

PLEASE TAKE NOTICE the following ordinance was introduced and passed on first reading at the August 19, 2024 meeting of the Mayor and Borough Council and will be considered for second reading and final passage during the meeting scheduled to begin at 7:00 p.m. on September 16, 2024 in the Municipal Building, located at 555 Brighton Avenue, Spring Lake Heights, at which time and place any person desiring to comment on this ordinance will be given the opportunity to be heard. A copy of the ordinance is available in the clerk's office.

Janine Gillis, Borough Clerk

**ORDINANCE 2024-11
BOROUGH OF SPRING LAKE HEIGHTS
COUNTY OF MONMOUTH**

AN ORDINANCE CREATING THE AFFORDABLE HOUSING AH-3 ZONING DISTRICT IN FURRRHERANCE OF THE TOWNSHIP'S OBLIGATION TO PROVIDE FOR ITS FAIR SHARE OF AFFORDABLE HOUSING

WHEREAS, the Borough of Spring Lake Heights has a constitutional obligation to provide for its fair share of affordable housing pursuant to the *Mt. Laurel* doctrine established by the New Jersey Supreme Court; and

WHEREAS, a property owner commenced *Mt. Laurel* builder's remedy litigation against the Borough docketed at MON-L-0031-21, which was subsequently consolidated with a declaratory judgment action commenced by the Borough captioned In the Matter of the Application of the Borough of Spring Lake Heights, Docket No. MON-L-1916-21, in an effort to establish the Borough's Prior Round and Third Round affordable housing obligation and the mechanisms by which the Borough may meet its constitutional obligation (the "Borough's Declaratory Judgment Action"); and

WHEREAS, Highwood Development and Holdings, LLC is interested in assisting the Borough in satisfying a portion of its Third Round Mount Laurel obligation, which obligation will be determined by the trial court;

WHEREAS, in evaluating properties appropriate for inclusionary development, the Borough has determined that the property located at Block 46.01, Lots 2, 3 & 4 (the "Property") is available, approvable, developable, and suitable for the proposed development of 40 market rate units in a mixed-use building with 7 residential deed restricted affordable units in three separate buildings located on the Property as set forth in the Developer's Agreement between Highwood Development and the Borough, and as those terms are used in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 ("FHA") and Council on Affordable Housing ("COAH") regulations, N.J.A.C. 5:93-1 et seq.,

WHEREAS, the Borough Council believes it is in the best interest of the Borough to include the Property with the Proposed Development which will assist the Borough in addressing its Third Round Mount Laurel Obligation and which zoning initiatives will be a component of the Borough's Third Round Housing Element and Fair Share Compliance Plan; and

WHEREAS, the Borough Council believes it is in the best interest of the Borough to comply with its obligation under the Highwood Development Settlement Agreement in order to further satisfy its constitutional obligation to provide for its fair share of affordable housing.

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Spring Lake Heights, County of Monmouth, State of New Jersey that it hereby amends the Borough Code to

create a new section, Section 22-606.8 known as the Affordable Housing AH-3 Zoning District as set forth herein.

Section 22-606.8

- a. The purpose of the Affordable Housing AH-3 Zone ("AH-3 Zone") is to provide for the development of an inclusionary development designed to assist the Borough in satisfying its combined Prior Round and Round 3 (1999-2025) Realistic Development Potential ("RDP") affordable housing obligation through construction of affordable units set aside for low- and moderate-income households. The AH-3 Zone shall comprise the following tax lots: Lots 2 (Parcel B), 3 & 4 (Parcel A), Block 46.01 and the zoning map shall be amended accordingly. This Ordinance is adopted in furtherance of the Settlement Agreement entered into by and between the Borough and Fair Share Housing Center (hereinafter the "Settlement Agreement") in connection with the Borough's Mount Laurel litigation captioned at MON-L-1916-21.
- b. Permitted Principal Uses
 - i. Residential development with seven (7) low- and moderate-income housing units on Parcel B and forty (40) unrestricted market units on Parcel A maximum of forty-seven (47) residential units are permitted
 - ii. Mixed use residential building with a minimum nonresidential floor area of 600 square feet on the ground floor, located on Parcel A. Commercial and retail uses shall be those permitted in the B-3 Zone.
- c. Permitted Accessory Uses
 - i. Off-street parking and loading facilities
 - ii. Other uses that are customarily incidental to a permitted principal use
 - iii. Fences and walls erected, maintained or planted no greater than six (6) feet above ground level within a side or rear yard, and no greater than four (4) feet within a front yard and fifty (50%) open.
 - iv. Decks, porches, balconies, and patios.
 - v. Community amenities may include dog runs, community gardens, recreation areas, sitting areas (pergolas) and fire pits.
 - vi. Bike Racks
 - vii. Electrical Vehicle Charging Stations
 - viii. Solid Waste and recycling area, setback at least fifteen (15) feet from any rear or side yard
 - ix. Site Lighting. The arrangement of exterior lighting shall adequately illuminate parking areas and prevent glare to adjoining residential areas.
 - x. Utilities, including HVAC units, transformers, emergency generators and water boxes/vaults.
 - xi. Signs, conforming to the provisions of section 22-610

xii. Temporary construction and/or sales Trailers

d. Overall Tract: Bulk, Area and Building requirements:

i.	Minimum Lot Area	80,000 square feet
ii.	Minimum Lot Frontage	275 feet
iii.	Minimum Lot Width	275 feet
iv.	Minimum Lot Depth	140 feet
v.	Maximum Lot Coverage	75 percent
vi.	Maximum Building Coverage	50 percent

e. Parcel A: Bulk, Area, and Building requirements:

i.	Minimum Lot Area	50,000 square feet
ii.	Minimum Lot Frontage	150 feet
iii.	Minimum Lot Width ¹	140 feet
iv.	Minimum Lot Depth ²	350 feet
v.	Minimum setbacks to principal building	
	a. Minimum front yard setback	20 feet
	b. Minimum one side yard setback	10 feet
	c. Minimum both side yard setback	20 feet
	d. Minimum rear yard setback	50 feet
vi.	Maximum Building Height ³	40 feet (3.5 stories)
vii.	Maximum Building Coverage	50%
viii.	Maximum Lot Coverage	75%
ix.	Minimum setbacks to parking	

¹ Lot width shall mean the distance between side lot lines measured parallel with the street line at the minimum building setback from the street.

² Lot depth shall mean the shortest perpendicular distance between the front lot line and a line drawn parallel (or concentric) to the front line through the midpoint of the rear lot line.

³ Building height shall mean the vertical distance from the average finished grade measured at the structure's foundation to the midpoint for pitched roofs and to the top of the flat surface for flat roofs. Parapets, chimneys, antennas, cupolas, elevator equipment, weathervanes and mechanical and utility equipment may exceed the permitted building height by five (5) feet. To qualify as a "half story", the occupied area cannot exceed 75% the area of the floorplate below. For a sloped roof, the half story may not alter the slope of the roof and may only intrude to a maximum of 33% of the linear length of a building side with dormers or skylights. For a flat roof, the half story must set back from the lower story by at least five (5) feet, creating a stepped or "wedding cake" effect.

- a. Minimum front yard setback 3 feet
 - b. Minimum one side yard setback (adjoining residential use) 10 feet
 - c. Minimum both side yard setback 15 feet
 - d. Minimum rear yard setback 20 feet
- x. The buffer for Parcel A having 20-foot rear yard setback from the property line shall be planted on a berm and will include a fence along the property line.
- f. Parcel B: Bulk, Area and Building requirements
 - i. Minimum Lot Area 14,000 square feet
 - ii. Minimum Lot Frontage 100 feet
 - iii. Minimum Lot Width 100 feet
 - iv. Minimum Lot Depth 125 feet
 - v. Minimum setbacks to principal buildings (existing building or extension thereto, new construction consistent with Parcel A standards)
 - a. Minimum front yard setback 15 feet
 - b. Minimum side yard setback 5 feet
 - c. Minimum rear yard setback 4 feet
 - vi. Maximum Building Height 40 feet (3.5 stories)
 - vii. Maximum Building Coverage 50%
 - viii. Maximum Lot Coverage 75%
 - ix. Minimum setbacks to parking
 - a. Minimum front yard setback 3 feet
 - b. Minimum side yard setback 5 feet
 - c. Minimum rear yard setback 20 feet
- g. Site Access, Off-Street Parking and Loading Requirements
 - i. Each Parcel shall have independent access to State Highway Route 71 with cross-access established by an easement between the Parcels.
 - ii. Number of spaces, and parking space dimensions, as required by New Jersey Residential Site Improvement Standards at N.J.A.C. 5:21-1.1 et seq. (RSIS) shall apply to all the residential units on-site, notwithstanding the presence of commercial uses.
 - iii. The quantity of parking for commercial and retail uses per the parking requirements of the ordinances.

- iv. If necessary, Parcel A shall provide a parking easement for Parcel B. No loading space is required for any commercial or retail development.

h. Signs.

- i. One (1) monument sign with a maximum sign area of 40 square feet is permitted along the lot frontage subject to a ten (10) foot setback from the property line. The sign may be back-lit or use ground lighting or a combination of both.
- ii. Wall or canopy mounted, illuminated address sign is permitted with a maximum sign area of five (5) square feet.

i. Miscellaneous

- i. Projections from buildings, such as but not limited to, balconies, patios, chimneys, terraces, and windows may extend into the building setback provided such encroachment is limited to 24”.
- ii. Patios shall be setback no less than eight (8) feet from the side lot line. No patios shall be permitted in the front yard.
- iii. Development of the AH-3 Zone is exempt from any other Borough standard conflicting with the standards established herein.
- iv. No municipal standards regulating tree removal or tree replacement shall apply.

j. Affordable Housing

- i. The affordable units shall be non-age restricted rental units.
- ii. There shall be One (1) 1-bedroom affordable housing unit; Four (4) 2-Bedroom affordable housing units; and two (2) 3-Bedroom affordable housing units and the affordable housing units shall meet the very low, low, and moderate income household split required by the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et. seq. (“UHAC”)
- iii. Pursuant to UHAC, the affordable units shall be subject to affordability controls of at least thirty (30) years from the date of initial occupancy and affordable deed restrictions as provided for by UHAC, with the sole exception that very low income shall be defined as at or below thirty percent (30%) of median income pursuant to the Fair Housing Act, and the affordability controls shall remain unless and until the Borough, in its sole discretion, takes action release the unit from such controls after at least thirty (30) years. If the Borough acts to release the unit from such controls, affordability controls shall remain in effect until the date on which a rental unit shall become vacant due the voluntary departure of the occupant household in accordance with N.J.A.C. 5:80-26.11(b). The deed restrictions shall state the bedroom size and income level for each affordable unit.
- iv. The affordable units shall comply with the UHAC regulations with regards to the pricing of rents.
- v. Certificates of occupancy for the market rate units and the affordable units shall be phased in accordance with N.J.A.C. 5:93-5.6(d). The affordable units shall be deed restricted prior to issuance of the certificates of occupancy, and a copy of the deed restrictions shall be provided to Fair Share Housing Center (510 Park Boulevard, Cherry Hill, New Jersey 08002) upon recording.

vi. The developer shall contract with an experienced administrative agent in compliance with N.J.A.C. 5:80-26.14 and applicable law.

vii. The affordable unit shall be affirmatively marketed in accordance with the UHAC, pursuant to N.J.A.C. 5:80-26.15, and applicable law by an experienced administrative agent. The affirmative marketing shall include posting of the affordable unit in the New Jersey Housing Resource Center website in accordance with applicable law as well as written notice to the following community and regional organizations: Fair Share Housing Center, Inc. (510 Park Boulevard, Cherry Hill, NJ 08002); the New Jersey State Conference of the NAACP; the Latino Action Network (P.O. Box 943, Freehold, NJ 07728); STEPS, OCEAN, Inc.; the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and the Trenton branches of the NAACP; and the Supportive Housing Association at least ninety (90) days before any lottery to select applicants.

BE IT FURTHER ORDAINED THAT the Zoning District Map of the Borough of Spring Lake Heights is hereby amended to include the AH-3 Zoning District.

BE IT FURTHER ORDAINED, that

- A. All other Ordinances or provisions of the Code of the Borough of Eatontown or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.
- B. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
- C. This Ordinance shall take effect upon its passage and publication as required by law.

BE IT FURTHER ORDAINED, that this ordinance shall take effect upon passage and publication in accordance with applicable law.