilmember Curry - All ayes

231-2017 Transfer Of Appropriations

WHEREAS, certain transfer of funds for various 2017 budget appropriations are necessary to cover anticipated expenditures; and

WHEREAS, N.J.S.A. 40A:4-58 provides for transfers from appropriations with an excess over and above the amount deemed to be necessary to fulfill the purpose for such appropriations, to those appropriations deemed to be insufficient;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Montvale, that the transfers be made between the 2016 budget appropriations as follows:

| <u>CURRENT FUND</u> | <u>FROM</u> | <u>TO</u> |
|--|--------------------|------------------|
| General Appropriations Operations – Within “CAPS” | | |
| Administrative and Executive: Salaries and Wages | \$5,000.00 | |
| Police: | | |
| Other Expenses | | \$5,000.00 |
| Administrative and Executive: Other Expenses | 5,000.00 | |
| Road Repair and Maintenance: Other Expenses | | 5,000.00 |
| | ----- | ----- |
| | \$10,000.00 | \$10,000.00 |
| | ===== | ===== |

Introduced by: Councilmember Lane; seconded by Councilmember Gloeggler - All ayes

232-2017 Awarding Professional Service Contract / Engineering Services / PSE&G Roadway Improvements/Tilcon New York, Inc./ Maser Consulting, LLC

WHEREAS, the Borough of Montvale has deemed it necessary to engage the professional services of an Engineer to provide Engineering Services of Construction Observation Services for the PSE&G services for the milling and paving for Spruce Street and a portion of Jefferson Place; and

WHEREAS, section N.J.S.A. 40A:11-5 of the Local Public Contracts Law, (N.J.S.A. 40A:11-1 et seq.) exempts such professional services from competitive bidding; and

WHEREAS, Maser Consulting, 200 Valley Road, Suite 400, Mt. Arlington, NJ 07856 has submitted a proposal dated November 21, 2017to provide these services which is attached to the original of this resolution, and

WHEREAS, the Certified Municipal Finance Officer has certified funds are available certification hereto attached to the original of this resolution.

NOW, THEREFORE BE IT RESOLVED by the Borough of Montvale as follows:

- 1) That the proposal for the scope of engineering services is attached to this resolution which is made part of this resolution shall be awarded to Maser Consulting.
- 2) That the following be provided: Engineering Services/Construction Observation
- 3) The cost not to exceed shall be \$8,000.00. The Engineer shall be required to submit itemized bills and payment shall be made based upon services rendered. The rates for this work are in accordance with the hourly contractual agreement with the Borough of Montvale.

BE IT FURTHER RESOLVED, that a copy of this resolution be published an official newspaper of the Borough of Montvale, be on file, available for public inspection, in the office of the Municipal Clerk, Municipal Complex, 12 Mercedes Drive, Montvale, NJ 07645.

Introduced by: Councilmember Lane; seconded by Councilmember Gloeggler - All ayes

233-2017 Authorize Release of Escrow / Block 3101; Lot 2 / Collectis, Inc.

WHEREAS, Collectis, Inc. 430E 29th Street, New York, New York, 10016-8367 has requested release in escrow for Block 3101; Lot 2, for escrow posted for 100 Phillips Parkway; and

WHEREAS, the Borough Engineer and other Borough professionals take no exception to the release; and

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Montvale the amount of \$132.00 is hereby released to Collectis Inc.; and

BE IT FURHTER RESOLVED, the Treasurer shall receive a copy of this resolution for processing.

Introduced by: Councilmember Lane; seconded by Councilmember Curry - All ayes

234-2017 Authorize Release of Escrow / Block 1102; Lot 2.02 / Rockland Electric, Co.

WHEREAS, Rockland Electric Co., 390 West Route 59, Spring Valley, New York 10977 has requested release in escrow for Block 1102; Lot 2.02, for escrow posted for 110 Summit Avenue, Montvale ; and

WHEREAS, the Borough Engineer and other Borough professionals take no exception to the release; and

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Montvale the amount of \$10,520.26 is hereby released to Rockland Electric, c/o Gregory Eiband; and

BE IT FURHTER RESOLVED, the Treasurer shall receive a copy of this resolution for processing.

Introduced by: Councilmember Lane; seconded by Councilmember Gloeggler - All ayes

235-2017 Refund Tax Overpayment / Block 2903, Lot 6.56, C008C / 8C Rustic Circle

WHEREAS, a resolution authorizing the Borough of Montvale to refund an overpayment of taxes for the property located at 8C Rustic Circle, also known as Block 2903, Lot 6.56, C008C

WHEREAS, a duplicate payment was made by the mortgage holder and homeowner; and

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Montvale, County of Bergen, New Jersey, that the Tax Collector be and is hereby authorized to refund Maureen Viemeyer, 8C Rustic Circle, Montvale, NJ 07645 in the amount of \$1,108.00

Introduced by: Councilmember Lane; seconded by Councilmember Curry - All ayes

236-2017 Resolution Authorizing Settlement

WHEREAS, certain employment-related issues have arisen between an Employee and the Borough of Montvale and the Montvale Police Department (collectively "Employer"); and

WHEREAS, Employer and Employee have engaged in settlement negotiations in an attempt to resolve the matters in controversy; and

WHEREAS, as a result of said negotiations, the parties have agreed to resolve the matters in dispute; and

WHEREAS, the terms of the Agreement between the parties have been memorialized in a certain Disciplinary Action Consent Disposition (the “Consent Disposition”) and an Agreement and General Release (the “Agreement”), the terms of which are incorporated by reference into this Resolution; and

WHEREAS, by this Resolution, Employer wishes to authorize and memorialize such settlement and to approve the terms of the Consent Disposition and Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Montvale as follows:

1. The terms of the Consent Disposition be and hereby are approved, authorized and ratified.
2. The terms of the Agreement be and hereby are approved, authorized and ratified.
3. The Mayor, the Borough Administrator, the Borough’s Chief Financial Officer, and the Borough Attorney are authorized to take all appropriate actions so as to implement this Resolution.

Introduced by: Councilmember Lane; seconded by Councilmember Curry - A roll call vote was taken, Councilmember Arendacs – No and Councilmembers Curry, Gloeggler, Koelling and Lane – Yes

BILLS: Municipal Clerk read the Bill Report

Motion to pay bills by Councilmember Lane; seconded by Councilmember Curry - all ayes

REPORT OF REVENUE: Municipal Clerk read the Report of Revenue – November

COMMITTEE REPORTS:

Council President Curry

Seniors

Marie Dineen will be President of the Senior Club;

Construction

12 property maintenance violations have been issued;

Chamber of Commerce

Thanked the Chamber for their generous donation of the new digital sign, it is up and running; Josh Gottheimer will be attending their first meeting of the new year.

Board of Health

Rabies clinic will be held on January 6 at the DPW at 9am;

Website

Flanagan Productions has changed their name to Govsites; Police twitter feed will now be on the borough’s Facebook page; please submit newsletter information;

Councilmember Gloeggler

Local BOE

Next meeting will be held December 18

TVAccess

An interview with the mayor was held and is now airing on tv access

Attended her first League of Municipalities conference in Atlantic City, met a lot of people throughout the state and went to a few good workshops

Councilmember Lane

Fire Dept

20 fire calls; 2 drills and 5 extra credits; holiday decorations are up courtesy of the Fire dept.; Santa will be arriving on Christmas Eve at 6pm; Reminder to please shovel out fire hydrants; new Fire Officers have been determined; Woodcliff Lake made Chief Miller an honorary member of their Fire department;

Councilmember Arendacs

Recreation/Special Events

Winter programs will start in January; very successful tree lighting ceremony; having the first annual house decorating contest; looking to hire a basketball adult supervisor

DPW

Basketball court lights have been malfunctioning, not sure what the issue is, possibly the wiring

Police Commissioner Koelling

Police

Monthly report included in original minutes

Mayor

Library

4,783 patron visits; 27 cards issued;

Re-Organization meeting will be held January 1 at 7pm; snow angel program has a few names of residents; new town sign will be up and running soon; still in discussions with the ERUV association; some of the companies in town has requested information regarding the housing settlements, this way they can change their brochures accordingly; please clean your sidewalks after a snowfall;

ENGINEER'S REPORT:

Andrew Hipolit

Report/Update

a. Authorization for Environmental Services:

- NJDEP Air Quality Permitting – Boiler
- Preparation of EPA SPCC Plan – Emergency Diesel Generator
- Storm Sewer Outfall & Detention Basin Inspections

These are NJDEP requirements, resolutions will be submitted for next meeting;

b. Intersections

- Woodland Road and Grand Ave
- Removal of the “No turn on Red” signs at the three new intersections
- Hillcrest light was damaged by a storm
- Magnolia bridge

These items will be scheduled for discussion with the County

c. Road Paving

Depending on the weather, the paving may not be completed this year

d. Fieldstone Turf Replacement

When removing the turf, there were some additional issues including recycling, additional lines and smaller issues which will cost an additional \$52,439.75, a resolution will be submitted for next meeting

ATTORNEY REPORT:

Joe Voytus, Esq.

Report/Update

Wanted to clarify about the discussion on the tree ordinance, the ordinance does not apply to a single family homeowner who is not doing an expansion and just wanted to cut down some trees on their property; it only applies when someone comes in for a building permit or site plan.

UNFINISHED BUSINESS:

None

NEW BUSINESS:

None

COMMUNICATION CORRESPONDENCE:

None

MEETING OPEN TO THE PUBLIC:

HEARING OF CITIZENS WHO WISH TO ADDRESS THE MAYOR AND COUNCIL:

Upon recognition by the Mayor, the person shall proceed to the floor and give his/her name and address in an audible tone of voice for the records. Unless further time is granted by the Council, he/she shall limit his/her statement to five (5) minutes. Statements shall be addressed to the Council as a body and not to any member thereof. No person, other than the person having the floor, shall be permitted to enter into any discussion, without recognition by the Mayor.

Motion to open meeting to the public by Councilmember Lane; seconded by Councilmember Arendacs - all ayes

Bob Hanrahan, Environmental Commission

Thanked the borough attorney for making a clarification on the tree ordinance; this is to prevent clear cutting of trees;

Dave – Valley View

Asked about if the Fire signal will be removed; the mayor stated, it will not be removed at this time

Susan Hameyer

Has concerns with the tree ordinance and the time limit of the Environmental commission reviewing it; the attorney stated she should submit her comments and concerns to the Mayor;

Chief Miller

Asked if emergency personnel can have remote access to change the signals of the new traffic lights; the Hillcrest light is in the DPW garage; the Akers Ave signs are also in the DPW garage; Valley View fire siren is needed and has been there long before Valley View was developed;

Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Curry - all ayes

MEETING CLOSED TO THE PUBLIC:

ADJOURNMENT

Motion to adjourn Public Meeting by Councilmember Lane; seconded by Councilmember Curry - all ayes

Meeting was adjourned at 9:17pm

ADJOURNMENT:

The next Meeting of the Mayor and Council will be held December 26, 2017 at 7:30 p.m.

Respectfully submitted, Fran Scordo, Deputy Municipal Clerk