

FLORENCE TOWNSHIP
ORDINANCE NO. 2012-38

NOTICE OF PENDING ORDINANCE AND SUMMARY

PUBLIC NOTICE IS HEREBY GIVEN that an ordinance, the summary terms of which are included herein, was duly introduced and passed upon first reading at a regular meeting of the Township Council of the Township of Florence, in the County of Burlington, New Jersey, held on December 5, 2012. It will be further considered for final passage and adoption, after public hearing thereon, at a regular meeting of said Township Council to be held in the Municipal Building, 711 Broad Street, Florence, New Jersey on December 19, 2012 at 8:00 o'clock p.m. During the week prior to and up to and including the date of such meeting, copies of the full ordinance will be made available at no cost and during regular business hours, at the Township Clerk's office in the Municipal Building to the members of the general public who shall request the same. The summary of the terms of such ordinance follows:

Title: AUTHORIZING THE CONVEYANCE OF CERTAIN REAL PROPERTY TO MOORESTOWN ECUMENICAL NEIGHBORHOOD DEVELOPMENT, INC. (MEND), A NONPROFIT CORPORATION FOR DEVELOPMENT OF AFFORDABLE HOUSING

Summary: An ordinance of the Township of Florence authorizing conveyance of certain real property, being block 45, lots 8,9,10,13,14 & 15, to Moorestown Ecumenical Neighborhood Development, Inc. (MEND) for the purpose of developing a fifty three (53) unit rental housing project to serve as age-restricted and disabled affordable housing.

The properties to be conveyed are The Marcella L. Duffy School, a structure that was previously used as a school building by the Florence Township Board of Education. The former school is currently owned by the Township and encompasses the majority of Block 45 within the Township. Lots 9 & 10 contain a single family home and detached garage. The township recently acquired these two parcels to help facilitate a more comprehensive affordable housing project. In 2011, the Duffy School parcel and the single family home were declared as an area in need of redevelopment by the Township Council following a proper investigation by the Township Planning Board. At that time, the Redevelopment Plan permitted the demolition of the Duffy School structure and the use of the parcel to support an affordable housing project within the Township.

On November 1, 2012, the Township Planning Board approved an amended Declaration of an area in need of redevelopment that Block 45, Lots 8, 9, 10, 13, 14 and 15 is an Area in Need of Redevelopment and an Amended Redevelopment Plan allowing for the reuse of the Duffy School structure to promote an affordable housing project within the Township. The single family home and detached garage will be demolished as part of the overall affordable housing project planned by MEND.

Copies of the full ordinance are available for public inspection in the Office of the Florence Township Clerk.

JOY M. WEILER, RMC/MMC
Township Clerk

TOWNSHIP OF FLORENCE

ORDINANCE NO. 2012-38

**AUTHORIZING THE CONVEYANCE OF
CERTAIN REAL PROPERTY TO MOORESTOWN
ECUMENICAL NEIGHBORHOOD DEVELOPMENT,
INC. (MEND), A NONPROFIT CORPORATION FOR
DEVELOPMENT OF AFFORDABLE HOUSING**

WHEREAS, the Township of Florence (“Township”) owns the properties known as the Marcella L. Duffy School and 203 West Second Street (the “Properties”) and identified as Block 45, Lots 8, 9, 10, 13, 14 and 15 on the Tax Map of the Township of Florence, County of Burlington for the purpose of providing affordable housing; and

WHEREAS, on July 11, 2012, the Township entered into an Affordable Housing Agreement with Moorestown Ecumenical Neighborhood Development, Inc. (“MEND”) for the development of a fifty three (53) unit rental housing project on the Property (the “Project”); and

WHEREAS, pursuant to the Affordable Housing Agreement, the Township’s intent to convey the properties to MEND is contingent upon MEND securing all necessary approvals for the development of the Project on the Property; and

WHEREAS, the Township Council of the Township of Florence has determined that the Property is not needed for municipal purposes and should be conveyed to MEND for development of age-restricted and disabled affordable housing; and

WHEREAS, the Local Land and Building Law at N.J.S.A. 40A:12-21(l) authorizes private sales for nominal consideration to any duly incorporated nonprofit housing corporation when conveyed for the purpose of constructing housing for low or moderate income persons or families or handicapped persons, and further authorizes at N.J.S.A. 40A:12-13(c) conveyance upon nominal consideration to private developers under the Local Redevelopment and Housing Law at N.J.S.A. 40A:12A-1 et seq; and

WHEREAS, said Redevelopment and Housing Law at N.J.S.A. 40A:12A-8(g), in turn allows a municipality to convey property in the fashion contemplated herein; and

WHEREAS, also, the NJ Fair Housing Act at N.J.S.A. 52:27D-311.a.(5) authorizes the “donation or use of municipally owned land or land condemned by the municipality for purposes of providing low and moderate income housing;” and

WHEREAS, MEND qualifies as a nonprofit housing corporation; and

WHEREAS, the Township Council of the Township of Florence has determined to convey to MEND for the purposes of providing low and/or moderate income housing; and

WHEREAS, the conveyance authorized by this ordinance is made expressly subject to MEND’s satisfaction of its obligations under its Affordable Housing Agreement with the Township, the condition that a deed restriction in perpetuity as more particularly set forth below be filed in the chain of title of the real estate to be conveyed and the condition that a reverter clause be placed in the deed.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF FLORENCE, IN THE COUNTY OF BURLINGTON, NEW JERSEY AS FOLLOWS:

SECTION 1. FINDINGS AND DECLARATIONS:

The Township Council of the Township of Florence does herein find and declare as follows:

- A. The real property more particularly described above and in Section 3 of this Ordinance is not needed for municipal purposes.
- B. The property described above and in Section 3 of this Ordinance should be sold pursuant to N.J.S.A. 40A:12-21 for affordable housing purposes.
- C. MEND, a nonprofit corporation, is an experienced and effective developer of affordable rental property for households of low and moderate income.
- D. The Township Council of the Township of Florence does herein find and declare that it is consistent with the laws of the State of New Jersey and the purposes for which real estate may be conveyed to nonprofit corporations or associations for nominal consideration that the municipality be and hereby is authorized to make the conveyance of land to MEND but expressly subject to the restriction of use set forth in this Ordinance at Section 4 and the reverter provisions set forth herein at Section 5.

SECTION 2. AUTHORIZATION TO CONVEY REAL PROPERTY TO MEND:

Under the authority of N.J.S.A. 40A:12-21(l), 40A:12-13(c), 40A:12A-8(g), as well as under the authority of the NJ Fair Housing Act at N.J.S.A. 52:27D-311.a.(5), the Township Council of the Township of Florence does hereby authorize the private sale of the lands described in Section 3 of this Ordinance to MEND, a nonprofit corporation, contingent upon MEND’s satisfaction of the conditions of the Affordable Housing Agreement. The deed conveying the said lands shall contain the deed restriction set forth at Section 4 of this Ordinance and shall contain the reverter clause set forth at Section 5 of this Ordinance.

The sale authorized by this Ordinance shall in all respects comply with the Florence Township/MEND Affordable Housing Agreement, heretofore entered by and between the Township of Florence and MEND, together with the Amendments to the said Agreement now in effect or those amendments hereafter made and entered. This authorization shall also be subject to the conditions and requirements of any agreements for funding accepted from the State of New Jersey or any other public funding sources to develop or construct the project.

The Mayor is hereby authorized to execute any and all deeds, affidavits of title or other documents necessary to effectuate the conveyance authorized by this deed and the Clerk shall attest same and shall affix the seal of the Township as required.

SECTION 3. DESCRIPTION OF PROPERTY TO BE CONVEYED FROM THE TOWNSHIP OF FLORENCE TO MEND:

The real property authorized to be sold, transferred and conveyed to The Township of Florence to MEND, a nonprofit corporation by this Ordinance is the former Marcella L. Duffy School property

and 203 West Second Street, identified as Block 45, Lots 8, 9, 10, 13, 14 and 15 on the municipal tax maps, and further described as set forth in Attached Exhibit A.

SECTION 4. DEED RESTRICTION REQUIRED:

The sale, transfer and conveyance of the real property authorized by Section 2 of this Ordinance shall be expressly subject to the required covenant language required by N.J.S.A. 40A:12A-9, as well as COAH’s deed restriction or HMFA’s deed restriction. The following language shall be inserted in any required deed restriction and shall read as follows:

ADDITIONAL DEED RESTRICTION LANGUAGE

This conveyance is subject to the following restrictions on use of the real property sold which restrictions shall run with the land IN PERPETUITY and shall be binding upon the Grantee its successors, mortgagees and assigns:

A. The lands conveyed shall be utilized solely for the development and construction of not less than 53 units of age-restricted and supportive and special needs rental housing for very low, low and moderate income households. The term low and moderate income households shall have the same meaning as utilized in the rules and regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97) and the rules and regulations defining Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1) now and as those rules and regulations may be hereafter amended.

Construction permits shall be issued for the project and actual construction shall commence no later than 6 months after the award of Low Income Housing Tax Credits for the Project. Thereafter the Grantee shall diligently prosecute construction work on the project and shall achieve substantial completion of the work within 18 months following the start of construction.

B. The 53 units of rental housing for low and moderate income households to be developed and constructed upon the lands conveyed shall be operated and administered IN PERPETUITY as rental housing for low and moderate income households (as the term low and moderate income households is defined in paragraph A above).

C. The Grantee shall cooperate in following and complying with all rules and regulations in any and all necessary actions, to the extent such cooperation is necessary to assist Florence Township in securing maximum COAH credits for the 53 affordable units within the rental housing project built upon the lands conveyed.

SECTION 5. REVERTER REQUIRED.

The sale, transfer and conveyance of the real property authorized by Section 2 of this Ordinance shall be subject to an express reverter clause which shall be inserted in the deed and shall read as follows:

REVERTER

The lands sold, transferred and conveyed under this deed shall be used solely in conformity with the deed restriction set forth hereinabove in this deed and specifically:

A. The lands conveyed shall be utilized solely for the development and construction of not less than 53 units of age-restricted and supportive and special needs rental housing for low and moderate income households. The term *low and moderate income households* shall have

the same meaning as utilized in the rules and regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97) and the rules and regulations defining Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1) now and as those rules and regulations may be hereafter amended.

Construction permits shall be issued for the project and actual construction shall commence no later than 24 months following the execution and delivery of this deed. Thereafter the Grantee shall diligently prosecute construction work on the project and shall achieve substantial completion of the work within 18 months following the start of construction.

B. The 53 units of rental housing for low and moderate income households to be developed and constructed upon the lands conveyed shall be operated and administered IN PERPETUITY as rental housing for low and moderate income households (as the term *low and moderate income households* is defined in paragraph A above).

C. The Grantee shall cooperate in following and complying with all rules and regulations of the COAH (N.J.A.C. 5:97) and shall cooperate in any and all necessary actions, to the extent such cooperation is necessary to assist Florence Township in securing maximum COAH credits for the 53 affordable units within the rental housing project built upon the lands conveyed.

In addition, the lands conveyed shall not be used for any commercial business, trade or manufacture.

IN THE EVENT THE LANDS CONVEYED IN THIS DEED AND/OR THE BUILDINGS PROPOSED TO BE ERECTED UPON SUCH LANDS ARE NOT OPERATED AND ADMINISTERED IN PERPETUITY AS AND FOR AT LEAST 53 UNITS OF RENTAL HOUSING FOR LOW AND MODERATE INCOME HOUSEHOLDS (AS THE TERM *LOW AND MODERATE INCOME HOUSEHOLDS* IS DEFINED IN PARAGRAPH A ABOVE), OR IF THE SAID LANDS OR BUILDINGS CEASE TO BE SO USED, TITLE AND POSSESSION OF THE LANDS OR BUILDINGS CEASE TO BE SO USED, TITLE AND POSSESSION OF THE LANDS CONVEYED, THE BUILDINGS CONSTRUCTED AND SITUATE THEREON, ALL SITE IMPROVEMENTS, LAWFUL LEASES AND TENANCIES SHALL REVERT TO THE TOWNSHIP OF FLORENCE WITHOUT ANY ENTRY OR RE-ENTRY MADE THEREON ON BEHALF OF THE MUNICIPALITY. IN THE EVENT THAT MEND WISHES TO SELL, TRANSFER, OR OTHERWISE CEASE THEIR INVOLVEMENT WITH THE BUILDINGS AND LAND, MEND MUST APPLY TO THE TOWNSHIP OF FLORENCE FOR CONSIDERATION OF SUCH APPROVAL WHICH SHALL NOT BE UNREASONABLY WITHHELD WITH THE UNDERSTANDING THAT ANY NEW OWNER MUST CONTINUE TO ADMINISTER AND OPERATE THE UNITS AS AFFORDABLE HOUSING. IN THE EVENT THAT MEND FORMS A PARTNERSHIP OR CREATES A NEW COMPANY, AND REMAINS THE MANAGING PARTNER IN SUCH PARTNERSHIP OR COMPANY, THE TOWNSHIP OF FLORENCE SHALL NOT REQUIRE APPROVAL PROVIDED TOTAL OWNERSHIP IS NOT TO BE CONVEYED.

SECTION 6. MISCELLANEOUS PROVISIONS:

The following provisions of this Ordinance are and shall be mandatory upon the Grantee as a condition of accepting the deed:

A. Nothing in this Ordinance shall relieve the Grantee, MEND from any obligation to The Township of Florence under or in connection with The Florence Township/MEND Affordable Housing Agreement dated July 11, 2012 heretofore entered by and between The Township of Florence and MEND or any amendments to the said Agreement now in effect or those amendments hereafter made and entered. The obligations of MEND under such Agreement shall continue in full force and effect without relaxation or reduction.

B. MEND shall meet all of the requirements of THE Township, County, State and Federal financial assistance issued with respect to the project including , COAH (N.J.A.C. 5:97 rules and regulations and the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1).

C. MEND shall comply with all conditions of approval imposed by the land use approvals of the Florence Township Planning Board.

D. Pursuant to the July 11, 2012 Florence Township/MEND Affordable Housing Agreement, together with any Amendments to said Agreement hereafter made and entered, MEND or its successors or assigns shall income qualify the low and moderate income households who will occupy the 53 affordable units rental project at its sole cost and expense and without any cost or administrative burden to the Township of Florence. Likewise, MEND shall prepare and file all COAH and HMFA monitoring and reporting forms for the project without any expense or administrative burden to the Township of Florence.

E. MEND or its successors or assigns shall prepare a regular Property Maintenance Schedule which it shall annually file with the Township Administrator, the Township Clerk and the Township Construction Code Official. The form of the document filed and specificity of the scheduled maintenance work listed must conform to the standards and requirements of the Township Administrator or his designee. The Property Maintenance Schedule shall be reviewed and approved by the Township Administrator or his designee. The work set forth on the approved Property Maintenance Schedule shall be considered mandatory maintenance which shall be undertaken by MEND, its successors or assigns. In exercising its right to approve the Property Maintenance Schedule, the Township Administrator or his designee shall act with reasonable discretion and shall not impose commercially unreasonable requirements.

F. The Township's interests, including the Reverter Clause set forth in Section 5 hereinabove, shall be subordinated to construction financing on the lands conveyed, by the execution and recording of appropriate documents of subordination or non-disturbance in order to facilitate the construction of the buildings and improvements which will be occupied as the 53 units of low and moderate income rental housing contemplated by this Ordinance SO LONG AS the Township Attorney is satisfied and certifies in writing that there are sufficient performance guarantees from a capable surety licensed to do business in the State of New Jersey assuring the faithful completion of the construction work.

G. The Township's interests including the Reverter set forth in Section 5 hereinabove shall be subordinated to any mortgages, encumbrances or liens of The County of Burlington, The New Jersey Housing and Mortgage Finance Agency, or any other public agency or entity contributing financing by way of grants or loans to the project SO LONG AS the Township Attorney is satisfied and certifies in writing that there are written and enforceable undertakings by MEND, or its successors and assigns to such bodies or agencies guaranteeing that the use of the property will be limited to the provision of affordable rental housing for low and moderate income households.

SECTION 7. INCONSISTENT ORDINANCES:

Any Ordinances or portions thereof, which are inconsistent with the provisions of this ordinance, are hereby repealed as of the effective date of this Ordinance.

SECTION 8. DECLARATION OF INVALIDITY:

If any provision of this Ordinance, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Ordinance shall not be affected thereby. The provisions found or held to be invalidated shall be stricken and the remaining provisions shall be considered severable and shall continue in full force and effect.

SECTION 9. EFFECTIVE DATE:

This Ordinance shall take effect upon publication of the notice of its final adoption pursuant to N.J.S.A. 40:49-2(d) or 20 days after the vote of the Township Council finally adopting the Ordinance (N.J.S.A. 40:69A-181), whichever is later.

This Ordinance was introduced at a meeting of the Township Council of the Township of Florence held on December 5, 2012 and will be considered for final passage after a public hearing at a regular meeting of the Township Council to be held on December 19, 2012 at the Township Municipal Building, 711 Broad Street, Florence Township, New Jersey at 8:00 p.m.

This will certify that the foregoing Ordinance was passed by a majority of the Florence Township Council on December 19, 2012.

Joy M. Weiler, RMC/MMC
Township Clerk

Jerry Sandusky
President of Council

I HEREBY CERTIFY that the foregoing Ordinance is a true and exact copy of an Ordinance finally adopted at the meeting of the Township Council of the Township of Florence, County of Burlington, State of New Jersey, 711 Broad Street, Florence, New Jersey 08518 held on December 19, 2012 and duly recorded in my office; that all requirements of law pertaining to the conduct of said meeting and the passage of this Ordinance were observed; and that I am duly authorized to execute this certificate.

Dated this day of , 2012

Joy M. Weiler, RMC/MMC