

Final as of 9/22/23

SETTLEMENT AGREEMENT

FINAL 10-25-23

This Settlement Agreement dated the 25th day of October, 2023 ("Agreement"), by and between.

BOROUGH OF ALPINE, a municipal corporation of the State of New Jersey, with offices located at the Municipal Building
100 Church Street
P.O. Box 1095
Alpine, New Jersey 07620-1095

("Borough")

and:

The BOROUGH OF ALPINE PLANNING BOARD, Municipal Building, 100 Church Street, P.O. Box 1095, Alpine, New Jersey 07620-1095 ("Board") (the Borough and Board may collectively be referred to as "Municipal Parties")

And:

F.E. ALPINE, INC.; SYLCO INVESTMENTS #4, LLC; SYLCO INVESTMENTS 854, LLC; 850 CLOSTER DOCK ROAD, LLC; 842 CLOSTER DOCK ROAD, LLC; AND SYLCO INVESTMENTS #5, LLC with offices located at

(Collectively, "Developer")

WITNESSETH:

WHEREAS, the Developer is the owner of certain property located in the Borough of Alpine, County of Bergen, State of New Jersey, known and designated as Block 55, Lots 25.01, 26, 27, 28, 29, and 30 on the Official Tax Map of the Borough of Alpine located on Closter Dock Road generally between Frick Drive and Apple Tree Lane, consisting of approximately 22.6 acres in the aggregate ("Property"); and

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WHEREAS, the Borough and the Developer are involved in in the litigation in the New Jersey Superior Court captioned Sylco Investments #4, LLC et al v. Borough of Alpine, Docket No. BER-L-0293-20 ("Litigation"), ; and

WHEREAS, the parties have entered into discussions in an effort to resolve the Litigation by adopting a revised zoning ordinance to permit the development of a 40 unit townhouse development on the Property which will create a realistic opportunity for 8 affordable housing units.

NOW, THEREFORE, IN CONSIDERATION OF the mutual promises and covenants herein set forth, the parties, for themselves, their successors and assigns, hereby agree as follows:

I. INCORPORATION OF RECITALS.

The foregoing prefatory statements, recitals and representations are incorporated herein and made a part hereof.

II. PURPOSE OF AGREEMENT.

The purpose and intent of this Agreement is (a) to resolve the Litigation as it relates to the Developer and the Borough upon the adoption of an Ordinance rezoning the Property consistent with the Ordinance attached as Exhibit A ("Ordinance"); (b) to resolve the Litigation as it relates to the Developer and the Borough by confirming that the Developer will support the Housing Element and Fair Share Plan ("HEFSP") adopted by the Borough which shall include the development of the Property as set forth herein; (c) to resolve the Litigation as it relates to the Developer and the Borough confirming that the Developer will not oppose the Borough's request to obtain a Judgment of Compliance and Repose for a period of ten years in litigation captioned In the Matter of the Application of the Borough of Alpine, Docket No. BER-L-6286-15 ("DJ Litigation"); (d) to establish a judicial protocol to address a certain Previously Imposed Planning

Board Restriction (as hereinafter defined and as was recorded in the chain of title) and Conditions of Approval (as hereinafter defined) that may otherwise impact the construction of the Development(as hereinafter defined);(e) to resolve the Litigation by the Developer and the Borough by fully complying with the terms and conditions of this Agreement; and (f) to resolve the Litigation as it relates to the Developer and the Borough by providing for the construction of the Development (as hereinafter defined) consistent with the Concept Plan attached as Exhibit B, except for *de minimis* bulk variances and waivers resulting only from the detailed final engineering design of the Development, PROVIDED, HOWEVER, that the Developer shall not seek any variances from the Ordinance relative to the following: (i) use; (ii) maximum density; (iii)the general location and general layout of buildings as shown on the Concept Plan; ; (iv) aggregate number of units (40); (v) number of affordable units (8); (vi) number of market units (32); and (vii) height and stories.

III. DEFINITIONS.

Affordable Housing Unit ("AHU"). An Affordable Housing Unit is an on-site non-age restricted rental unit that is affordable to a very low income, low income or moderate income household consistent with the requirements of the New Jersey Fair Housing Act ("FHA"), N.J.S.A. 52:27D-301, et seq.; applicable regulations of the New Jersey Council on Affordable Housing ("COAH"); applicable requirements of the Courts of the State of New Jersey; and all applicable regulations on affordability controls and other regulations of the New Jersey Housing and Mortgage Finance Agency ("NJHMFA"), including, without limitation, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("UHAC") except as to the very low income housing obligation, which shall be as required by the terms of this Agreement.

Affordable Housing Requirement. A total of 8 on-site non-age restricted rental AHU's will be provided in the Development, 50% (4) of which will be available for very low income and low-income households and the remainder of which (4) will be available to moderate income households as defined in the FHA and UHAC, and any other applicable regulations. A minimum of 13% (1) of the total of 8 AHU's will be made available to very low-income households, defined as households earning 30% or less of the regional median income by household size. For clarity, the 8 AHU's will consist of 4 moderate income AHU's; 2 low income AHU's and 2 very low income AHU's. The Developer shall provide a preference for very low, low and moderate households of which a member of that household is a veteran as permitted under N.J.S.A. 52:27D-311 for up to 50% of the AHU's. The Borough agrees to adopt any ordinances or resolutions necessary to support this preference.

Concept Plan. The Concept Plan for the Property dated April 27, 2023 last revision October 24, 2023 and attached hereto as Exhibit B.

Developer. F.E. ALPINE, INC.; SYLCO INVESTMENTS #4, LLC; SYLCO INVESTMENTS 854, LLC; 850 CLOSTER DOCK ROAD, LLC; 842 CLOSTER DOCK ROAD, LLC; AND SYLCO INVESTMENTS #5, LLC and/or its successors, transferees and/or assigns.

Development. The Developer will seek approvals for a residential development consistent with the Concept Plan dated April 27, 2023 last revision October 24, 2023, which is attached hereto as Exhibit B and comprised of (a) 40 on-site, non-age-restricted townhomes consisting of (i) not more than 32 market units and (ii) 8 on-site, non-age-restricted rental AHU's and of the 8 AHU's , 1 will be one bedroom units; 5 will be two bedroom units; and 2 will be three bedroom units. The Development may include usual or customary additional accessory uses and structures as amenities to the townhomes including by way of example and not limitation, pools, clubhouses,

tennis/pickleball courts, passive/active recreation, and open space play areas. In addition to the foregoing, outdoor parking areas shall be permitted in addition to indoor parking in the individual garages.

It is agreed between the Borough and the Developer that a portion of Appletree Lane will be vacated by the Borough upon the Planning Board's approval of the Site Plan. That portion is the entire width of Appletree Lane from its easterly terminus at the property owned by the Developer and running westerly 55 feet as shown on the sketch attached hereto and marked as Exhibit "D".

Residential Unit. Any and all residential units constructed in the Development, including the AHU's therein.

Ordinance. The Ordinance to be adopted by the Borough attached as Exhibit A, which rezones the Property as the new COAH-3 Residential Zone District.

IV. BOROUGH AND PLANNING BOARD OBLIGATIONS.

A. Within 90 days of the Court Order approving this Settlement Agreement , the Planning Board shall adopt a Master Plan Amendment consistent with the procedures prescribed by the Municipal Land Use Law ("MLUL") which is consistent with the Ordinance to permit the Development as permitted by the Ordinance. The Master Plan Amendment shall be substantially consistent with, and written, to further the implementation of the Ordinance attached hereto as Exhibit A and with the Concept Plan attached hereto as Exhibit B. The Parties acknowledge and agree that if there is an inconsistency between the unit counts and zoning controls set forth in the Ordinance (attached as Exhibit A) and the Concept Plan attached as Exhibit B, the terms of the Ordinance shall prevail. Nothing herein shall preclude the Parties from further discussing, and/or

modifying the Ordinance and agreeing to a new approach provided that all Parties agree on the new Ordinance.

B. Within 120 days of the Court Order approving this Settlement Agreement, the Mayor and Council shall introduce the Ordinance in the form attached hereto as Exhibit A. The Borough shall immediately thereafter refer the Ordinance to the Planning Board for review. The Planning Board shall complete its review pursuant to the MLUL and report its recommendation to the Mayor and Council within the 35 day statutory period as set forth in the MLUL.

C. The Borough shall conduct a public hearing in accordance with the requirements of the MLUL and adopt the Ordinance at the first regularly scheduled meeting of the Governing Body after the Board has issued its report and recommendations or after 35 days have elapsed from the date that the Ordinance was referred to the Board after introduction, whichever is sooner

D. The Borough and Planning Board have reviewed the Ordinance and the Concept Plan and acknowledge that same are consistent with the purpose and intent of this Agreement and will review the Master Plan Amendment as soon as it is available.

E. All Parties acknowledge that Developer, the Borough and/or the Planning Board may propose modifications to the plan submitted for approval if necessitated solely by the engineering of the Development. The Parties agree to reasonably consider any such request for modification necessitated solely by the engineering of the Development provided, however, that the following components shall not be modified:

- i. 40 units of which 8 of the units in the aggregate must be AHU's as required by this Agreement and constructed as part of an inclusionary development as set forth below and subject to the phasing provisions set forth in this Agreement.
- ii. No more than 40 gross units on the Property.

iii. No variances shall be sought or obtained from the Ordinance relative to the following: (i) use; (ii) maximum density; (iii) the general location and general layout of buildings as shown on the Concept Plan; (iv) aggregate number of units (40); (v) number of affordable units (8); (vi) number of market units (32); and (vii) height and stories.

F. The proposed development of the Property pursuant to this Agreement shall require site plan approval in accordance with current Borough land use and zoning regulations as amended by the Ordinance, procedural requirements of the Municipal Land Use Law, and the provisions of this Agreement.

G. If the Ordinance adopted in accordance with this Agreement is challenged by a third party, the parties hereto agree to fully defend the Ordinance at their respective cost and expense.

H. The Borough shall cooperate and support the Developer's efforts to obtain all required governmental and utility approvals for the Development, provided the Development proposed by the Developer is consistent with the Concept Plan (Exhibit B) and consistent with the Ordinance (Exhibit A) except for any *de minimis* variances or waivers from its provisions resulting only from the completion of detailed engineering of the site plans, PROVIDED, HOWEVER, that the Developer shall not seek any variances from the ordinance or otherwise relative to the following: (i) use; (ii) maximum density; (iii) the general location and general layout of buildings as shown on the Concept Plan; (iv) aggregate number of units (40); (v) number of affordable units (8); (vi) number of market units (32); and (vii) height and stories.

I. Upon the receipt by the Planning Board of a complete application from the Developer for site plan approval consistent with the Concept Plan (Exhibit B) and consistent with the Ordinance (Exhibit A), the Borough shall take all appropriate actions to assist the Planning

Board to expeditiously process the application, schedule the matter for public hearing and render a decision thereon in accordance with the requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. ("MLUL").

V. DEVELOPER'S OBLIGATIONS AND REPRESENTATIONS.

A. The Developer agrees to file with the Borough's Planning Board a complete application for site plan approval consistent with the Concept Plan (Exhibit B) and consistent with the Ordinance (Exhibit A), except for any *de minimis* variances or waivers from its provisions resulting only from the detailed final engineering design of the Development as set forth above. Notwithstanding the right to seek *de minimis* variances or waivers abovementioned, the Developer shall not seek any variances from the Ordinance relative to the following: (i) use; (ii) maximum density; (iii) the general location and general layout of buildings as shown on the Concept Plan; (iv) aggregate number of units (40); (v) number of affordable units (8); (vi) number of market units (32); and (vii) height and stories, as set forth in Article II of this Agreement. The parties acknowledge that the aesthetic appearance and appeal of the Development from the adjoining streets and properties, including specifically all façades, number of units, footprint and height of the buildings, constitute significant areas of concern for the Borough and the neighborhood. Therefore, it is an essential and significant element of this Agreement that any development application presented to the Planning Board shall be consistent with the Concept Plan (Exhibit B) and consistent with the Ordinance (Exhibit A), except for any *de minimis* variances or waivers from its provisions resulting only from the detailed final engineering design of the Residential Development, PROVIDED, HOWEVER, that the Developer shall not seek any variances from the Ordinance relative to the following: (i) use; (ii) maximum density; (iii) general location and

general layout of buildings; (iv) aggregate number of units (40); (v) number of affordable units (8); (vi) number of market units (32); and (vii) height and stories.

B. The Developer shall impose a Deed Restriction (“Affordability Controls”) for all of the 8 on-site non-age restricted rental AHU’s comprising the Affordable Housing Component. The 8 AHU’s in the Affordable Housing Component shall be subject to the Affordability Controls which shall run for a minimum of thirty (30) years, and until the Borough elects to release the Affordability Controls. All AHU’s shall be governed by the controls on affordability set forth in the UHAC and/or any successor statutes or regulations, except as to the requirement to make a minimum of 13% of the AHU’s available to very low income households, which shall be as required by the terms of this Agreement and applicable New Jersey statutes. The Developer shall identify the location of the AHU’s in the Development and by Unit Number in the Deed Restriction. The Developer shall also provide floor plans depicting the location and identifying the Unit Number of all of the AHU’s in the Development. All deeds and restrictions regarding the affordability controls on the 8 non-age-restricted, rental AHU’s shall be in accordance with the forms provided by UHAC and/or COAH’s rules and reviewed and approved by the Borough and its counsel for compliance with these applicable legal requirements.

C. The Developer shall utilize the services of the Administrative Agent approved and appointed by the Borough to affirmatively market the AHU’s in accordance with this Agreement and UHAC, and/or any successor statutes or regulations, and ensure that current regulations are followed with regard to the marketing/leasing (including lease renewals) of the AHU’s, all at the sole cost and expense of the Developer.

D. The Developer shall construct the 8 on-site non-age restricted rental AHU’s pursuant to the following construction phasing schedule: (i) Prior to the issuance of a certificate

of occupancy for the 9th market rate Residential Unit, certificates of occupancy must be issued for 1 AHU's; (ii) Prior to the issuance of a certificate of occupancy for the 16th market rate Residential Unit (50%), certificates of occupancy must be issued for a total of 4AHU's (50%); (iii) Prior to the issuance of a certificate of occupancy for the 24th market rate Residential Unit (75%), certificates of occupancy must be issued for a total of 6 AHU's (75%); and (iv) Prior to the issuance of a certificate of occupancy for the 28th market rate Residential Unit (90%), certificates of occupancy must be issued for a total of 8 AHU's (100%).

E. The Developer shall provide the Borough with a copy of any application or submission to the County of Bergen, the New Jersey Department of Environmental Protection ("NJDEP") or any other County or State agency (collectively, "Governmental Entities") simultaneously with the submission of the application and/or request to such entity.

F. To the extent necessary, to provide public water and public sanitary sewer service to the Development, the Developer shall extend existing public water and public sanitary sewer facilities to the Development at the Developer's sole cost and expense, including, without limitation, all hard costs and soft costs associated with such extensions. The engineering design for such extensions shall be approved by the approving authority.

G. The Developer is aware that portions of the Property received prior approvals from the Planning Board which were memorialized by resolutions adopted by the Planning Board on January 23, 2007, May 20, 2008 and October 28, 2008. The Parties acknowledge the existence of a deed restriction encumbering portions of the Property contained in a deed dated June 4, 2008, from Sylco Investments #3, LLC and to F.E. Alpine, Inc. recorded in the Bergen County Clerk's Office in Book 9581, beginning at Page 115 on July 29, 2008 (the "DR"). The DR states:

“This conveyance is made subject to the restriction that the current owner, or any future owner of the subject property may not subdivide the property into additional lots at any time in the present or in the future. This deed is also subject to all access and utility easements, drainage easements and conservation easements which affect the subject property. This conveyance is also subject to the terms and conditions of a Homeowners Association Agreement to be recorded subsequent to the recording of the within deed.”

In addition, in conjunction with an application for amended approval heard by the Planning Board on September 28, 2008, the Planning Board adopted a resolution on October 28, 2008 which refers in its “Findings of Fact”, to the applicant’s engineer stating that after consultation with client, the applicant would impose a deed restriction on the remainder of the parcel that it would be used for one single-family dwelling. That representation was incorporated in the “Conclusions” section of the October 29, 2008 resolution by a condition:

“D. Imposition of a deed restriction on the remainder lot to permit one dwelling only; form and language to be satisfactory to the Planning Board Attorney and the Planning Board Engineer.” [the “Condition of Approval” (“COA”)]

The Parties acknowledge that the COA imposed in the Resolution is different from the condition as reflected in the meeting minutes. The Borough hereby consents to the Developer and the Board being granted limited joinder status in the litigation captioned *In the Matter of the Application of the Borough of Alpine, County of Bergen*, Docket No. BER-L-6286-15 (“DJ Litigation”) by signing the consent order attached as Exhibit “C” solely for the purpose of modifying, removing, or discharging the COA and DR and (ii) conducting the Fairness Hearing on this Settlement implementing the terms of this Agreement. The Parties further agree that the Municipal Parties shall provide its consent to, agreement with and endorsement of the discharge of the DR and/or COA, based upon its constitutional obligation to provide a reasonable opportunity for affordable housing and in support of the settlement of this litigation, for the modification, removal or discharge of the DR and COA and/or (at Developer’s sole election) the Court finding

that the Development proposed by way this Agreement would not violate the DR and COA. Therefore, this Agreement is conditioned upon the Court entering an order in the DJ Litigation that modifies, removes or discharges the DR and COA and/or finds that the Development would not violate the DR and COA, which order may be recorded by the Developer in the County Clerk's office. In addition, the Municipal Parties agree to consent to and otherwise cooperate in connection with, and to facilitate and support, the extinguishment and/or the interpretation of the DR and COA as set forth in this Agreement in this and any other action. The Municipal Parties shall take no action or support any action taken by third parties opposing this application and shall defend and uphold the validity of this Agreement and any action(s) taken in furtherance of this Agreement.

VI. FAIRNESS HEARING.

A. Prior to becoming effective, this Settlement Agreement shall be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). Said fairness hearing shall be conducted in conjunction with, and as part of, the fairness and preliminary compliance hearing on the anticipated settlement agreement with Fair Share Housing Center ("FSHC") in the DJ Litigation. If this Settlement Agreement is not approved by the Court, then this Settlement Agreement shall be deemed terminated and shall be of no further force and effect and the parties shall return to their respective positions as if this Settlement Agreement had not been executed by the parties. The Developer agrees to support the application for approval of the anticipated settlement agreement with FSHC and the requests by the Borough for approval of a HEFSP (provided the Municipal Parties are not in default under this Agreement and that said settlement agreement with FSHC includes the rezoning of the Property as required by this

Agreement) as well the Borough's requests to obtain a Judgment of Compliance and Repeal to July 1, 2025.

B. Within seven (7) days after full execution of this Agreement, the Parties shall make application to the Court for the scheduling, as soon as possible of a Fairness Hearing on the approval and fairness of this Agreement and the FSHC Agreement.

C. Following the setting of a date for a Fairness Hearing, the Borough shall promptly comply with and be responsible for all notice requirements as may be directed by the Court. Developer shall have the right to review and comment upon the form of notice as proposed to the Court by the Borough. Said notice shall be published timely so as to permit the Court to proceed with the date set for a Fairness Hearing.

D. The Parties hereto agree to cooperate and participate in the defense of any challenge to, or appeal of, the contemplated Court approval of this Agreement or any related implementing action.

E. Each Party shall be responsible for its own costs and expenses associated with seeking Court approval for and implementing this Agreement, including any litigation costs.

F. The Parties shall jointly support entry of an order approving this Agreement in settlement of the Litigation. If the Court approves this Settlement Agreement at the conclusion of the Fairness Hearing referenced above and, if no appeal is filed, the Developer and the Borough shall file a Joint Stipulation of Dismissal with prejudice and without costs to either party in the Litigation (i.e., Sylco Investments #4, LLC et al v. Borough of Alpine, Docket No. BER-L-0293-20), If an appeal is filed, then the Joint Stipulation of Dismissal with prejudice and without costs to either party will be filed upon the conclusion of all appeals and an affirmance of the Court's determination. If the Court declines to approve this Agreement, the Parties shall attempt, with

the assistance of the court-appointed special master to modify this Agreement in a manner to address the Court's concerns. If they are unable to do so within 45 days, either the Developer or the Borough may, by written notice to all other Parties terminate this Agreement.

VII. Intentionally Omitted

VIII. GENERAL PROVISIONS.

A. **Implementation.** Each party to this Settlement Agreement shall implement and carry out the provisions of this Agreement related to the respective party.

B. **Defense of Agreement.** The parties shall fully cooperate with each other to defend the terms and conditions of this Agreement against any legal challenges filed, at their sole cost and expense.

C. **Entire Agreement.** This Agreement contains the entire agreement between the parties. No additions, changes or modifications, renewals or extensions hereof shall be binding unless reduced to writing and signed by the parties hereto.

D. **Parties Bound.** This Agreement shall inure to the benefit of and be binding upon the parties, their successors and assigns.

E. **Validity.** In the event that one or more of the provisions of this Agreement are held invalid, void or unenforceable, or the Settlement Agreement is not approved by the Court at a fairness and compliance hearing, this Agreement shall become null and void and be of no legal effect.

F. **Recording.** Upon approval by the Court at a fairness and compliance hearing, the Borough may record this Settlement Agreement in the office of the Bergen County Clerk.

G. **Default and Remedies.** It shall be a default of this Agreement for any party to fail to perform any of its obligations as set forth in this Agreement unless another remedy or consequence is set forth herein.

i. Upon the occurrence of a Default, the adversely affected party shall provide written notice of said default to the defaulting party. The defaulting party shall have a reasonable opportunity to cure the default ("Cure Period"), but in no event shall said Cure Period exceed thirty (30) days or reasonable extension agreed to by the parties or as ordered by the Court. If the defaulting party has cured the default within the Cure Period, as may have been extended, there shall no longer be a Default.

ii. Upon the occurrence of a Default, which has not been cured within the Cure Period, if any, the adversely affected party shall have the right to file a motion with the Court in aid of litigant's rights pursuant to Rule 1:10-3 of the Rules Governing the Courts of the State of New Jersey.

iii. If a Court determines that there has been a default by any party, which has not been cured within the Cure Period, if any, the defaulting party shall be responsible for the reasonable expenses incurred by the adversely affected party or parties in seeking a remedy for the default, including, but not limited, to reasonable attorney's fees, any reasonably necessary professional costs and court costs.

H. **Processing of Complete Application.** Planning Board shall process the application for development of the Property within the time periods as set forth in the MLUL. At the request of the Developer, the Planning Board shall schedule special meetings to facilitate expedited processing of such applications in accordance with N.J.A.C. 5:93-10.1. Neither the

Borough nor the Planning Board may impose any procedural or substantive requirement that would be inconsistent with or violate the requirements of N.J.A.C. 5:93-10, et. seq.

I. **Reports** Requests by the Planning Board for reports shall be governed by the standards and procedures set forth in N.J.A.C. 5:93-10.3. The Planning Board may require submission of a stormwater management plan or flood hazard area plan, but, if the Developer seeks permits that require approval of the stormwater management plan or flood hazard area plan by the New Jersey Department of Environmental Protection (NJDEP), the Borough and/or Planning Board shall not make an independent assessment of the stormwater management plan, but shall simply condition any development approvals upon approval of the stormwater management plan or flood hazard plan area by the NJDEP.

J. **Off-Tract Improvements** Except as expressly provided in the Ordinance adopted pursuant to this Agreement, neither the Borough nor the Planning Board shall require the Developer, his successors or assigns, to construct, or pay for, any municipal off-tract improvements other than those provided for by N.J.S.A. 40:55D-42.

K. **Concept Plan** The Municipal Parties have reviewed the Concept Plan, a copy of which is attached as Exhibit B. While recognizing that this plan has not yet been fully engineered and is subject to the changes due to site conditions unknown at this time, the Municipal Parties stipulate that this plan represents an acceptable concept plan for the development of the Property under the terms of the Ordinance attached as Exhibit A. The Municipal Parties acknowledge and agree that the configuration, location, and size of the plan components shown on the Concept Plan may undergo de minimus changes, without the necessity of obtaining the consent or approval of the Municipal Parties under this agreement, provided that such changes result from site conditions unknown at this time and comply with the provisions of the Ordinance. Nothing herein shall

exempt the Developer from obtaining approval for such changes and for the Development from the Board or other entities having jurisdiction thereover.

L. **Third-Party Approvals** The Municipal Parties shall support and cooperate with Developer's efforts to secure permits, approvals or other authorizations (collectively "Approvals") from governmental bodies and agencies as may be necessary for the construction of the Development including, but not limited to, approvals from the NJDEP under the Freshwater Wetlands Protection Act, Flood Hazard Area Control Act and Water Quality Management Planning program; the County of Bergen and its agencies; and the Bergen County Utility Authority ("BCUA"). In connection herewith, the Municipal Parties shall execute such documents in support of applications for Approvals as may be reasonably requested by Developer to aid Developer's efforts to secure Approvals necessary for the construction of the Development. With respect to Developer's application to the NJDEP for amendment of the applicable Water Quality Management Plan ("WQMP"), and without limiting the Municipal Parties' obligations hereunder, the Municipal Parties shall, upon request, provide Developer with a letter confirming the Municipal Parties' support for the construction of the Development and that pursuant to this Settlement Agreement, the zoning applicable to the Property will be amended by the Municipal Parties to accommodate the construction of the Development and to satisfy a portion of the Borough's affordable housing obligation. Additionally, if requested in writing by the Developer, the Municipal Parties shall provide Developer with a letter or resolution approved at the next regularly scheduled meeting after such request to be submitted by Developer to the NJDEP in support of the WQMP amendment confirming the Development's consistency with the applicable zoning for the Property as such zoning shall be implemented pursuant to this Settlement Agreement, and shall provide Developer with a written statement of consent in a form of a

resolution by the governing body stating that the municipality concurs with, and does not object to, such proposed WQMP Amendment related to the Development

IX. PREPARATION.

The parties acknowledge that they each have been represented by legal counsel with regard to the negotiation and preparation of this Agreement and that this Agreement has been prepared jointly by attorneys representing each party as a means of furthering the purposes set forth and therefore any presumption for resolving ambiguities against the drafter or any party shall not apply. Prior drafts of this document shall not be used in construing the intent and terms of this Agreement.

X. NOTICE OF ACTIONS.

The parties and their respective legal counsel agree to immediately provide each other with notice of any lawsuits, actions or governmental declarations, threatened or pending, by third parties of which they are actually aware, which may affect this Agreement or any specific provisions of this Agreement and/or any approvals and/or actions taken by the Parties pursuant to the terms and conditions of this Agreement

XI. COUNTERPART SIGNATURES.

This Agreement may be executed simultaneously or in one or more counterparts, each of which, when so executed and delivered, shall constitute an original, fully enforceable counterpart for all purposes. Facsimile counterparts shall be accepted and enforceable, provided that immediately following the delivery of a facsimile counterpart, the sending party shall deliver a counterpart with the original execution page.

XII. TIME PERIODS; EXTENSIONS OF TIME.

The Parties hereby agree that they will implement and effectuate the terms and conditions of this Settlement Agreement and fulfill the Borough's and the Developer's obligations required

pursuant to this Settlement Agreement. The parties agree that any time periods within which either party must perform its obligations or accomplish specific actions may be mutually extended by the parties with the consent of the Court where necessary

XIII. NOTICE.

All notices required under this Agreement shall be in writing and shall be given by Certified Mail, return receipt requested, or by recognized overnight personal carriers, such as Federal Express, with a proof of receipt, and in addition thereto, and not in lieu of written notice as provided above, where feasible, the party delivering the Notice shall provide the same by either a facsimile version/delivery or an e-mail attachment. All notices shall be deemed received upon the date of delivery, which is set forth in such certified proof and at all times for performance based upon notice shall be from the date set forth in such proof of delivery. The persons and entities to receive notice shall be as follows:

To Developer:
c/o Christopher Arp
Kamson Corp.
270 Sylvan Avenue
Englewood Cliffs, New Jersey 07632

With a required copy to:

John A. Schepisi, Esq.
Schepisi & McLaughlin, P.A.
473 Sylvan Avenue
Englewood Cliffs, New Jersey 07632

and

Antimo A. Del Vecchio, Esq.
Beattie Padovano, LLC
200 Market Street, Suite 401

Montvale, New Jersey 07645

To Borough:

Stephanie Wehmann, RMC,CMR
Municipal Clerk
Alpine Borough Hall
100 Church Street
P.O. Box 1095
Alpine, New Jersey 07620-1095

With a Required Copy to:

Edward J. Buzak, Esq.
Surenian, Edwards, Buzak & Nolan, LLC
150 River Road, Suite N-4
Montville, NJ 07045

Levi J. Kool, Esq.
Huntington Bailey, LLP
373 Kinderkamack Road
Westwood, New Jersey 07675-1652

To Planning Board:

(Catherine Parilla Chairperson)
Borough of Alpine
100 Church Street
P.O. Box 1095
Alpine, New Jersey 07620

With a Required Copy to:

Douglas Bern, Esq
Bern & Associates, LLC
39 Park Place, Suite 204,
Englewood, New Jersey 07631

IN WITNESS WHEREOF, the parties have executed this Agreement consistent with applicable law on the day and year written below their names:

ATTEST:

BOROUGH OF ALPINE

Stephanie Wehmann_RMC,_CMR
Borough Clerk

By: _____
Paul H. Tomasko, Mayor

Dated: _____

ATTEST:

BOROUGH OF ALPINE PLANNING BOARD

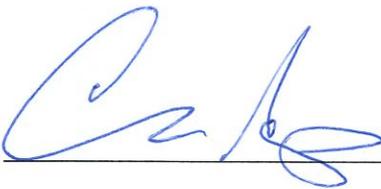
Marilyn Hayward
Planning Board, Secretary

By _____
Catherine Parilla, Chairperson

Dated: _____

ATTEST:

For F.E. Alpine, Inc., Sylco Investments #4,
L.L.C. Sylco Investments 854, L.L.C., 850
Closter Dock Road, L.L.C., 842 Closter
Dock Road, L.L.C., and Sylco Investments
#5, L.L.C.



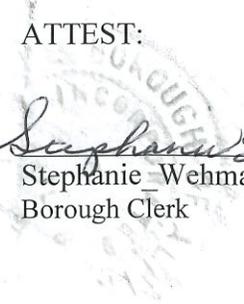
By _____
Richard J. Kurtz, Managing Member

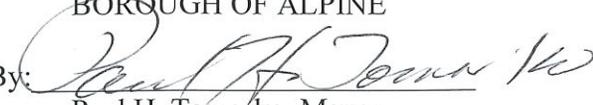
Dated: _____
10-27-2023

IN WITNESS WHEREOF, the parties have executed this Agreement consistent with applicable law on the day and year written below their names:

ATTEST:

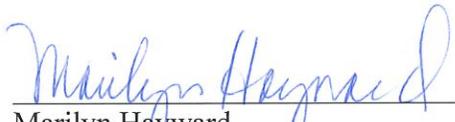

Stephanie Wehmann_RMC, CMR
Borough Clerk



BOROUGH OF ALPINE
By: 
Paul H. Tomasko, Mayor

Dated: 11-1-23

ATTEST:


Marilyn Hayward
Planning Board, Secretary

BOROUGH OF ALPINE PLANNING BOARD
By: 
Catherine Parilla, Chairperson

Dated: 11/1/2023

ATTEST:

For F.E. Alpine, Inc., Sylco Investments #4,
L.L.C. Sylco Investments 854, L.L.C., 850
Closter Dock Road, L.L.C., 842 Closter
Dock Road, L.L.C., and Sylco Investments
#5, L.L.C.

By: _____
Richard J. Kurtz, Managing Member

Dated: _____

ACKNOWLEDGEMENT

STATE OF NEW JERSEY |
COUNTY OF BERGEN |

SS.:

BE IT REMEMBERED, that on this 1st day of NOVEMBER 2023, in the year of our Lord, Two Thousand Twenty-three, before me, the subscriber, personally appeared STEPHANIE WEHMANN who, being by me duly sworn on her oath, doth depose and make proof to my satisfaction that she is the CLERK of the BOROUGH OF ALPINE, a municipal corporation, the corporation named in the within instrument; that PAUL H. TOMASKO is the MAYOR of said municipality; that the execution as well as making of this instrument has been duly authorized by proper action of the Borough Council; that deponent well and truly knows the corporate seal of said municipality; and the seal affixed to said instrument is such seal and was thereto affixed to said instrument signed and delivered by said MAYOR Tomasko as and for the voluntary act and deed of said municipality, in the presence of deponent, who thereupon subscribed his name thereto as witness.

Stephanie Wehmann
Stephanie Wehmann, RMC, CMR
Borough Clerk

Sworn and subscribed to before me on the date aforesaid.

Catherine M. Booth
[Print Name and Title Below Signature]

CATHERINE M. BOOTH
Notary Public, State of New Jersey
Commission # 2280733
My Commission Expires 10/30/2026

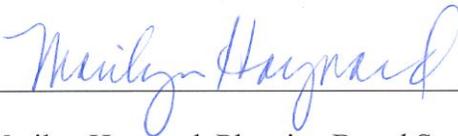
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ACKNOWLEDGEMENT

STATE OF NEW JERSEY |
COUNTY OF BERGEN |

SS.:

BE IT REMEMBERED, that on this 1st day of NOVEMBER 2023, in the year of our Lord, Two Thousand Twenty-Three, before me, the subscriber, personally appeared Marilyn Hayward-who, being by me duly sworn on her oath, doth depose and make proof to my satisfaction that she is the SECRETARY of the BOROUGH OF ALPINE PLANNING BOARD named in the within instrument; that Catherine Parilla is the CHAIRPERSON of said Planning Board; that the execution as well as making of this instrument has been duly authorized by proper action of the Planning Board; that said instrument signed and delivered by said CHAIRPERSON as and for the voluntary act and deed of said Planning Board, in the presence of deponent, who thereupon subscribed her name thereto as witness.



Marilyn Hayward, Planning Board Secretary

Sworn and subscribed to before me on the date aforesaid.


[Print Name and Title Below Signature]

CATHERINE M. BOOTH
Notary Public, State of New Jersey
Commission # 2280733
My Commission Expires 10/30/2026

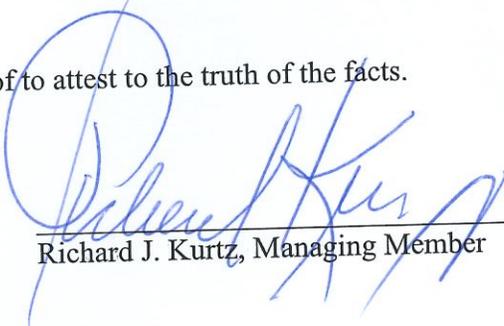
STATE OF NEW JERSEY)
: SS:
COUNTY OF BERGEN)

I CERTIFY that on the 27th day of Oct., 2023, Richard Kurtz personally came before me, and this person acknowledged under oath to my satisfaction that:

(a) this person is the Managing Member of F.E. Alpine, Inc., Sylco Investments #4, L.L.C. Sylco Investments 854, L.L.C., 850 Closter Dock Road, L.L.C., 842 Closter Dock Road, L.L.C., and Sylco Investments #5, L.L.C., the entity named in this document.

(b) this document was signed and delivered by Richard J. Kurtz, as Managing member of and on behalf of F.E. Alpine, Inc., Sylco Investments #4, L.L.C. Sylco Investments 854, L.L.C., 850 Closter Dock Road, L.L.C., 842 Closter Dock Road, L.L.C., and Sylco Investments #5, L.L.C. as its voluntary act and deed duly authorized by its members; and

(c) this person signed this proof to attest to the truth of the facts.


Richard J. Kurtz, Managing Member

Signed and sworn to before me
on the 27th day of Oct., 2023



Notary Public of New Jersey

My Commission Expires:

(Affix Seal)

DENISE J. PAPAY

NOTARY PUBLIC OF NEW JERSEY

COMM. NO. 50042416

MY COMMISSION EXPIRES JULY 25, 2026

Exhibit List

EXHIBIT A Page 8 ½ x 11 Ordinance

EXHIBIT B Page 8 ½ x 11 Concept Plan including Architectural

EXHIBIT C Page 8 ½ x 11 Consent Order for Joinder

EXHIBIT D Page 8 ½ x 11 Sketch of Vacation of Appletree Lane

Exhibit "A"

BOROUGH OF ALPINE
ORDINANCE NO. 2023-___
OCTOBER 25, 2023

AN ORDINANCE TO AMEND CHAPTER 220 ENTITLED "ZONING"
OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF
ALPINE TO ESTABLISH A NEW "COAH-3" ZONE DISTRICT

STATEMENT OF PURPOSE: To Be Inserted

WHEREAS CLAUSES: To Be Inserted

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Alpine, County of Bergen, State of New Jersey, that amendments set forth below are made to the Revised General Ordinances of the Borough of Alpine, Chapter 220 entitled "Zoning."

Section 1. Section 220-2, "Definitions," shall be amended to include the following new terms and definitions:

DWELLING, MULTIFAMILY

A building designed for or intended to contain three or more dwelling units located above, below or to the side of each other, and which may share common facilities, such as entryways, hallways, and utility systems.

DWELLING, TOWNHOUSE

A one-family dwelling in a row of at least two such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire-resistant walls.

Section 2. Section 220-3, "Zone Districts," Subsection A, "Districts Established," shall be amended to add the following new zone district to the list of zone districts:

COAH-3

Section 3. Section 220-3, "Zone Districts," Subsection B, "Boundaries," shall be amended to read as follows:

B. Boundaries. The boundaries of the above created districts are hereby established as shown on the Zoning Map dated April 23, 1979, as amended or supplemented, which Map is hereby made a part of this chapter.

Section 4. The Zoning Map referenced at Section 220-3, "Zone Districts," Subsection B, "Boundaries," shall be amended to rezone Block 55 Lots 25.01, 26, 27, 28, 29 and 30 from the R-1 Residential District to a new COAH-3 Residential District.

Section 5. Section 220-3, "Zone Districts," Subsection D, "Limitation of Coverage on Land," Paragraph (1), shall be amended to include a new 'COAH-3' row, within which the phrase 'See § 220-23' shall be inserted.

Section 6. Chapter 220 shall be amended and supplemented by the insertion of a new Section §220-23 entitled "COAH-3 Residential Zone." This new section shall read as follows:

§ 220-23. COAH-3 Residential Zone.

A. Purpose. The purpose of the COAH-3 Residential Zone is to allow for inclusionary development on Block 55 Lots 25.01, 26, 27, 28, 29 and 30, and thereby assist in the Borough's efforts to address the fair share housing obligation of the Borough of Alpine under the New Jersey Fair Housing Act ("FHA"), applicable Council on Affordable Housing ("COAH") regulations, and the Borough's Housing Element and

Fair Share Plan. The district contemplates that the property, consisting of 22.636 gross acres, will contain up to thirty-two (32) market-rate townhouse dwelling units and up to eight (8) multifamily affordable dwelling units that are affordable to low- and moderate-income households as established by COAH regulations.

B. Principal Uses. The following principal uses are permitted in the COAH-3 Zone:

- (1) Townhouse dwellings.
- (2) Multifamily dwellings.

C. Accessory uses. The following accessory uses are permitted in the COAH-3 Zone:

- (1) Private amenities and facilities intended for use by residents of the premises and their guests, including, but not limited to, clubhouses, lounges, game rooms, pool rooms, business centers, fitness centers, swimming pools, tennis courts, paddle courts, tot lots/children's play areas, dog runs, gazebos, multi-use recreation fields, walking trails, benches/seating, and passive recreation areas.
- (2) Balconies, decks, and terraces for individual units, along with rooftop decks and amenities.
- (3) Private garages and driveways.
- (4) Off-street parking lots.
- (5) Fences, walls, gates, and guard houses.
- (6) Signage.
- (7) Storage sheds.
- (8) Emergency standby generators.
- (9) Any other use which is subordinate and customarily incidental to the permitted principal use(s), including, but not limited to, leasing/sales/management offices, maintenance areas, trash/recycling facilities, solar energy devices, security cameras and related devices, and electric vehicle charging stations.

D. Affordable housing requirements. The following affordable housing requirements shall apply to development in the COAH-3 Zone:

- (1) All residential development constructed in the COAH-3 Zone shall be required to set aside a minimum percentage of units for affordable housing. The minimum set aside shall be twenty percent (20%). When calculating the required number of affordable units, any computation resulting in a fraction of a unit shall be rounded upwards to the next whole number.
- (2) All affordable units to be produced pursuant to this section shall comply with the required bedroom distribution, be governed by controls on affordability, and affirmatively marketed in conformance with the Uniform Housing Affordability Controls ("UHAC") (N.J.A.C. 5:80-26.1 et seq.), or any successor regulation, with the exception that in lieu of 10% of the affordable units being required to be affordable to households earning 35% or less of regional median income by household size, at least 13% of affordable units shall be required to be affordable to households earning 30% or less of regional median income by household size.
- (3) Each affordable unit shall remain subject to these affordability controls, covenants, conditions, deed restrictions, and the applicable affordable housing regulations for a minimum period of at least thirty (30) years. At the conclusion of the thirty (30) year term, the affordability controls, covenants, conditions, and deed restrictions shall automatically be extended unless the

Borough takes formal action to release the affordable unit from such requirements by formal adoption of an ordinance taken in compliance with N.J.A.C. 5:80-26.11(c) or any other applicable statute, regulation or law that may be in effect at that time. The Borough shall also maintain the right to exercise any other option(s) available to the Borough to preserve the affordability controls as set forth in UHAC or other applicable statute, regulation or law that may be in effect at that time.

- (4) All affordable units shall be administered by a qualified administrative agent paid for by the developer. The developer shall be responsible for all costs associated with the initial sale/rental of the affordable units, for the continuing administration of the affordable units, and for the preservation of the creditworthiness of the units.
 - (5) All of the affordable units shall be rental units and may be permitted as multifamily dwellings. Affordable townhouse dwellings shall not be required but are permitted at the election of the Developer.
 - (6) All amenities and site services which are made available to the market-rate units shall also be made available to the affordable units on the same terms as the market-rate units.
- E. Area, bulk, and density standards. The following area, bulk and density standards shall apply to development in the COAH-3 Zone:

Requirement	COAH-3 Zone
Minimum Lot Area	20 acres
Maximum Number of Dwelling Units	40 units
Minimum Yard Setbacks (See Note 1 Below):	
From Closter Dock Road	30 feet
From Frick Drive	90 feet
From Any Other Lot Line	40 feet (See Note 2 Below)
Maximum Building Height	3 stories/40 feet (See Note 3 Below)
Maximum Building Coverage	15 percent
Maximum Impervious Coverage	30 percent

NOTES:

- 1 In the COAH-3 district, all setbacks measured from a roadway shall be measured from the existing right-of-way line of that road as it existed as of August 1, 2022.
- 2 Decks, balconies, covered entrances and like constructions attached to a building shall be permitted within this minimum yard setback, provided that they shall be located no closer than 35 feet from the lot line.
- 3 Irrespective of any other provisions regarding building height measurement, the following shall apply with respect to measurement of building height in the COAH-3 Zone:
 - a. The maximum height shall be calculated individually for each townhouse or section of a building containing multi family dwelling units.
 - b. The maximum building height shall be the vertical distance measured from the finished first floor to the highest point of the roof if the roof is a flat roof, or to the mean level between the roof eaves and the highest ridge point in the case of a pitched roof.
 - c. A roof extending to the side of a townhouse shall be permitted to overhang up to four feet above the adjacent townhouse and shall not affect the adjoining townhouse unit's maximum height calculation.

- d. Excluded from the calculation of building height shall be chimneys, steeples, handrails for 'widow's walks and other architectural features that are no greater than four feet in height and which occupy no more than five percent of the total roof area.

F. Supplemental standards. The following supplemental standards shall apply to development in the COAH-3 Zone:

- (1) Access. Except for maintenance vehicles, landscaping vehicles and equipment, no vehicular access to the site shall be permitted from Appletree Lane.
- (2) Setback from internal roadways. No building shall be located within 15 feet of a private street or internal roadway, provided that 20 feet shall be provided where there is a driveway serving a dwelling unit.
- (3) Distance between buildings. There shall be a minimum distance between buildings containing townhouses and/or multifamily dwellings with separations as set forth below:
 - Buildings with Their Sides Facing Another Building Side: 25 feet
 - All Other Building Sides Facing Another Building: 35 feet
- (4) Units per building. No building shall contain more than six (6) townhouses and/or eight (8) multifamily dwelling units.
- (5) Building offsets. For buildings with more than three (3) attached multifamily or townhouse units, no more than three (3) side-by-side, contiguous units shall have the same front façade plane. A minimum three (3)-foot offset variation in front façade plane shall be provided between groupings within the same structure.
- (6) Fire separation walls. Fire separation walls shall be constructed between adjoining townhouse and/or multifamily units as required by the requirements of the NJ Uniform Construction Code, N.J.A.C. 5:23 and the NJ Uniform Fire Code N.J.A.C. 5:71 as amended and supplemented.

G. Accessory buildings and structures. §220-13 related to accessory buildings and structures shall not apply to accessory buildings and structures in the COAH-3 Zone. Instead, the following requirements shall apply to all accessory buildings in the COAH-3 Zone¹:

- (1) The maximum height of accessory buildings and structures shall be 20 feet.
- (2) Accessory buildings shall meet the minimum street and property line setback requirements of principal buildings and shall be set back at least 35 feet from a principal building.
- (3) Architectural design and materials used in the construction of accessory buildings shall be consistent with those used in the construction of principal buildings.
- (4) The provisions of this section shall not apply to signs, off-street parking, fences, and walls, which are regulated elsewhere in this section.
- (5) Emergency standby generators shall be subject to the measured sound pressure levels of §153-3 (Noise Ordinance) and shall be set back at least 35 feet from a lot line or public right-of-way. All such equipment shall be suitably buffered and screened to minimize views from adjacent properties and the public right-of-way.

¹ In the COAH-3 district, all setbacks measured from a roadway shall be measured from existing right-of-way line of that road as it existed as of August 1, 2022.

buffered and screened to minimize views from adjacent properties and the public right-of-way.

- (6) Refuse and recycling collection areas shall be either fully contained within a building or adequately screened from public view through a combination of solid fencing and plantings.
- H. Off-street parking requirements. §220-17 related to off-street parking shall not apply to off-street parking in the COAH-3 Zone. Instead, the following off-street parking requirements shall apply to development in the COAH-3 Zone:
- (1) The minimum number of off-street parking spaces shall be as set forth in the Residential Site Improvement Standards (N.J.A.C. 5:21).
 - (2) Parking spaces shall measure nine (9) feet in width by eighteen (18) feet in length.
 - (3) All off-street parking spaces shall be located a minimum of 10 feet from buildings, except for garages within or under a building and driveways serving such garages.
 - (4) All off-street parking and internal roadways/drive aisles shall be prohibited within the required yards along Closter Dock Road and Frick Drive and shall be set back a minimum of 30 feet from all other lot lines.
 - (5) All off-street parking and internal roadways/drive aisles shall be suitably buffered and screened to minimize views from adjacent properties and the public right-of-way.
 - (6) Electric vehicle supply/service equipment and make-ready parking spaces shall be provided in accordance with the Model Statewide Municipal Electric Vehicle (EV) Ordinance pursuant to P.L. 2021, c. 171.
- I. Signage. In addition to any other signs that may be permitted pursuant to Chapter 177, "Signs," the following signage shall be permitted in the COAH-3 Zone:
- (1) Two (2) identification signs shall be permitted at the main driveway entrance to the site on Closter Dock Road, which identification sign may be either a freestanding ground sign or affixed to an entry wall.
 - (2) For identification signs located on Closter Dock Road, the maximum sign area shall be 24 square feet, **the maximum heights of signage letters shall be 10 inches**, and the maximum height of signage shall be 42 inches. **The maximum wall height on which the signage shall be placed, inclusive of any ornamental features on the wall structure, shall be 6 feet.**
 - (3) All signs shall be setback at least five (5) feet from the lot line and at least ten (10) feet from the curb line of the abutting street.²
 - (4) Internal sign illumination shall be prohibited.
 - (5) Base plantings shall be incorporated into the design of the signage.
- J. Fences and walls. Fences, walls, gates, pillars, piers, posts and like constructions in the COAH-3 Zone shall be subject to Chapter 111, "Fences." In addition, the following supplemental standards shall apply to retaining walls in the COAH-3 Zone:
- (1) The maximum height of a retaining wall shall be six (6) feet. Tiered retaining walls shall be measured separately, and each tier may be up to six (6) feet in height, provided that there is minimally a five (5)-foot separation between retaining walls and that same is suitably landscaped.

²In the COAH-3 district, all setbacks measured from a roadway shall be measured from existing right-of-way line of that road as it existed as of August 1, 2022.

- (1) Site retaining walls may be constructed of finished concrete, stone, modular block, "big block" or soldier-pile with façade treatment.
 - (2) The maximum height of walls along any property line shall be four feet, irrespective of any other regulation to the contrary.
- K. Landscaping. The following landscaping requirements shall apply to development in the COAH-3 Zone:
- (1) A landscape plan shall be required, which shall be designed to incorporate a variety of plant material to enhance the character of the site and shall include foundation plantings and perimeter trees and shrubs.
 - (2) A substantive planting plan for the site's Closter Dock Road, Frick Drive and Appletree Lane street frontages shall also be provided and shall consist of a variety of deciduous and evergreen trees, plants, and shrubs.
 - (3) Shade trees shall be minimally 2 1/2-inch to three-inch caliper. Evergreen trees shall vary between seven to eight feet and eight to 10 feet in height. Shrubs shall be at least 24 inches in height.
- L. Lighting. The following lighting requirements shall apply to development in the COAH-3 Zone:
- (1) All exterior lights shall be designed so as to reduce glare, lower energy usage and direct lights only to where they are needed.
 - (2) All exterior lights shall be light-emitting diode (LED) light of the soft white category and shall be Dark Sky compliant.
 - (3) All exterior lights shall be focused downward so that the direct source of light is not visible from adjoining streets or properties.
 - (4) The maximum permitted height of light fixtures shall be 14 feet and shall include sharp cut-off fixtures.
 - (5) The illumination of tennis courts and other paddle court games shall be consistent with the provisions set forth at §220-5.D.
- M. General design standards. Building plans and elevations shall show a variation in design to be achieved by the types of roofs, heights of eaves and peaks, building materials and architectural treatment of the building facade that is utilized. The following design standards shall be utilized in the COAH-3 Zone:
- (1) Architectural elements such as varied roof forms, articulation of the facade, breaks in the roof, and walls with texture materials and ornamental details shall be incorporated to add visual interest.
 - (2) Roof height, pitch, ridgelines, and roof materials shall be varied to create visual interest and avoid repetition.
 - (3) Architectural elements such as fenestrations and recessed planes shall be incorporated into facade design. Architectural treatments and visual interest shall be applied to all visibly exposed facades of a building. All facades of a building shall be architecturally designed to be consistent with regard to style, materials, colors, and details.
 - (4) A variety of building colors, materials and textures are encouraged.
 - (5) Architectural features that enhance the facade or building form, such as

decorative moldings, windows, shutters, dormers, chimneys, balconies, and railings, are encouraged.

- (6) All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, etc.
 - (7) 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.
- N. Soil moving permit. Section 185-3.D(2)(d) is determined to be inapplicable to development in the COAH-3 Zone. Section 185-3.D(2) (f), only insofar as the proposed slopes and lateral supports not exceeding one foot vertical to four feet horizontal, is determined to be inapplicable to development in the COAH-3 Zone. The balance of Section 185-3.D(2) (f) is determined to be applicable to development in the COAH-3 Zone. Section 185-3.D(2) (m) is determined to be inapplicable to development in the COAH-3 Zone, provided, however, that the Developer shall be required to obtain a Tree Removal Permit at the appropriate time and comply with all requirements of said ordinance.
- O. Steep slopes. In recognition of the existing previously disturbed (manmade) steep slope area and the not natural occurring developed nature of this zone district, the steep slope regulations in Section 220-3.E of the Zoning Ordinance are determined to be inapplicable to multifamily or townhouse development in the COAH-3 Zone.
- P. All other applicable requirements of this chapter, and of other chapters of the Borough of Alpine Code, shall apply to development within the COAH-3 Zone unless specifically superseded by the regulations of this section.

Section 7. The Schedule Limiting Height and Bulk of Buildings, which is included in Chapter 220 as Attachment I, shall be amended to include a new 'COAH-3' row, within which the phrase 'See § 220-23' shall be inserted.

Section 8. If any article, section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 9. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Alpine, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Alpine are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 10. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Bergen County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 11. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Alpine for its review in accordance with N.J.S.A. 40:55D-64 and N.J.S.A. 40:55D-26. The Planning Board is directed to make and transmit to the Borough Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 12. This Ordinance shall be presented to the Mayor for his approval and signature, which approval shall be granted or denied within ten (10) days of receipt of same, pursuant to N.J.S.A. 40:69A-149.7. If the Mayor fails to return this Ordinance with either his approval or objection to same within ten (10) days after it has been presented to him, then

this Ordinance shall be deemed approved.

Section 13. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Bergen County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

INTRODUCED the _____ day of _____, 2023.

ADOPTED the _____ day of _____, 2023.

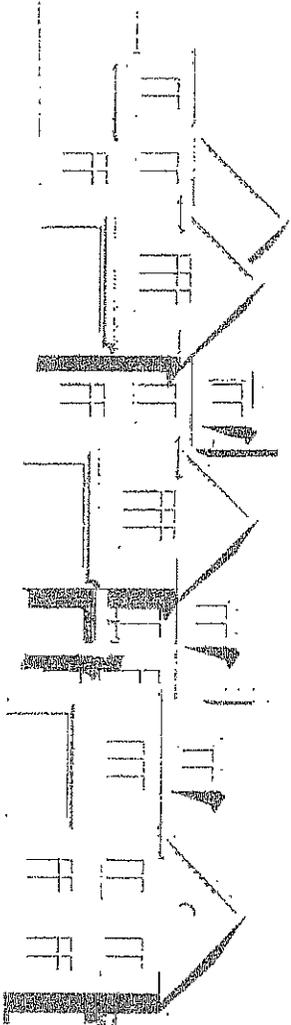
Paul H. Tomasko, Mayor

ATTEST:

Stephanie Wehmann, RMC, CMR

EXHIBIT "B"

FRICK ESTATES
PROPOSED TOWNHOMES
ALPINE, NEW JERSEY



ZAMPOLIN & ASSOCIATES
A R C H I T E C T S

Antimo A. Del Vecchio, Esq. (015191989)
BEATTIE PADOVANO, LLC
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Montvale, New Jersey 07645
201.799.2107
Co-counsel for Plaintiffs,
Sylco Investments # 4, LLC; Sylco
Investments # 5, LLC; F.E. Alpine, Inc.

John Schepisi, Esq. (248171968)
SCHEPISI & McLAUGHLIN, P.A.
473 Sylvan Avenue
Englewood Cliffs, New Jersey 07632
201.569.9898
Co-counsel for Plaintiffs,
Sylco Investments # 4, LLC; Sylco
Investments # 5, LLC; F.E. Alpine, Inc.

IN THE MATTER OF THE
APPLICATION OF THE BOROUGH OF
ALPINE, a Municipal Corporation
of the State of New Jersey

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY
DOCKET NO. BER-L-6286-15

CIVIL ACTION

**CONSENT ORDER OF LIMITED
JOINDER**

THIS MATTER having been brought before the Court upon the joint request of Schepisi & McLaughlin, P.A. (John Schepisi, Esq., appearing) and Beattie Padovano, LLC (Antimo A. Del Vecchio, Esq., appearing), attorneys for , Sylco Investments # 4, LLC; Sylco Investments # 5, LLC; and F.E. Alpine, Inc. (collectively "Sylco"), Surenian Edwards Buzak & Nolan, LLC (Edward J. Buzak, Esq., appearing) and Huntington Bailey, LLP (Levi J. Kool, Esq., appearing) attorneys for Defendant, Borough of Alpine and Bern Root, LLC (Douglas M. Bern, Esq., appearing), attorneys for , Borough of Alpine Planning Board, ("Board") for an Order of limited

joinder as set forth hereinafter of Sylco and the Board as interested parties in the above captioned action ;

IT IS on this _____ day of _____, 2023,

ORDERED as follows:

Sylco and the Board are hereby granted limited joinder status in the Declaratory Judgment action bearing docket number BER-L-6286-15 pursuant to R:4:28-1 solely for the purposes of (i) modifying, removing or discharging the Condition of Approval (“COA”) and Deed Restriction (“DR”) as the same are described in Article V Section G of a certain Settlement Agreement by and among Sylco, the Board, and the Borough of Alpine (“Settlement Agreement”) in litigation bearing Docket Number BER-L-293-20 and (ii) participating in the proceedings including the Fairness Hearing for all matters relating to, arising from or the implementation of, the Settlement Agreement. ; and

IT IS FURTHER ORDERED that Sylco and the Board shall not be required to file answers in the above captioned action..

IT IS FURTHER ORDERED that counsel shall be served a copy of this Order by eCourts and a copy of this Order shall be sent electronically and by regular mail to counsel for the Borough of Alpine Planning Board within _____ days of the date hereof.

Hon.Gregg A. Padovano, JSC

The undersigned counsel consent to the form and entry of the foregoing Order

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Sylco Investments #5, LLC; and F.E. Alpine

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Dated:

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By: _____
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Dated:

BERN ROOT, LLC
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Dated:

By: _____
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Dated:

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By: _____
Levi J. Kool, Esq.

Dated:

EXHIBIT "D"

