

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2014 -17**

**AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER 215, ZONING, OF THE CODE OF THE BOROUGH OF
PENNINGTON COUNTY OF MERCER, STATE OF NEW JERSEY AND
SPECIFICALLY SECTION 215-63 REGARDING "ESTABLISHMENT OF
ZONES", SECTION 215-64 REGARDING A NEW "ZONING MAP",
AND SECTION 215-78.1 REGARDING THE "MU-3 MIXED USE ZONE"**

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF PENNINGTON, in the County of Mercer and the State of New Jersey, that Chapter 215, entitled "Zoning", of the Code of the Borough of Pennington is hereby amended and supplemented (with deletions bracketed [] and new language underlined), in order to implement the recommendations of the February 2014 "Land Use Plan Amendment: Supplemental Modifications To The September 2013 Master Plan And Development Regulations Periodic Reexamination Report", as adopted by the Planning Board on March 12, 2014, as follows:

SECTION 1. Section 215-63, entitled "Establishment of Zones", of Chapter 215 of the Code of the Borough of Pennington, is amended as follows:

"§215-63. Establishment of Zones.

For the purpose of this chapter, the Borough of Pennington is hereby divided into the following zones:

R-80	Residence Zone
R-100	Residence Zone
R-A	Apartment-Townhouse Residence Zone
O-R	Office Residence Zone
TC	Town Center Zone
TCB	Town Center Buffer Zone
B-H	Highway Business Zone
O-B	Office (Building) Business Zone
P-O	Professional Office Zone
MU-1	Mixed Use Zone 1
MU-2	Mixed Use Zone 2
E-1	Education Zone
E-2	Education Zone 2
<u>MR</u>	<u>Mixed Residence Zone</u>

SECTION 2. Section 215-64, entitled "Zoning Map", of Chapter 215 of the Code of the Borough of Pennington is amended as follows:

"§215-64. Zoning Map.

The boundaries of all zone districts shall be shown on a map attached to and made a part of this chapter and titled "Zoning Map", dated [February 2007] July 2014. Said map and all notations and references thereon are hereby incorporated into and declared to be a part of this chapter."

SECTION 3. The "Schedule of Area, Yard and Building Regulations" chart in Section 215-66 of Chapter 215 of the Code of the Borough of Pennington is amended to replace any reference to the "MU-3 Mixed Use Zone" with a new "MR Mixed Residence Zone." The text of Section 215-66 remains unchanged.

SECTION 4. Section 215-78.1, entitled "MU-3 Mixed Use Zone", of Chapter 215 of the Code of the Borough of Pennington, is deleted in its entirety and a new Section 215-78.1, to be entitled "'MR Mixed Residence Zone," is substituted as follows:

"§215-78.1. [~~MU-3 Mixed Use Zone~~]* MR Mixed Residence Zone.

* Text of deleted MU-3 Mixed Use Zone is attached.

A. Purpose & Definition.

- (1) One of the purposes of this zone is to provide for "age-targeted dwelling units" as a residential option for the Pennington and surrounding community. For purposes of this zone, the term "age-targeted dwelling unit" is defined as attached, one-family dwelling units designed with a master bedroom on the first floor intended to attract as purchasers empty nesters, childless couples or households which are downsizing but who wish to remain in the Pennington community.
- (2) Another purpose of this zone is to comply with the substantive rules and regulations of the New Jersey Council on Affordable Housing promulgated pursuant to the New Jersey Fair Housing Act.
- (3) Another purpose of this zone is to balance the need for affordable housing, good site plan design and landscaped open spaces with potential private interests in developing the zone and to implement the recommendations of the February 2014 "Land Use Plan Amendment: Supplemental Modifications To The September 2013 Master Plan And Development Regulations Periodic Reexamination Report", as adopted by the Planning Board on March 12, 2014. The flexibility that has been incorporated in these ordinance provisions also is expected to encourage the zone's potential for innovative site plan design and the highest quality landscaped open space. Any proposed site plan shall preserve as much of the mature landscape specimens within the zone as possible.

B. Permitted Primary Uses.

- (1) A mixed residential housing development on tracts of land at least twelve (12) acres in size which is planned, approved and constructed as a single entity, which does not exceed a density of six and two-thirds (6.667) dwelling units per gross acre of land or a maximum of eighty (80) units, whichever is less, and which consists of the following:
 - (a) Townhouse dwelling units;
 - (b) Age-targeted attached one-family dwelling units where the master bedroom is located on the first floor of the unit; and
 - (c) Affordable one-family apartment or townhouse dwelling units.
- (2) Municipal parks, playgrounds, and public purpose uses, including municipal buildings and/or structures connected with the governmental function or a governmental service.
- (3) Conservation areas, open spaces, and common open spaces, including passive and active recreational facilities.
- (4) Detached one-family dwelling units existing prior to the adoption of this ordinance.

C. Permitted Accessory Uses.

- (1) Common recreational facilities as specifically approved by the Planning Board within the specified open space areas in order to satisfy the needs of the residential population within the development.
- (2) Landscaping features including benches, trellises, and other such features customarily associated with the permitted primary uses, as the case may be.
- (3) Fences and walls in accordance with the design provisions specified in Section 215-24 of this chapter, provided that no fence or wall shall be permitted in the front of an individual unit, building or lot developed with a dwelling unit.

- (4) Patios, balconies and decks.
- (5) Off-street parking and private garages.
- (6) Signs in accordance with Subsection 215-78.1 I. hereinbelow and Article III of this chapter.
- (7) Stormwater facilities.
- (8) Pump stations to serve a mixed residential housing development.

D. Height, Area, Yard and Distance Requirements For Permitted Uses.

- (1) No dwelling unit shall exceed thirty-five feet (35') in height and two and one-half (2½) stories.
- (2) The minimum distances between buildings shall be thirty feet (30'), which shall be measured horizontally in feet from the front, side and rear of each building.
- (3) The minimum distance between a building and an internal street shall be twenty feet (20'), and the minimum distance between a building and a parking area shall be ten feet (10').
- (4) A minimum fifty foot (50') setback from the right-of-way of State Highway Route 31 and from the Pennington Pointe development to the north, a minimum forty foot (40') setback from any other existing street line, and a minimum twenty-five foot (25') setback from any other tract boundary line shall be required for any building or structure, except approved driveways, signs or fencing.
- (5) Within the required tract boundary setback areas referred to above in Subsection 215-78.1 D.(4), a landscape buffer screening shall be required, except within wetland and wetland buffer areas. If the existing vegetation is not sufficient to provide adequate buffering as determined by the Planning Board, the vegetation shall be supplemented with densely planted evergreen trees at least six feet (6') high at time of planting, spaced no more than ten feet (10') apart on-center.
- (6) Fee simple lots encompassing individual dwelling units may be freely disposed and arranged on a tract of land, provided they are super-imposed upon an approved site/subdivision plan for the subject development and meet the following provisions:
 - (a) The boundaries of any fee simple lot shall not infringe upon the required tract boundary setbacks, wetlands, wetlands transition areas, stormwater management basins or other similar common elements or structures (e.g., parking lots, sidewalks, streets, etc.).
 - (b) The fee simple lot shall not extend more than fifteen feet (15') from the rear of a dwelling unit and shall not extend more than eight feet (8') from the side of an end dwelling unit except to encompass a driveway for a side entry garage.

E. General Requirements.

- (1) The development shall be connected to approved and functioning public sanitary sewer and water systems.
- (2) No direct vehicular access shall be permitted onto State Highway Route 31.
- (3) At least fifty percent (50%) of the market rate units in a mixed residential housing development shall be age-targeted attached one-family dwelling units.

- (4) Any development shall strive to maintain the existing trees onsite to the greatest extent possible.
- (5) No rear of any dwelling unit shall face West Franklin Avenue; no rear of any dwelling unit shall face Knowles Street unless sufficiently buffered. The existing streetscape along Knowles Street and West Franklin Avenue shall be enhanced with landscaping.
- (6) Any mixed residential housing development shall be conceived, designed, and preliminarily approved as a single entity, whether constructed all at one time or in stages over a period of time as a result of a phasing plan provided at the time of final site plan application and approved by the Planning Board.
- (7) The entirety of a mixed residential housing development shall be planned and developed with a common architectural theme which shall be subject to review and approval by the Planning Board; the architectural theme shall include the appearance of buildings, signing, fencing, lighting, paving, curbing, and landscaping. The architectural design and material surface and color of all building walls on all sides of all buildings shall be suitably finished for aesthetic purposes and shall be compatible in design and scale with the surface materials existing within the neighborhood.
- (8) All areas not covered by buildings or structures (e.g., parking lots, parking spaces, driveways, sidewalks, walkways, curbs, etc.) shall be suitably landscaped with grass, shrubs, and trees and shall be maintained in good condition.
- (9) Sidewalks shall be provided along all street frontages, except State Highway Route 31, and elsewhere throughout the development so as to provide connections to other areas in the Borough. Sidewalks only are required on one side of the internal streets within the development.
- (10) A mixed residential housing development shall provide adequate passive and/or active recreational facilities within the specified open spaces in order to satisfy the needs of the anticipated residential population of the development. All recreational facilities shall adhere to the standards set forth in the Barrier Free Subcode of the Uniform Construction Code of the State of New Jersey.

F. Building Requirements.

- (1) No dwelling unit shall contain more than three (3) bedrooms.
- (2) Townhouses shall be at least twenty feet (20') wide but no wider than twenty-six feet (26'), with a maximum of eight (8) units per building. No age-targeted dwelling unit shall exceed thirty-five feet (35') in width, and no more than four (4) units shall be attached in any one (1) building.
- (3) The maximum size of any market rate dwelling unit shall be 2,500 gross square feet, excluding garages, cellars and those basements that are not considered a "story" by definition.
- (4) Strong architectural controls governing the appearance of the dwellings and lots shall be included in any homeowners' association documents and/or lease agreements and shall be subject to review and approval by the Planning Board.
- (5) All buildings shall have a dual pitched, single ridge roof (such as a true and complete gable, hip or gambrel roof or a mansard roof where the lower slope is steeper and deeper than the upper slope) with a minimum pitch of one foot (1') vertical to eight feet (8') horizontal.

- (6) All building facades shall have vertical and/or horizontal offsets to create visual breaks and articulation along each façade; long, monotonous, uninterrupted walls are not permitted.
- (7) Patios, balconies, first floor decks, and privacy fences may be permitted, subject to the specific approval by the Planning Board of specific standards and designs submitted as part of the site plan application and as included in the Homeowners' Association documents, provided that such decks are located in rear yard areas only. Affordable one-family apartment units may have second floor decks in any yard area, provided the decks are an integral design of the apartment building as approved by the Planning Board at the time of the original site plan application.

G. Low" and "Moderate" Income Housing Requirements.

- (1) For a mixed residential housing development, there shall be a minimum of twenty percent (20%) of the total number of dwelling units set aside as affordable dwelling units subsidized or otherwise made available to "low" and "moderate" income households in accordance with the "Substantive Rules" of the New Jersey Council On Affordable Housing (COAH).
- (2) The affordable dwelling units shall be dispersed throughout the development to the greatest extent possible. The appearance and the type of affordable units shall not be distinguishable from that of a market rate unit.
- (3) The affordable dwelling units shall meet the bedroom distribution requirements set forth in N.J.A.C. 5:80-26.3 and shall be constructed and marketed in accordance with COAH's prevailing rules and 5:80-26.1.

H. Off-Street Parking Requirements.

- (1) Each driveway leading to the garage of a residential unit shall be at least eighteen feet (18') in length, measured between the garage door and the curb or between the garage door and a sidewalk, whichever distance is less.
- (2) Dwelling units shall provide parking in accordance with the requirements of the Residential Site Improvement Standards (RSIS).
- (3) In instances where no on-street parking is permitted, designated off-street guest parking spaces shall be provided at a ratio of one-half (1/2) space per market rate residential unit.
- (4) See Section 215-23 of this chapter for additional requirements.

I. Sign Requirements.

All signage shall be in accordance with the requirements specified in Article III, "Sign Regulations", and specifically Section 215-39 of this chapter, except as follows:

- (1) A mixed residential housing development shall be permitted one (1) ground mounted free-standing sign no larger than eight (8) square feet in area identifying the name of the development along each street from which direct access is provided.
- (2) The permitted free-standing signs shall not exceed four feet (4') in height and shall be set back at least five feet (5') from all property and street lines.
- (3) The free-standing signs may be lighted, provided the lighting is exterior to the sign and is located at the top of the sign and focused downward onto the sign."

SECTION 5. If the provisions of any section, subsection, paragraph, subdivision or

clause of this ordinance shall be judged to be invalid by a Court of competent jurisdiction, such Order or Judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause if this ordinance, or any other ordinance which is referred to herein, and to this end, the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance are hereby declared to be severable. Should any clause, sentence or other part of this ordinance be judged invalid by a Court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

SECTION 6. This ordinance shall take effect immediately upon final adoption, publication and the filing of said ordinance with the Mercer County Planning Board, all in accordance with the law.

Introduced: August 4, 2014

Advertised: August 14, 2014

Public Hearing: September 8, 2014

Adoption: September 8, 2014

Final Publication: September 18, 2014

ATTEST:

APPROVED:

Elizabeth Sterling, Borough Clerk

Anthony Persichilli, Mayor

§ 215-78.1. MU-3 Mixed Use Zone. [Added 2-13-2002 by Ord. No. 2002-1]**A. Purpose.**

- (1) The purpose of this district is to comply with the substantive rules and regulations of the New Jersey Council on Affordable Housing promulgated pursuant to the Fair Housing Act.¹⁹ The requirements of the zone reflect the requirements established by the Council on Affordable Housing in the substantive rules. Words and terms as defined in N.J.A.C. 5:93-1.3 are incorporated herein and made a part hereof.
- (2) The purpose of this district is also to balance the social need for affordable housing, good site plan design and landscaped open space with potential private interests in developing the district. This zoning district has been created to provide a range of opportunities for mixed-use development. The flexibility that has been incorporated in this section is also expected to maximize help the district's potential for innovative site plan design and the highest quality landscaped open space. Any proposed site plan should reflect and respond to existing development in the area and preserve as much of the mature landscape specimens within the district as possible.

B. Permitted principal uses.

- (1) The permitted principal use for this district shall be mixed-use development with an affordable housing component. Mixed-use development is a mix of residential and nonresidential development. The residential development shall include an affordable housing component.
- (2) The permitted uses within the mixed-use development shall be as follows:
 - (a) Residential uses. Residential development must be developed with an affordable housing component to be comprised of attached or multifamily housing with a maximum of 40 units total and a minimum of four low- and four moderate-income affordable housing units, or two low- and two moderate-income affordable rental apartments with a two-for-one rental bonus or the equivalent of eight affordable housing units in the form of a residential group home. Market rate, non-age-restricted housing is a permitted use with an affordable housing component as part of a mixed-use development.
 - (b) Nonresidential uses.
 - [1] Executive or administrative offices.
 - [2] General business offices.
 - [3] Professional offices.
 - [4] Health care facilities as defined in § 215-8.

19. Editor's Note: See N.J.S.A. 52:27D-301 et seq.

- [5] Assisted care living.
- [6] Age-restricted housing.
- [7] Medical staff residences.

C. Permitted accessory uses.

- (1) The following accessory uses shall be permitted in conjunction with all residential uses with which they are customarily associated;
 - (a) Private garages
 - (b) Normal residential storage structures not in excess of 100 square feet in floor area.
 - (c) Other normal residential structures such as swimming pools, fireplaces, trellises, lamp posts, and the like.
 - (d) Off-street parking.
 - (e) Signs, in accordance with the provision of Article III.
 - (f) Fences, in accordance with the provisions of § 215-24.
- (2) The following accessory uses shall be permitted in conjunction with all nonresidential uses with which they are customarily associated;
 - (a) Off-street parking facilities for the use of employees and visitors.
 - (b) Cafeterias located within the nonresidential use and operated for the exclusive use of the employees and their guests.
- (3) In addition, the following accessory uses shall be permitted in conjunction with health care facilities uses only when they are customarily associated:
 - (a) Labs incidental to the on-site health care facilities.
 - (b) Out-patient departments.
 - (c) Training facilities.
 - (d) Management offices.
 - (e) Staff recreation facilities.

D. Area and bulk regulations. The following zoning standards shall apply.²⁰

E. General provisions.

20. Editor's Note: The Schedule of Area and Bulk Regulations is located at the end of this chapter.

- (1) The minimum lot size shall be 10 acres.
- (2) Within this zoning district, residential uses cannot be located within the same building as nonresidential uses.
- (3) There shall be no direct access to state roads or highways.
- (4) Accessory buildings and structures such as garages and sheds shall be set back from any property line adjoining existing residential development by a distance equal to or greater than the height of the building.
- (5) The minimum distance between buildings within the development shall be equal to or greater than the height of the tallest of the two neighboring buildings between which the distance is measured unless it is determined by the Planning Board that a smaller distance would result in substantially improved open space and landscape plans for the overall site.
- (6) No parking shall be located closer than 10 feet to the property line and 20 feet to any residential use or zone along the property line, except where a visually impervious, evergreen landscape buffer is installed on the subject site subject to approval by the Planning Board.
- (7) Within the mixed-use development, effective landscape screening, including evergreen plant material and fencing must be installed between nonresidential uses and residential uses except in instances where it can be demonstrated that the residential uses are integrally related to the nonresidential uses, such as in the use of medical staff residences.
- (8) Existing vegetation of significant landscape value as determined by the Borough's certified landscape architect shall be saved whenever possible. Such vegetation may be removed only after it has been demonstrated that the material cannot be saved, transplanted and/or the site plan redesigned to preserve the vegetation.
- (9) Landscape buffering along the perimeter of the property shall be installed along property lines where nonresidential and residential uses abut each other. The landscape buffering shall meet the following requirements:
 - (a) The landscape buffer shall include a continuous, visually impervious spine of evergreen trees at least eight feet tall when planted. The evergreen trees shall be supplemented with deciduous shrubs three feet to four feet when planted and deciduous trees a minimum of three inches in caliper. The plant material shall be of a species indigenous to the area, be of nursery stock and shall be free of insects and disease.
 - (b) Buffer areas shall be permanently maintained, and plant material which does not live shall be replaced within one year or two growing seasons.
 - (c) If the Planning Board determines that the potential conflicts between residential and nonresidential uses warrant additional buffering, berming and/or fencing may be required in addition to plantings.

- (10) The facade and type of unit of the low- and moderate-income units shall in no way be distinguishable from the facades of market rate units within the development when affordable housing is constructed with market rate housing.
- (11) When affordable housing is constructed with market rate housing, the low- and moderate-income units shall be dispersed throughout the residential portion of the project to the greatest extent possible.

F. Phasing.

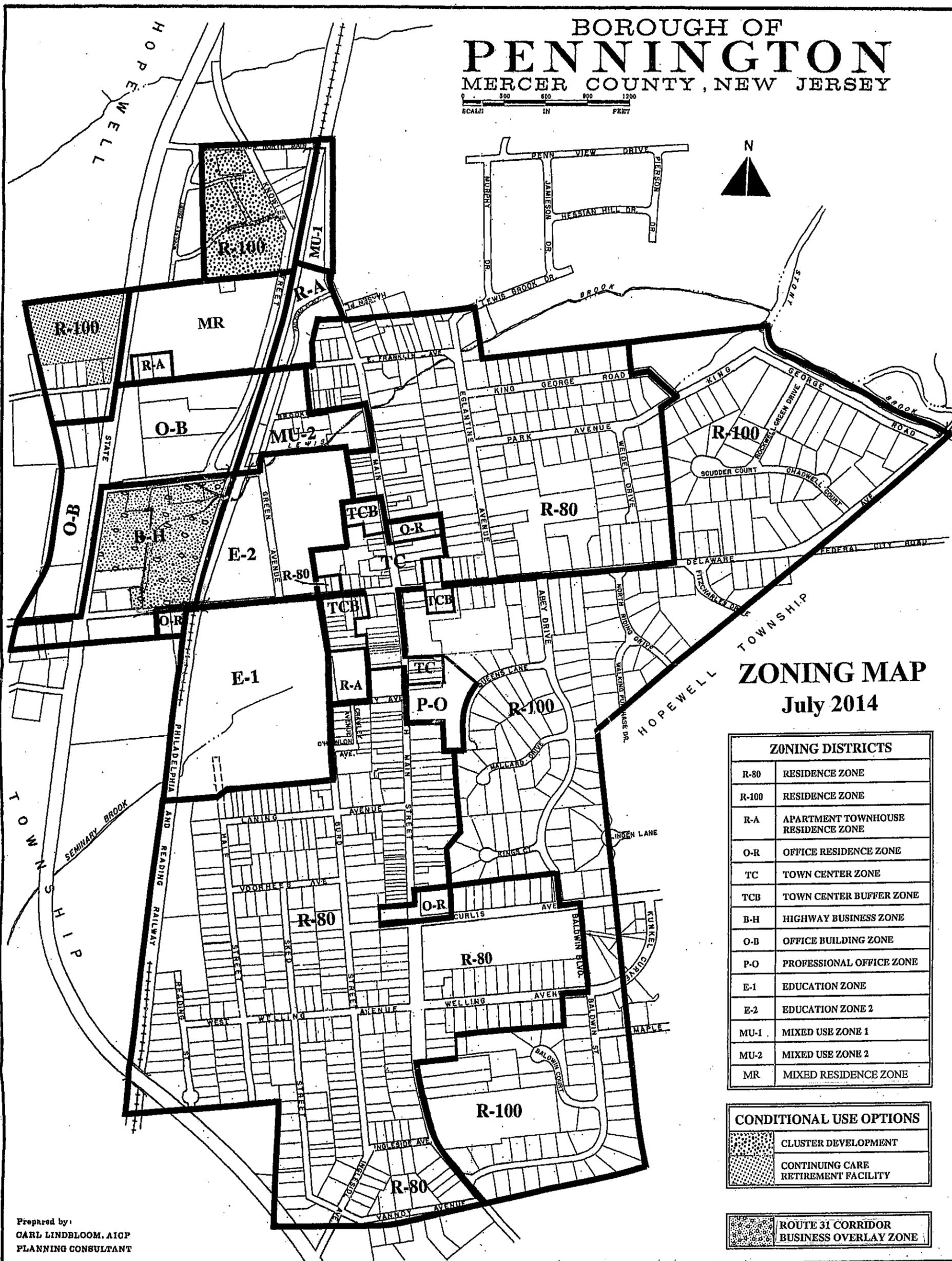
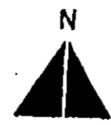
- (1) A phasing plan shall be required prior to any approval of a mixed-use development in this zone. The affordable housing component shall be built in accordance with the following schedule:

Minimum percentage of Low- and Moderate-Income Units Completed	Percentage of Office or Health Care Facility Square Footage Completed	Percentage of Assisted Care Living, Age-Restricted Housing or Medical Staff Residences Completed
0%	25%	25%
25%	25% + 1	25% + 1
50%	50% + 1	50% + 1
75%	75% + 1	75% + 1
100%	90%	90%
—	100%	100%

BOROUGH OF PENNINGTON

MERCER COUNTY, NEW JERSEY

SCALE: 0 300 600 900 1200
IN FEET



ZONING MAP July 2014

ZONING DISTRICTS	
R-80	RESIDENCE ZONE
R-100	RESIDENCE ZONE
R-A	APARTMENT TOWNHOUSE RESIDENCE ZONE
O-R	OFFICE RESIDENCE ZONE
TC	TOWN CENTER ZONE
TCB	TOWN CENTER BUFFER ZONE
B-H	HIGHWAY BUSINESS ZONE
O-B	OFFICE BUILDING ZONE
P-O	PROFESSIONAL OFFICE ZONE
E-1	EDUCATION ZONE
E-2	EDUCATION ZONE 2
MU-1	MIXED USE ZONE 1
MU-2	MIXED USE ZONE 2
MR	MIXED RESIDENCE ZONE

CONDITIONAL USE OPTIONS	
	CLUSTER DEVELOPMENT
	CONTINUING CARE RETIREMENT FACILITY

	ROUTE 31 CORRIDOR BUSINESS OVERLAY ZONE
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