

**BOROUGH OF SPRING LAKE HEIGHTS
ORDINANCE 2023-08**

**AN ORDINANCE CREATING THE AFFORDABLE HOUSING AH-2 ZONING DISTRICT IN
FURTHERANCE OF THE BOROUGH'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, Lombardi Residential, LLC ("Lombardi") is the owner of property that located at 2019 NJ State Highway Route 71 and identified on the Borough tax maps as Block 46.01, Lots 5 & 7 (the "Property") and is an interested party in the Borough Compliance Action through its proposal to the Borough to provide a total of 16 residential units (13 townhomes) and a mixed-use building with 3 residential deed restricted affordable units on the Property, 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.; and

WHEREAS, the Borough approved Resolution 2023-89 authorizing a Settlement Agreement with Lombardi which obligates the Borough to rezone the Property to accommodate the Project; and

WHEREAS, the Borough Council believes it is in the best interest of the Borough to comply with its obligation under the Lombardi 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 22-606.7 known as the Affordable Housing AH-2 Zoning District as set forth herein.

Section 22-606.7

- a. The purpose of the Affordable Housing AH-2 Zone ("AH-2 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-2 Zone shall comprise the following tax lots: Lots 5 & 7, Block 46.01 and the zoning map shall be amended accordingly. This Ordinance is adopted in furtherance of the Settlement Agreement entered into between the Borough and Lombardi Residential, LLC (hereinafter the "Lombardi Settlement Agreement"), and in connection with the Borough's Mount Laurel litigation captioned at MON-L-1916-21.

b. Permitted Principal Uses.

- i. Inclusionary residential development with a 20 percent set aside for low and moderate income housing. A maximum of sixteen (16) residential units are permitted.
- ii. Townhomes, provided that no more than five (5) units be attached in one building, with a maximum of thirteen (13) units.
- iii. Mixed use building, with a minimum nonresidential floor area of 1,000 square feet on the ground floor. Commercial, retail, and uses permitted in the B-3 Zone. Residential apartment units are permitted on, and above the first floor with a maximum of three (3) units.
- iv. Multiple principal uses are permitted in accordance with this ordinance.

c. Permitted Accessory Uses.

- i. Off-street parking 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.
- iv. Decks, porches, balconies and patios.
- v. Bike racks.
- vi. Solid waste and recycling area, setback at least fifteen (15) feet from any rear yard or side yard. Parking area setback at least five (5) feet from any property line.
- vii. Site lighting. The arrangement of exterior lighting shall adequately illuminate parking areas and prevent glare to adjoining residential areas.
- viii. HVAC units, and generators.

d. Prohibited Uses.

- i. Parking or storage of boats, boat trailers, motor homes, and recreational vehicles.

e. Bulk, Area and Building requirements (overall tract and townhouse development).

- i. Minimum lot size 50,000 square feet
- ii. Minimum lot frontage 150 feet
- iii. Minimum lot depth 200 feet
- iv. Minimum setbacks to building
 - (a) Minimum front yard setback 20 feet¹

¹ Front yard setback is calculated before any dedication that may be required for road widening.

- (b) Minimum one side yard setback 10 feet
- (c) Minimum both side yard setback 20 feet
- (d) Minimum rear yard setback 20 feet
- v. Maximum building height 38 feet / 3.5 stories²
- vi. Maximum building coverage 40%
- vii. Maximum lot coverage 75%
- viii. Minimum parking setback from side lot line 10 feet
- iv. Minimum parking setback rear from lot line 40 feet
- x. Minimum drive aisle setback from a side lot line 5 feet

f. Bulk, Area and Building Requirements (mixed use).

- i. Minimum lot size 5,000 square feet
- ii. Minimum lot frontage 40 feet
- iii. Minimum lot depth 40 feet
- iv. Minimum setbacks to building
 - a. Minimum front yard setback 20 feet¹
 - b. Minimum one side yard setback 7.5 feet
 - c. Minimum both side yard setback 15 feet
- iv. Minimum rear yard setback 20 feet
- v. Maximum building height 38 feet / 3.5 stories²
- vi. Maximum building coverage 60%
- vii. Maximum lot coverage 85%

g. Site Access, Off-Street Parking, and Loading Requirements.

- i. One site access driveway shall be provided with a minimum width of 20 feet.

² 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.

- 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, notwithstanding any standards to the contrary in the zoning ordinance.
 - iii. Commercial and retail uses per the parking requirements of the ordinance. Space dimensions in accordance with RSIS.
 - iv. No loading space is required.
- 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 Route 71 prior to any dedication that may be required. The sign may be back-lit or use ground lighting or a combination of both.
 - ii. Wall mounted, non-illuminated address sign is permitted with a maximum sign area of five (5) square feet.
 - iii. One wall mounted tenant sign consistent with Section 22-610.5(f) of the ordinance.
- i. Design Standards. Building should have a unified theme, displayed through the application of common building materials.
- j. Miscellaneous.
- i. Projections from buildings, such as, but not limited to, balconies, patios, chimneys, and windows may extend into the building setback provided such encroachment is limited to 24" and in the case of patios no more than 5 feet.
 - ii. Development in the AH-2 Zone is exempt from Section 22-503-505, of the ordinance as well as any other Borough standard conflicting with the standards established herein.
 - iii. A 5-foot planted buffer around the perimeter of the overall tract side and rear yard is required starting at 75 feet from the front property line. The planted buffer shall not be required in stormwater features provided a fence is constructed.
 - iv. No municipal standards regulating tree removal or tree replacement shall apply.
 - v. In the event the calculated affordable housing obligation results in a fractional number the developer shall be permitted to make a payment in lieu derived from the calculation for payments in N.J.A.C. 5:97-6.4(c) for COAH Region 4, payable to the Borough's Affordable Housing Trust Fund.
- k. Relationship between the overall tract and subdivided parcels. This zone has been adopted to include one overall tract. A developer shall be permitted to further subdivide the overall tract to create fee simple townhouse lots and a mixed-use lot without any variance relief from the bulk standards, including but not limited to, building, parking, and drive aisle setbacks.
- l. Affordable Housing.
- i. The affordable units shall be non-age restricted rental units.

ii. One (1) 1-bedroom affordable housing unit shall be affordable to eligible very-low-income households, as defined as those households earning 30 percent (30%) or less of the regional median income, pursuant to N.J.S.A. 52:27D-329.1. One (1) 2-Bedroom affordable housing unit shall be affordable to eligible moderate income households earning 60 percent (60%) or less of the regional medial income. One (1) 3-Bedroom affordable housing unit shall be affordable to eligible low-income households earning 50 percent (50%) or less of the regional medial income.

iii. Pursuant to the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. ("UHAC"), the affordable unit 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.

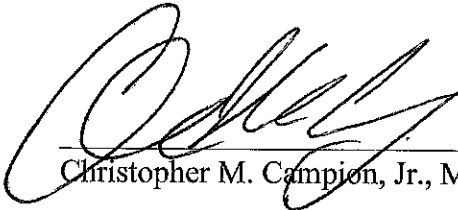
vii. The affordable unit shall be affirmatively marketed in accordance with the UHAC, pursuant to N.J.A.C. 5:80-26.15, and applicable law by an experienced administrative agent. The affirmative marketing shall include posting of the affordable unit in the New Jersey Housing Resource Center website in 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-2 Zoning District; and

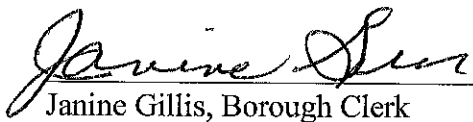
BE IT FURTHER ORDAINED , that

- A. All other Ordinances or provisions of the Code of the Borough of Spring Lake Heights 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.


Christopher M. Campion, Jr., Mayor

11-20-2023
Date


Janine Gillis, Borough Clerk

11-20-23
Date