

**ORDINANCE No. 2024-15**  
**BOROUGH OF SPRING LAKE HEIGHTS**  
**COUNTY OF MONMOUTH**

**AN ORDINANCE CREATING THE AFFORDABLE HOUSING AH-4 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**, Pitney Commons, 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 59, Lots 21.03 and 21.04 (the "Property") is available, approvable, developable, and suitable for the proposed development of 15 market rate units in a mixed-use building with 4 residential deed restricted affordable units in three separate buildings located on the Property as set forth in the Concept Plan attached as Exhibit A (the "Proposed Development"), 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 Church Street 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 22-606.9 known as the Affordable Housing AH-4 Zoning District as set forth herein.

**Section 22-606.9**

The purpose of the Affordable Housing- 4 Zone (AH-4) is to provide for the development of an inclusionary development designed to assist the Borough in satisfying its combined Prior Round

and Round 3 Realistic Development Potential affordable housing obligation through the construction of affordable units set aside for low- and moderate-income households. The AH-4 zone shall comprise of the following tax lots: Lots 21.03 and 21.04, Block: 59 and the zoning map shall be amended accordingly. This ordinance is adopted in furtherance of the settlement agreement entered into between the Borough and Pitney Commons, LLC, and in connection with the Borough's Mount Laurel litigation.

(1) Permitted principal uses.

- a. Inclusionary residential development with the 20 percent set aside for low- and moderate-income housing. A maximum of eighteen (18) units per acre but not more than fifteen (15) units total, four (4) of which must be classified as affordable units set aside for very-low, low- and moderate-income households and subject to all rules and regulations for such units.
  - i. Attached dwelling units, provided that no more than two (2) units are attached in one building.
  - ii. Apartments, limited to one (1) building, with a maximum of four units. A basement area, consisting of a maintenance, mechanical, laundry, and property management office shall be permitted.
  - iii. Detached three-bedroom single dwelling unit building, limited to one (1) building.

(2) Permitted accessory uses

- a. Off- street parking facilities
  - i. Parking facilities that shall comply with the following requirements.
    1. Minimum side yard setback = 1.5 feet.
    2. Minimum side yard drive aisle setback = 4 feet.
    3. Minimum drive aisle width = 20 feet.
    4. Drive aisle shall only permit one way function.
- b. Other uses that are customarily incidental to a permitted principal use.
- c. Fences erected, maintained or planted no greater than six (6) feet above grade level within any yard. Chain link, barbed wire, sharp pointed fences, canvas, cloth, and electrically charged fences are prohibited.
- d. Solid waste and recycling areas must be provided for each unit in each single or attached unit building and one area must be provided for the apartment building. The area must be located in the side or rear of each unit/building and must be located at least five (5) feet from any side or rear property line or any adjacent building. The area shall not be located in any front yard or building frontage nor adjacent to any driveway.
- e. Site lighting. The arrangement of exterior lighting shall adequately illuminate parking areas and prevent glare to adjoining residential areas.
  - i. Parking area lighting poles shall be limited to twenty (20) feet in height.
  - ii. All lighting shall provide shielding to prevent glare.
- f. HVAC units and generators shall only be permitted in the following locations:
  - i. On roof tops with a setback of five (5) feet from any parapet wall. The equipment may exceed the maximum permitted building height by five (5) feet, and all equipment must be properly screened from street view.

- ii. In a side or rear yard of each unit or building with a setback of five (5) feet from any adjacent building. The units may be at grade or mounted to the building.
  - g. Electric Vehicle (EV) parking. EV parking shall comply with the regulations outlined in P.L. 1975, c291 (C.40:55D-66.20.3.a.1).
- (3) Prohibit uses.
  - a. Parking or storage of boats, boat trailers, motorhomes, and recreational vehicles.
- (4) All, area and building requirements
  - a. Minimum lot size = 38,000 square feet.
  - b. Minimum lot width = 50 feet.
  - c. Minimum lot frontage = 50 feet.
  - d. Minimum lot depth = 150 feet.
  - e. Minimum setbacks for principal buildings
    - i. Minimum front yard setback = 30 feet (Church Steet).
    - ii. Minimum front yard setback = 15 feet (Pitney Drive).
    - iii. Minimum rear yard setback = 5 feet.
    - iv. Minimum side yard setback = 5 feet.
    - v. Minimum of separation between buildings = 10 feet.
    - vi. Maximum roof height = 40 feet.
    - vii. Maximum number of stories = 3 stories.
    - viii. Maximum building coverage = 30%
    - ix. Maximum lot coverage = 80%
  - f. Each attached and single unit building must provide one (1) garage space per unit. Parking for all apartment units shall be provided on-site but will not require garage spaces.
  - g. Access steps and landing for the apartment building may encroach up to five (5) feet into any required side yard.
- (5) Site access and off-street parking
  - a. A one-way site access driveway shall be provided with a minimum width of 20 feet.
  - b. Number of spaces and parking space dimensions shall comply with the New Jersey Residential Site Improvement Standards, NJAC 5:21-1.1 et seq (RSIS).
- (6) Signs
  - a. One monument sign with a maximum sign area of 40 square feet is permitted along each lot frontage subject to a 10-foot setback from any right of way.
  - b. Each sign may be externally lit with goose neck lighting, ground mounted lighting or backlit letters. Interior illuminated letters or internally illuminated signage shall not be permitted.
  - c. Monument signs shall be made of stone or some other attractive material similar to the architectural design of the principal buildings.
  - d. Monument sign bases shall be appropriately landscaped.
  - e. Pole signs are prohibited.
  - f. Directional signs and pavement markings designed and used to control or divert the flow of traffic upon or within the lot shall be permitted.
  - g. Posted "warning", "no trespassing" and "danger" signs not exceeding two square feet are permitted, and no sign permit shall be required.
- (7) Affordable housing.

- a. The affordable units shall not be age restricted units.
- b. The bedroom distribution and income distribution of the units available to low- and moderate-income households shall be in compliance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-1 et. seq., except that 13% of the low-income units shall be available to very-low-income households which are at 30 percent of the medium income of the applicable region.
- c. Pursuant to the Uniform Housing Affordability Controls, NJAC 5:80-26.1, et seq. (UHAC), the affordable units shall be subject to affordability controls of at least 30 years from the date of initial occupancy and affordable deed restrictions as provided by UHAC, with the sole exception that very low income shall be defined as at or below 30% of median income pursuant to the Fair Housing Act, and the affordability control shall remain unless and until the Borough, at its sole discretion, takes action to release the units from such controls after at least 30 years. If the Borough acts to release the units from such controls, affordability control shall remain in effect until the date on which the rental unit shall become vacant due to voluntary departure of the occupant household in accordance with NJAC 5:80-26.11(b) . The deed restriction shall state the minimum bedroom size and income level for each affordable unit.
- d. The affordable units shall comply with the UHAC regulations with regards to pricing of rents.
- e. Certificates of Occupancy for the market rate units and the affordable units shall be phased in accordance with NJAC 5:93-5.6.(d). the affordable units shall be deed restricted prior to the issuances of the certificates of occupancy, and a copy of the deed restrictions shall be provided to the Fair Share Housing Center upon recording.
- f. The developer shall contract with an experienced administrative agent in compliance with NJAC 5:80-26.14 and applicable law.
- g. The affordable units shall be affirmatively marketed in accordance with the UHAC, pursuant to NJAC 5:80-26.15, and all applicable law, by an experienced administrative agent. The affirmative marketing shall include posting of the affordable units availability on the New Jersey Housing Resource Center website in accordance with all 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 (15 W. Front St, Trenton, NJ 08608), the Latino Action Network (2560 US Hwy. 22, Suite # 322, Scotch Plains, NJ 07076), STEPS (14 Clifton Ave South, Lakewood, NJ 08701), Ocean, Inc. (40 Washington Street, Toms River, NJ 08753), the Greater Red Bank (P.O. Box 791 Red Bank, NJ 07701), Asbury Park/Neptune (P.O. Box 1143, Asbury Park 07712), Bayshore (P.O. Box 865 Matawan, 07747), Greater Freehold (P.O. Box 246 Marlboro Annex, NJ 07746) , Greater Long Branch (P.O. Box 472 Long Branch, NJ 07740), and the Trenton Branches of the NAACP (395 W State St., Trenton, NJ 08618): and the Supportive Housing Association (185 Valley St, South Orange, NJ 07079) at least 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-4 Zoning District.

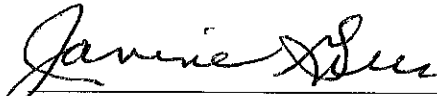
**BE IT FURTHER ORDAINED,** that

- 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.

  
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William Graetz, Acting Mayor

9/17/2024  
Date

  
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Janine Gillis, Borough Clerk

9-17-2024  
Date