

PLEASE TAKE NOTICE the following ordinance was introduced and passed on first reading at the November 18, 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 December 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 No. 2024-17
BOROUGH OF SPRING LAKE HEIGHTS
COUNTY OF MONMOUTH**

AN ORDINANCE AMENDING CHAPTER 22, ARTICLE VI, ZONING REGULATIONS OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF SPRING LAKE HEIGHTS

BE IT HEREBY ORDAINED by the Mayor and Council of the Borough of Spring Lake Heights in the County of Monmouth, State of New Jersey, that the Borough's Land Development Ordinance at Chapter 22, Article VI Zoning Regulations is hereby amended as follows:

NOTE: Sections of Chapter 22, Article VI Zoning Regulations that are to be amended are set forth below. All additions are shown in **bold italics with underlines**. All deletions are shown in ~~**bold italics with strikeouts**~~. All sections that are unchanged remain in regular typeface.

Chapter 22, Article VI Zoning Regulations shall be amended as follows:

Chapter 22 MUNICIPAL LAND USE REGULATIONS

ARTICLE VI Zoning Regulations

§ 22-600. ZONE DISTRICTS. [Ord. #6-1989, § 600; Ord. #18-1990, § 2; Ord. No. 2013-06]

For the purpose of this chapter, the Borough is divided into the following zones or districts:

R-1	Residential
R-2	Residential
R-3	Residential
R-4	Residential
R-5	Residential
<u>MU-AH-1</u>	<u>Mixed Use Affordable Housing 1</u>
<u>MU-AH-2</u>	<u>Mixed Use Affordable Housing 2</u>
<u>AH-3</u>	<u>Affordable Housing 3</u>
<u>AH-4</u>	<u>Affordable Housing 4</u>
<u>MU-1</u>	<u>Mixed Use 1</u>
<u>MU-2</u>	<u>Mixed Use 2</u>

R-ML	Residential Mount Laurel
B-1	Business and Office
B-2	Commercial
B-3	Commercial Zone

§ 22-601. ZONING MAP.¹ [Ord. #6-1989, § 601; Ord. #18-1990, § 2; Ord. No. 2013-06]

a. Adoption of Map. The boundaries of all zone districts are established on the map entitled "Zoning Map of the Borough of Spring Lake Heights", dated ~~July, 2013~~ October 2024, which accompanies and is made part of this chapter.

b. ~~Zoning Map Amendments.~~

~~1. Ord. No. 2013-06: That the following properties are hereby re-zoned and re-classified as part of the B-3 Commercial Zone:~~

~~Block 46.01, Lot 1~~

~~Block 46.01, Lot 2~~

~~Block 46.01, Lot 3~~

~~Block 46.01, Lot 4~~

~~Block 46.01, Lot 5~~

~~Block 46.01, Lot 7~~

~~Block 46.01, Lot 8.01~~

~~Block 46.01, Lot 65~~

~~Block 46.01, Lot 66~~

~~Block 46.01, Lot 67~~

~~2. Rezone parcels from the B-2 Commercial Zone to the Residential 1 (R-1) Zone.~~

~~Block 42, Lot 2, Block 42.05, Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 6.1, 7.1, 8.1, 9.1, 30.1, 31.1, 32.1, 33.1, 34.1, 35.1, 36.1, 37.1, 38.1, 39.1, 40.1, 41.1, 42.1, 43.1, 44.1, and 45.1, Block 42.06, Lots 2. 1, 3.1, 4.1, and 5.1, Block 42.07, Lots 2.1, 3.1, 4.1, 5.1, 6.1, 7.1, 8.1, 9.1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 16, 17, and 22. [Added 3-23-2023 by Ord. No. 2023-04]~~

~~3. Rezone parcels from the B-2 Commercial Zone to the Residential R-5 Zone.~~

~~Block 18, Lot 112, Block 19, Lot 65, Block 20, Lots 11 and 18, Block 35, Lots 2 and 49, Block 36, Lots 56 and 85, Block 37 Lot 92. [Added 3-23-2023 by Ord. No. 2023-05]~~

~~4. The AH-2 Zone shall comprise the following tax lots: Lots 5 and 7, Block 46.01 and the zoning map shall be amended accordingly.[Added 11-20-2023 by Ord. No. 2023-08]~~

~~5. Rezone a certain parcel in the B-2 Zone to the R-5 Zone.~~

~~The following parcel shall be rezoned from B-2 Commercial to R-5 Residential: Block 68 Lot 15.~~

~~[Added 12-18-2023 by Ord. No. 2023-09]~~

§ 22-602. ZONE BOUNDARIES. [Ord. #6-1989, § 602]

Where uncertainty exists as to any boundary as shown on the Zoning Map, the following rules shall apply:

- a. Zone boundary lines are intended to follow the center line of streets, streams, railroad rights-of-way, and lot property lines as they exist on plats of record at the time of the passage of this chapter, unless such zone boundary lines are fixed by dimensions as shown on the Zoning Map.
- b. The location of any disputed zone boundary line shall be determined by the *Land Use Board acting as the* Zoning Board of Adjustment.
- c. Where zone boundaries are not fixed by dimensions, and where they approximately follow lot lines, and where they do not scale more than 20 feet distant therefrom, such lot lines shall be construed to be the zone boundary line unless specifically shown otherwise.
- d. In unsubdivided land and where a zone boundary divides a lot, the location of the zone boundary line shall be determined by the use of the scale appearing thereon, unless the location of the zone boundary line is indicated by dimensions (in feet) shown on the zone map.
- e. Where a street or public way serves as the zone boundary, and it is lawfully vacated, the former center line shall be considered the zone boundary.

§ 22-603. PROHIBITED USES. [Ord. #6-1989, § 603; Ord. No. 09-2009 § 1; amended 6-7-2021 by Ord. No. 2021-06]

Any use not specifically permitted in a zone shall be considered prohibited. Prohibited uses in all zones include, but are not limited to, the following:

- a. Junk yards.
- b. Manufacturing, fabrication, assembly or other industrial process.
- c. Firearm target ranges, skeet or trap shooting ranges or any use, activity or structure which is for the purpose of, or incorporates incidental facilities, for the discharge of firearms for any purpose.
- d. Campgrounds or any other facility for temporary or transient accommodations other than a ~~*bona fide motel as defined by this chapter*~~, or a dwelling unit which would meet all requirements for a permanent dwelling.
- e. The raising or keeping of dogs, cats, livestock or other animals on any basis other than as house pets.
- f. Outdoor storage *or display* of goods for sale; including the sale of motor vehicles by other than service stations, automotive garages or automobile dealers, subject to the provisions of paragraph h below; goods stored for distribution; or goods in transit.
- g. Any use which will not conform with the performance standards set forth in this chapter.
- h. Outdoor storage of more than ~~*two*~~ *five* motor vehicles for sale by a service station, automotive garage or automotive dealer.

- i. The outdoor storage of an unoccupied recreational vehicle, motor homes, travel trailer, camper or small boat shall be permitted on single family properties provided that:
 - 1. Such storage shall not be located in any front yard.
 - 2. Only one such travel trailer or recreational vehicle or camper, shall be permitted to be stored outdoors at any single family residence.
 - 3. Any such vehicles stored in accordance with this section shall not be occupied and shall not be provided with utility connections.

- j. Storage of Commercial Vehicles, Buses and Omnibuses.
 - 1. No commercial motor vehicle, motor drawn vehicle, bus or omnibus having a rated maximum gross vehicle weight (GVW) in excess of 10,000 pounds or having more than two axles, shall be parked or stored overnight on any property in any residential zone or district or on any property which is primarily used for residential purposes, except vehicles engaged in construction, parked or stored on an active construction site and which display a construction vehicle parking permit issued by the Zoning Officer. Applications for such permits shall be made for each such vehicle to be parked or stored and upon a finding that construction has commenced or is imminent, the Zoning Officer shall issue such permits for periods not to exceed 30 days. The permits shall be renewable as needed and shall not require the payment of any fee.
 - 2. No more than (1) motor vehicle or motor drawn vehicle with a commercial, bus or omnibus motor vehicle registration, having a rated maximum gross vehicle weight (GVW) of 10,000 pounds or less and which is owned or used by a resident of the premises shall be parked or stored overnight on any property in any residential zone or district or any property which is primarily used for residential purposes except vehicles engaged in construction and which comply with the permit provisions of paragraph j,1 above. Any vehicle permitted to be parked or stored pursuant to this paragraph other than vehicles engaged in construction shall, where conditions permit, be parked in a rear or side yard area, which area is relatively unexposed to neighboring properties. Passenger automobiles for use by residents of the premises with commercial motor vehicle registration shall be exempt from the provisions of this paragraph j, 2.
 - 3. For purposes of this paragraph, a commercial vehicle or motor drawn vehicle includes any vehicle containing advertising matter intending to promote the interest of any business, or any vehicle used in connection with the business, whether or not the vehicle is registered as a commercial vehicle with the New Jersey Motor Vehicle Commission.

- k. Satellite dish antennas.

- l. Reserved.

- m. Pursuant to Section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Borough of Spring Lake Heights, except for the delivery of cannabis items and related supplies by a delivery service. [Added 6-7-2021 by Ord. No. 2021-06]

§ 22-604. EXISTING USES. [Ord. #6-1989, § 604]

Except as specified in Section 22-605, any use, building or structure legally existing at the time of

the enactment of this chapter may be continued even though such use, building or structure may not conform to the provisions of this chapter for the district in which it is located.

§ 22-605. NONCONFORMING USES.

§ 22-605.1. Continuance. [Ord. #6-1989, § 605.1; Ord. No. 09-2009 § 2]

Except as otherwise provided in this section, the lawful use of land or buildings existing at the date of the adoption of this chapter may be continued, although such use or building does not conform to the regulations specified by this chapter for the zone district in which such land and building is located.

- a. No nonconforming lot or building shall be further reduced in size.
- b. No nonconforming building shall be enlarged, extended or increased, unless such enlargement would reduce the degree of nonconformity.
- c. No nonconforming use may be expanded.

§ 22-605.2. Abandonment. [Ord. #6-1989, § 605.2]

A nonconforming use shall be adjudged abandoned when there occurs a cessation of any such use or activity by an apparent act or failure to act on the part of the tenant or owner. Such use shall not thereafter be reinstated, and the structure shall not be reoccupied, except in conformance with this chapter.

§ 22-605.3. Restoration. [Ord. #6-1989, § 605.3]

If any nonconforming building shall be destroyed by reason of windstorm, fire, explosion or other act of God or the public enemy to an extent of more than 60% of the recorded true value as appraised in the records of the tax assessor, then such destruction shall be deemed complete destruction, and the structure may not be rebuilt, restored or repaired except in conformity with this chapter. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any wall, floor, or roof which has been declared unsafe by the Building Official.

§ 22-605.4. Reversion. [Ord. #6-1989, § 605.4]

No nonconforming use shall, if once changed to a conforming use, be changed back to a nonconforming use.

§ 22-605.5. Construction Approved, Prior to Chapter.² [Ord. #6-1989, § 605.5; Ord. #6-1989, § 606.1; Ord. #22-2007; Ord. No. 13-2009 § 1; Ord. No. 2014-05 ; Ord. No. 2015-08 Ord. No. 2017-07 § 8]

Nothing herein contained shall require any change in plans, construction or designated use of a building, for which a building permit has been heretofore issued; provided, however, the construction of which shall have been diligently prosecuted within three months of the date of such permit and the ground story framework of which, including the second tier of beams, shall have been completed within six months of the date of the permit, and which entire building be completed according to such plans as filed, within 12 months of the date of this chapter.

§ 22-605.6. District Changes. [Ord. #6-1989, § 605.6]

Whenever the boundary of a zone district shall be changed so as to transfer an area from one district to another district of a different classification, the provisions of this section shall apply to any nonconforming uses or buildings existing therein or created thereby.

§ 22-605.7. Alteration, Enlargement or Extension. [Ord. #6-1989, § 605.7; Ord. #22-2005; Ord. No. 14-2012]

- a. A nonconforming building, or an existing building on a nonconforming lot in a residential zone district, may be altered, repaired, enlarged or extended; provided the use is permitted in the zone district and that the extension does not violate any front, side or rear yard setback requirements or building coverage requirements of the zone district and provided further that any enlargement does not exceed the existing height of the structure.
- b. An existing nonconforming single family dwelling unit, or an existing single family dwelling unit on a nonconforming lot, located in a flood zone as shown on a current Flood Insurance Rate Map (FIRM) may be elevated ~~so that the finished floor elevation (FFE) is a maximum of four (4) feet above the base flood elevation as determined by the FIRM, provided that no pre-elevation building setbacks are decreased, the structure is not enlarged or extended, and the elevated building height does not exceed thirty-two (32) feet. Stairs and landings required to be reconstructed or altered as a result of any existing conforming or non-conforming structure being elevated shall be permitted to extend into any required setback a distance minimally necessary to meet the access requirements of the Uniform Construction Code.~~ or improved in conformance with Chapter 17 Floodplain Management Regulations.

§ 22-606. ZONE DISTRICT REGULATIONS. [Ord. #6-1989, §606]

Recognizing the extent and character of existing open space assets within the residential zone districts, it is the intent of these regulations to encourage a comprehensive approach to land development which will result in the preservation of open space in the amount both necessary and appropriate to development types permitted.

§ 22-606.1. Residential Zones R-1, R-2, R-3, R-4 and R-5. [Ord. #6-1989, §606.1; Ord. #22-2007; Ord. No. 13-2009 § 1; Ord. No. 2014-05; Ord. No. 2015-08; Ord. No. 2017-07 § 8]

- a. Permitted Principal Uses (Land and Buildings).
 1. One-family detached dwellings. The maximum building height for principal structures in all residential zones shall be thirty-two (32) feet, or as listed below, as measured from the top of the curb at the center of the lot. The building height for structures located on corner lots shall be measured from both curbs and the average number shall be utilized. The maximum building and eave height, as listed in the table below for principal structures, may be increased by 5 feet in Flood Insurance Rate Map (FIRM) Flood Zones, in order to achieve a maximum three (3) foot separation of finished floor from the applicable base flood elevation, for structures that are being elevated or newly constructed to meet flood zone construction guidelines. ~~The building height for structures located on corner lots shall be measured from both curbs, and the average number shall be utilized.~~ Principal structures in all residential zones shall be limited to two and one-half (2½) stories. Additional requirements relating to building height for principal structures in residential zones is set forth in the table below:

Type of Roof	Maximum Eave Height (feet)	Maximum Roof Building Height (feet)	Maximum Stories
Gable/hip	25	32	2 1/2
Flat	25	25	2 1/2
Mansard (Dutch Colonial & Other)	25	32	2 1/2

2. Residential Cluster Development of single family detached dwellings or of townhouses in the R-1 zone district only.
 3. Golf courses as defined by this chapter in an R-1 zone only.
 4. Municipal facilities and public parks, playgrounds, playfields and walkways deemed necessary and appropriate by the governing body of the Borough.
 5. Essential services.
 6. R-5 Residential Townhouse Overlay. Townhouse residential development shall be permitted in the R-5 Zone on the Wyckham Manor Tract, Block 46.02, Lots 1-62, in accordance with the Schedule of Permitted Uses, Yard, Area and Bulk Requirements in Section 22-612. Permitted accessory uses shall include private garage, pool and pool storage building, fences, trash enclosures and off-street parking. Common elements serving the townhouse residential development such as the pool, pool storage building, access drives, off-street parking, trash enclosures and fences shall be permitted on Block 46.02, Lot 63. This shall be considered an Overlay Zone. [**Ord. No. 13-2009 § 1**]
 7. An existing single-family residential dwelling built prior to the adoption of this paragraph 7 (adopted by Ord No. 2017-07: adopted on November 13, 2017) in the R2, R3, R4 and R5 Zones may add a front porch or landing for entrance steps conforming to the following requirements:
 - (a) The distance from the front porch or landing nearest the front property line must be 22 feet or more.
 - (b) The front yard setback of a porch or landing shall not be considered the front yard setback of the principal building.
 - (c) The front entrance landing may have a roof over the landing but no form of enclosure.
 - (d) No porch deck shall be higher than the primary structure entrance threshold and shall be in conformance with the Federal Flood Elevation Standards at the time of construction.
 - (e) In cases where the existing primary structure encroaches into the side yard setback(s), the porch may extend into the side yard setback to same extent as the primary building.
- b. Permitted Accessory Uses **and Buildings.**
1. **One accessory building per property for use as a** storage shed for garden tools and

implements, pool equipment shed or changing room for use on-maintenance-of the grounds of residential properties as per §22-502.1b.

2. Fences and walls.
 3. Temporary equipment, uses or structures for uses, shall be permitted during the construction period beginning with the issuance of a Certificate of Occupancy or abandonment of the construction work, or one year, whichever is less, provided that said equipment and structures are situated on the site where construction is taking place. Construction equipment shall not be left on the site during construction for more than 14 consecutive calendar days if not in active use.
 4. Clubhouses and dining facilities, tennis and other racquet sports, swimming pools and shuffleboard courts subordinate to the operation of a golf course in an R-1 zone only.
 5. Private garage space and other uses customarily incidental and subordinate to residential development, provided that such uses do not house any activity conducted as a business or industry and further provided that any accessory use shall be located on the same lot with the principal use.
- c. Conditional Uses. Other uses permitted upon site plan approval of the Planning Board.
- ~~1. Places of worship, conforming to the provisions of subsection 22-607.1.~~
- 1 2. Quasi-public buildings and recreation areas, conforming to the provisions of subsection 22-607.3.
- ~~3. Hospitals, philanthropic and eleemosynary uses, conforming to the provisions of subsection 22-607.4.~~
- 2 4. Public utility installations, conforming to the provisions of subsection 22-607.5.
- 3 5. Professional offices as a home occupation only in detached single-family dwellings on lots in the R-4 and R-5 zone districts only and conforming to the residential requirements of this article. Site plan approval shall be required.
- d. Other Requirements. Area and bulk requirements and off-street parking requirements as specified in Section 22-612 of this chapter.

§ 22-606.3. B-2 Commercial. [Ord. #6-1989, § 606.3; Ord. #7-2003, § 1; Ord. No. 2017-07 § 11]

- a. Permitted Principal Uses (Land and Buildings).
1. Retail sale of consumable products, wearing apparel, pharmaceuticals, hardware, appliances, household goods, confections and general merchandise.
 2. Banks, fiduciary institutions, business and professional offices and medical centers.
 3. The sale of personal services such as cleaners, tailors, barbershops and beauty salons, and the repair of appliances and shoes.
 4. Transportation terminal facilities, including taxi stands, bus passenger stations and similar uses.
 5. Such municipal facilities deemed necessary and appropriate by the governing body of the Borough.

6. Restaurants and bars.
 7. Motels.
 8. **Banquet Facilities**
- b. Permitted Accessory Uses.
1. Off-street parking and loading facilities.
 2. Signs, conforming to the provisions of Section 22-610 of this chapter.
 3. Single family dwelling units on the second floor, provided that the dwelling units do not occupy more than 50% of the total building floor area.
 4. Fences and walls.
- c. Conditional Uses. Other uses permitted upon site plan approval of the Planning Board.
1. Quasi-public buildings and recreation areas, conforming to the provisions of subsection 22-607.3.
 2. Public utility installations, conforming to the provisions of subsection 22-607.5.
 3. Motor vehicle service stations.
- d. Other Requirements. Area and bulk requirements and off-street parking requirements as specified in Section 22-612 of this chapter.
- e. Design Criteria. In addition to all other design standards as may be applicable under this chapter, the following design standards shall be applied to all properties adjacent to State Highway 71:
1. All sidewalks shall be five feet wide with a concrete paver edge.
 2. Crosswalks shall be concrete pavers with concrete retainer curb.
 3. Sidewalk benches shall be required (two per frontage):
 4. Shade trees shall be required (as approved by the Planning Board). Minimum of 35 feet on center.
 5. Minimum of a five foot wide planting strip required along State Highway 71 between building and sidewalk.
 6. Parking lots are prohibited to front on State Highway 71.
 7. Decorative lamp posts shall be implemented in every site plan and are required every 70 feet of frontage along State Highway 71 (Grosse Pointe 3173 BP w/305 Base).
 8. Above ground storm water management is prohibited.
 9. All wiring and utilities shall be underground.
 10. All approved plantings along State Highway 71 exceeding six feet in height shall be a minimum of 10 feet from the curblines.
 11. All recycling and dumpster areas shall be enclosed on four sides and surrounded by four

foot to six foot evergreens on three sides.

~~§ 22-606.4. Residential Mount Laurel. [Ord. #18-1990, § 3]~~

~~a. Permitted Uses.~~

- ~~1. A planned Mount Laurel residential development, including all or any of the following: single family detached, semi-detached and attached dwelling, two family dwelling, townhouse dwelling, multi-family dwelling and garden apartment dwelling.~~
- ~~2. Public parks and playgrounds.~~
- ~~3. Necessary public utilities and services.~~
- ~~4. Buildings, structures and uses owned and operated by the Borough of Spring Lake Heights.~~
- ~~5. Accessory uses and accessory buildings customarily incidental to the above uses and located on the same lot.~~

~~b. Conditional Uses.~~

- ~~1. Home occupations subject to the requirements of subsection 22-606.1c.~~
- ~~2. Single family housing may be constructed, remodeled and renovated subject to Section 22-612.~~

~~c. Additional Requirements.~~

- ~~1. All residential units shall be served by public sewer and centralized water systems.~~
- ~~2. All off street parking shall be located a minimum distance of 10 feet from any property line and shall be screened from view from adjacent properties.~~
- ~~3. 100% of the total number of dwelling units that are the subject of a development application shall be equally divided into low and moderate income dwellings as required by provisions for the application and interpretation of low/moderate income units.~~
- ~~4. No more than 50% of the total number of low and moderate income units shall be rental units.~~
- ~~5. No more than 25% of the low and moderate income units within an inclusionary development may be restricted for senior citizen units.~~
- ~~6. No dwelling unit shall be constructed below grade. Units shall be attached or designed in such a manner as to provide maximum security and visual privacy from adjacent dwelling units, nonresidential uses and streets.~~
- ~~7. During site plan review, the following criteria shall be given consideration:~~
 - ~~(a) The function and visual relationship between proposed dwelling units and adjacent existing development.~~
 - ~~(b) Orientation of buildings so as to take advantage of passive solar heating and summer breezes while minimizing exposure to winter winds.~~

~~(e) *Pedestrian walkways, which are linked to off-site walkway networks.*~~

~~(d) *Minimization of glare, noise and visual intrusion of parking lots to external roadways and adjacent properties through grading, berms and/or plantings.*~~

§ 22-606.5. Reserve

§ 22-606.6. Mixed-Use AH-1. [Added 10-3-2022 by Ord. No. 2022-16]

- a. Purpose. The purpose of the Affordable Housing Zone is to provide a realistic opportunity for affordable housing within an inclusionary development. The creation of the Affordable Housing Zone is in furtherance of the Borough's Settlement Agreement of Motzenbecker vs. Borough Spring Lake Heights, Borough Council of Spring Lake Heights and the Borough of Spring Lake Heights Planning Board, Superior Court of New Jersey, Monmouth County, Law Division, Docket No. MON-L-0030-21 (the "Builder's Remedy Action").

The Mixed Use AH-1 Zoning District includes Block 59, Lot 39, consisting of approximately 0.40 acres. The purpose of the MU-AH-1 Zone is to provide a realistic opportunity for affordable housing within an inclusionary development by creating an integrated mixed use zone for a combination of commercial and residential development; to permit the construction of one office or retail space along the frontage of State Highway 71; and permit the construction of five housing units on the remaining undeveloped acres.

Twenty percent, or a single, two-bedroom unit in the development, shall be set-aside for, and shall be, a non-age restricted, two-bedroom, very-low income household earning 30% or less of the regional median income. The Settlement Agreement for the Builder's Remedy Action includes a concept plan that is the basis of this subsection.

- b. Permitted Principal Uses.
1. Mixed-Use buildings that include retail or office space, along the frontage of State Highway 71, and five multi-family housing units. Of the five housing units, one street level, two bedroom unit shall be affordable to a very-low-income household and shall not be age restricted.
- c. Permitted Accessory Uses. Uses that are customary and incidental to multi-family housing, including, but not limited to:
1. Parking.
 2. Garages.
 3. Signs.
 4. Fences.
 5. Temporary construction trailers.
 6. Trash enclosures.
 7. HVAC units.
 8. Generators.
- d. Bulk Regulations. The bulk regulations shall be the same as the B-1 Zone as depicted at Attachment 5 of the Borough's Land Development Ordinance (Schedule of Yard, Area and

Bulk Requirements) with the following exceptions:

1. Minimum Lot Width shall be 95 feet.
 2. Minimum Lot Area shall be 10,000 square feet.
 3. Minimum Front Yard shall be 24 feet.
 4. Minimum Side Yard shall be eight feet.
 5. Minimum Rear Yard shall be 15 feet.
 6. Maximum DU/Acre - A maximum of five housing units are permitted.
 7. Development in this zone shall be exempt from Section 22-503 of the Borough's zoning ordinance (Apartments and Townhouses) as well as any other Borough standard conflicting with the bulk standards established herein.
 8. Building height shall be the vertical distance measured from the average proposed grade at the perimeter of the building to the midpoint of a non-flat roof, or to the top of a flat roof. Chimneys, antennas, elevator equipment, cupolas, weather vanes, and mechanical and utility equipment may exceed the permitted building height by five feet.
 9. Parking spaces situated parallel to the side lot line of the property may be a minimum of eight feet in width. No landscaping other than grass shall be required alongside such parallel parking spaces.
 10. Projections from buildings, such as, but not limited to balconies, patios, chimneys and windows may extend into the building set-back provided they shall be set-back a minimum of 22 feet from the front yard property line and five feet on the side yard property line.
- e. Parking and Loading.
1. Retail and office uses. Pursuant to Section 22-611 of the land development ordinance, no loading spaces shall be required for retail and office uses.
 2. Residential uses. The residential site improvement standards shall apply, subject to the granting of reasonable de minimus exceptions.
- f. Off Street Parking. Off street parking shall be set back a minimum of 22 feet from the front lot line, three feet from the site lot line and 30 feet from the rear lot line.
- g. Fencing. Notwithstanding the set-back requirements for other accessory uses, fencing is permitted along the rear yard or side yard property line. Such fencing may be up to six feet in height and be of solid construction.
- h. Trash Enclosure. Trash enclosure shall be masonry block and shall not be located closer than 15 feet from the rear lot line nor closer than 36 feet from the side lot line.
- i. Driveway Aisle. Driveway aisle width shall be a minimum of 22 feet.
- j. Landscaping. Landscaping along the southern property line shall be pervious material and shall not require planting.
- k. Signage.

1. One monument sign with a maximum area of 40 square feet may be provided along the lot frontage if set-back five feet from the Route 71 street line as of January 1, 2022. The monument sign may provide information regarding the residential and non-residential uses in the building.
 2. Numbers indicating the addresses of the multi-family residential buildings are permitted to be mounted on the building facade, not to exceed eight square feet and not to protrude more than six inches from the building's surface.
 3. One tenant sign attached to the building consistent with Section 22-610.7f of the Borough zoning ordinances.
- l. Deviations from Concept Plan. Development in the Affordable Housing Zone shall generally conform to the Concept Plan, dated (submission date) January 18, 2022. However, it is the intent that the applicant can make reasonable refinements to the Concept Plan and that the Board shall approve those refinements even if such refinements require variance relief.
- m. Affordable Housing.
1. One, single, non-age-restricted, two-bedroom affordable housing unit on the street level, or 20% of the five residential units, shall be affordable to eligible very-low-income households, as defined as those households earning 30% or less of the regional median income, pursuant to N.J.S.A. 52:27D-329.1.
 2. 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 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 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 to extend or release the unit from such controls after at least 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).
 3. The affordable unit shall comply with the UHAC regulations with regards to the pricing of rents or sale prices associated with very-low income households at 30% or less of median income, pursuant to N.J.S.A. 52:27D-329.1.
 4. Construction of the affordable unit shall be phased in accordance with N.J.A.C. 5:93-5.6(d). The affordable unit 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.
 5. The affordable unit shall utilize the same heating sources as the market unit within the inclusionary development.
 6. With regard to ADA compliance, the very-low income housing provided as townhouses or multistory dwelling units shall comply with N.J.A.C. 5:97-3.14.
 7. The developer shall contract with an experienced administrative agent in compliance with N.J.A.C. 5:80-26.14.

8. 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 (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.

Conflicting Standards and Exemptions. The standards set forth in the Affordable Housing Zone shall supersede any conflicting standards elsewhere in the Land Development Ordinance. It is recognized that the subject properties are relatively flat; and therefore, any Borough land regulation related to slope shall not apply to the Affordable Housing Zone. No municipal standard regulating tree removal or tree replacement shall apply in the Affordable Housing Zone.

§ 22-607. CONDITIONAL USES.

§ 22-607.1. Standards Established. [Ord. #6-1989, § 607]

In recognition that certain necessary specific uses may be, or become, inimical to the public health, safety and general welfare of the Borough if located without due consideration to the existing conditions and surroundings, the following standards and procedures are hereby established for uses designated, as conditional uses. These standards are intended to provide the ~~Planning~~ **Land Use** Board with a guide for the purpose of reviewing and deciding upon certain uses not otherwise permitted except under restrictions of this section. In approving a site plan for a conditional use, the **Planning Land Use** Board may suggest modifications and changes. Such changes and modifications, as well as original provisions of the site plans which have not been modified, shall be maintained as a condition of the establishment and maintenance of any use to which they are appurtenant.

§ 22-607.2. Places of Worship. [Ord. #6-1989, § 607.1]

Places of worship ~~may be permitted in any residential zone district~~ **are a conditional use in all non-residential zones** provided that the following standards and conditions are complied with:

- a. The minimum lot area shall be 40,000 square feet and the minimum frontage shall be 200 feet.
- b. Off-street parking shall be provided at the ratio of one off-street parking space for each four seats in the building.
- c. Driveways shall cross sidewalk areas at right angles and shall be no more than 24 feet wide at any point. Driveways must be at least 10 feet from any side lot line and 50 feet from the intersection of street lines. No more than two driveways shall be permitted for each 200 feet of street frontage.
- d. The **Planning Land Use** Board may require buffers of plantings to protect surrounding properties from the light and noise generated in the parking areas. Not less than one tree shall

be provided adjacent to the parking area for each 10 off-street parking spaces.

§ 22-607.3. Quasi-Public Buildings and Recreation Areas. [Ord. #6-1989, § 607.2]

Quasi-public buildings and recreation areas, including clubhouses, parks, playgrounds, swimming pools, tennis courts and other such activities operated by non-profit membership organizations may be ~~permitted in any residential zone district and the B-2 zone district~~ permitted in all zones, provided that the following standards and conditions are complied with:

- a. The applicant must be a bona fide non-profit organization operated solely for the recreation and enjoyment of the members of said organization.
- b. The proposed use will not adversely affect the safe and comfortable enjoyment of property rights or otherwise adversely affect the value of adjacent properties.
- c. The design of any structures erected in connection with such use is in keeping with the general character of the residential area, and that sufficient landscaping, including trees, shrubs and lawn, are provided to serve as a buffer between said use and adjoining residential properties, and to insure an attractive appearance for the use.
- d. The minimum lot area for such use shall be 10,000 square feet. The minimum lot frontage shall be 75 feet. Not more than 50% of the land area shall be occupied by buildings and structures.
- e. No building, structure or active recreation facility shall be located within 25 feet of an adjacent lot in a residential zone district.
- f. The maximum number of members of the organization shall be fixed at the time of application and shall be commensurate to the amount of land to be used and the exact nature of the use. No increase in the maximum number of members without application to and approval by the Planning Board.
- g. Off-street parking spaces shall be provided at a ratio of one space for each four memberships permitted under the terms of the Planning Board approval.

~~§ 22-607.4. Hospitals, Nursing Homes, Philanthropic and Eleemosynary Uses. [Ord. #6-1989, § 607.3]~~

~~Hospitals, nursing homes, philanthropic and eleemosynary uses may be permitted in any residential zone district, provided that the following standards and conditions are complied with:~~

- ~~a. The minimum lot area upon which such use is proposed contains at least two acres.~~
- ~~b. No structure shall be erected nearer than 60 feet to any street line or 30 feet to any property line. The minimum front and side yards shall be increased by one foot for each foot the building exceeds the maximum building height of the zone district, provided, however, that no building height shall exceed 50 feet.~~
- ~~c. Buildings shall not occupy more than 40% of the lot area.~~
- ~~d. The proposed buildings shall conform to all other requirements of the zone district in which it is to be located.~~
- ~~e. Parking spaces shall not be located within 10 feet of a lot line nor in the required front yard~~

~~area. Where parking spaces are within 30 feet of a property line, it shall be screened with two rows of plantings staggered on six foot centers, of species approved by the Shade Tree Commission.~~

§ 22-607.5. Public Utility Facilities. [Ord. #6-1989, § 607.4]

Public utility facilities needed to directly provide the service of the utility to the consumer, such as pumping stations and transformers, but excluding repair garages, offices, open storage and work areas and similar commercially and industrially oriented aspects of the utility service, may be permitted in any zone district, provided that the following standards and conditions are complied with:

- a. The facility must be necessary for the convenient and efficient operation of the public utility system or the satisfactory and convenient provision of service by the utility to the neighborhood or area in which the facility is to be located.
- b. The design of any building shall conform with the general character of the area in which it is proposed to be located. Its construction must not adversely affect the safe and comfortable enjoyment of property rights of the zone district in which it is located. Adequate visual screening with landscaping shall be provided as recommended by the Shade Tree Commission.
- c. Buildings, facilities, fences, safety devices and landscaping must be periodically maintained.

§ 22-607.6. Motor Vehicle Refueling and Service Stations. [Ord. #6-1989, § 607.5]

Motor vehicle refueling and service stations may be permitted in the ~~B-2 zone~~ MU-1 and MU-2 zone districts provided that the following standards and conditions are complied with:

- a. The area devoted to building coverage shall not exceed 10% of the total lot area.
- b. The minimum distance between property lines of service stations shall be 1,500 feet when measured along the same street, or 500 feet when measured from any portion of the property line in any direction, including measurements into adjoining municipalities, whichever is greater.
- c. All storage areas, trash facilities, pits, lifts and working areas shall be within a building. All lubrication, repair or similar activities shall be performed in an enclosed building, and no dismantled parts of vehicles shall be placed outside.
- d. All fuel pumps, air pumps and the islands upon which pumps are normally located shall be set back from the street line at least 50 feet, and from any other property line at least 35 feet. A minimum space of 25 feet shall exist between any two islands and between any island and the service station building.
- e. No junked motor vehicle or part thereof and no unregistered motor vehicle shall be stored outside an enclosed service station building overnight. Not more than three vehicles awaiting service may be stored outside the building overnight.

Storage of vehicles outdoors for more than 72 hours is to be in an area enclosed with fencing and screened with shrubbery as approved by the Planning-Land Use Board shown on a site plan submitted in accordance with this chapter.

- ~~f. The exterior display and parking of equipment for rent or sale shall be permitted, provided the area devoted to this purpose is in addition to the minimum lot size required for a service station, the area devoted to this purpose does not exceed 20% of the total area of the entire site, the maximum sign area for a service station is not exceeded and the location of the equipment being offered for rent or sale does not interfere with the off-street parking requirements for the service station and does not interfere with the traffic circulation indicated on the approved site plan.~~
- g. It is intended that service stations be designed compatibly with the architectural appearance of existing permitted commercial uses in the zone in which they are located, that they not be stripped along the available highway frontage or at each quadrant of a convenient intersection. Ingress and egress shall be designed to recognize the turning movements generated. The access points shall be coordinated with the access points required for nearby uses, frequency of intersecting side streets and maintaining building setbacks compatible with the required setbacks and landscaping.

§ 22-608. RESIDENTIAL CLUSTER DEVELOPMENT. [Ord. #6-1989, § 608]

Residential cluster developments may be permitted in the R-1 zone district, provided that the following standards and conditions are complied with:

- a. The purpose of this section is to provide a method of preserving land for open spaces, common property, conservation areas, floodplains, recreation areas and parks. These areas are preserved by permitting a reduction in lot sizes without increasing the number of lots or permitted number of dwelling units.
- b. Cluster developments may be approved in accordance with the following standards:
1. All dwelling units shall be connected to approved and functioning central water supply and central sewage disposal systems.
 2. The maximum number of lots or dwelling units per gross acre of the tract shall be as shown in the Schedule of Permitted Uses, Yard, Area and Bulk Requirements in Section 22-612, ~~except that for business zones, the density shall be as specified for the R-4 zone district.~~
 3. A minimum percent of the total tract to be set aside for either open space, common property or public areas, excluding street rights-of-way, shall be 20%.
- c. Open space donated to the Borough shall meet the following requirements:
1. The minimum area of each parcel shall be one acre.
 2. It shall be an integral part of the development and located to best suit the purpose(s) for which it is intended.
 3. Every parcel accepted by the Borough shall be conveyed by deed at the time final plat approval is granted.
 4. Lands offered to the Borough shall be subject to approval by the governing body after recommendation by the approving authority. The approving authority shall be guided by the Master Plan, the ability to assemble and relate such lands to an overall plan, the accessibility and potential utility of such lands to serve the intended purpose and such existing features as topography, soils, wetlands and tree cover as these features may

enhance or detract from the intended use of lands. The approving authority may request an opinion from other agencies or individuals as to the advisability of accepting any lands to be offered.

- d. Open space not donated to the Borough shall be owned and maintained by a homeowners' association. See Article V for procedures and requirements of a homeowners' association.

§ 22-609. REGULATIONS TO ALL ZONES. [Ord. #6-1989, § 609]

Except as hereinafter provided, the following general regulations shall apply in all zone districts.

§ 22-609.1. General. [Ord. #6-1989, § 609.1; Ord. #22-2005]

No building shall hereafter be erected and no existing building shall be moved, structurally altered, rebuilt, added to or enlarged, nor shall any land be used for any purpose other than those included among the uses listed as permitted uses in each zone by this chapter and meeting the requirements set forth in the Schedule of Permitted Uses and Requirements. No open space contiguous to any building shall be encroached upon or reduced in any manner, except in conformity to the requirements for yard, lot area, building location, percentage of building coverage, off-street parking and loading, and all other regulations designated in the schedule and this chapter for the zone district in which such building or space is located. In the event of any such unlawful encroachment or reduction, such building or use shall be deemed to be in violation of this chapter, and any building permit or other permit, if issued shall become void.

§ 22-609.2. Frontage on a Public Street. [Ord. #6-1989, § 609.2]

Every principal building shall be built upon a lot with frontage on a public street, which has been improved to meet Borough standards or, the improvement of which has been insured by the posting of a performance guaranty pursuant to the provisions of the Land Subdivision Ordinance of the Borough.

§ 22-609.3. Curbs and Driveway Aprons. [Ord. #6-1989, § 609.3]

All ~~residential~~ lots shall have curb constructed for the full frontage ~~of the lot.~~ On any public right of way. The full height curb, and the dropped curb for the driveway, shall meet the standard specifications of the Borough including Section 22-507.

§ 22-609.4. Street Width on Master Plan or Official Map. [Ord. #6-1989, § 609.4]

In the event that a development adjoins or includes existing Borough streets that do not conform to widths as shown on either the Master Plan or Official Map or the street width requirements of this chapter, additional land along one or both sides of the street shall be donated to the Borough for widening the street to meet the width shown on the Master Plan or Official Map. If the subdivision is along one side of the street only, 1/2 of the required extra width shall be provided.

§ 22-609.5. Principal Building. [Ord. #6-1989, § 609.5]

No residential lot shall have erected upon it more than one principal building, and no yard or other open space provide about any building for the purpose of complying with the provisions of this chapter shall be considered to provide a yard or open space for any other building.

§ 22-609.6. Artificial Lights. [Ord. #6-1989, § 609.6]

No artificial lights shall be used on any building or premises, which because of intensity, location, color or any other factor, disturb the comfort, health or safety of those residing, working or using public property, including streets within the range of said lights.

§ 22-609.7. Swimming Pools. [Ord. No. 6-1989 , § 609.7; Ord. No. 2017-07 § 7]

No swimming pool shall be located within 10 feet of any rear or side property line; the 10 feet shall be measured from the pool line nearest to any rear and/or side property line. No swimming pool shall be within five feet of the principal building or any accessory building. In no case shall the swimming pool be nearer any street than the principal building to which the pool is an accessory. A fence, permanent barrier or obstruction not less than four feet nor more than six feet in height, shall entirely enclose the area on which the swimming pool is located and bar all reasonable and normal access to the pool. Access to the area shall be through self-closing and latched gate or gates. The barrier may enclose a portion of the yard surrounding the pool. The barrier shall meet State of New Jersey requirements and be approved by the Borough Construction Official.

§ 22-609.8. Enclosures on Elevated Buildings. [Ord. No. 2017-07 § 12]

Any open area between the lowest finished floor area and the existing grade shall be enclosed with a breakaway wall or screening. All exposed pilings shall be enclosed. These requirements apply to elevation of an existing building, a new building constructed on an existing foundation or construction of a new building.

§ 22-609.9. Water Infiltration System. [Ord. No. 2017-07 § 12]

A Water infiltration system for total roof runoff shall be required for all new construction, ~~and for~~ or the roof runoff created by any ~~major~~ additional construction. The water infiltration system shall be installed in accordance with New Jersey Stormwater Best Management Practices Manual. The system is to be designed for a total volume of 1.5 inches per square foot of roof area or impervious surface. The infiltration volume must be calculated based on all new impervious cover created by the construction.

§ 22-609.10. Mechanical Equipment. [Ord. No. 2017-07 § 12]

Mechanical equipment shall include but not be limited to the following: permanent generator, air-conditioning, heat pump, pool equipment, ventilation equipment. The placement of the mechanical equipment shall comply with all setback requirements for the zone in which the building is located. No mechanical equipment shall be placed in the primary or secondary front yard. The equipment shall not have the base of the equipment more than 14 inches above the ground (the base may be elevated to the minimum level as allowed by FEMA requirements if that level is higher than 14 inches above the ground). All installations of new and replacement mechanical equipment must obtain a permit.

a. Location of Mechanical Equipment on Property.

1. Mechanical equipment adjacent to the principal building or any accessory building:

- (a) Any property with less than a ten-foot side yard setback shall have all mechanical equipment in the rear yard.
- (b) Equipment located in the side yard shall have a five foot clearance from the unit to the nearest property line.

- (c) Equipment located in the rear yard shall not project beyond the side building lines of the principal building.
 - (d) Equipment located in the side yard shall be screened on the three non-adjacent sides with a vinyl lattice fence at the height of the top of the equipment and greenery on the sides facing the front and side yards.
 - (e) All permanent generators shall be located in the rear yard.
 - (f) A permanent generator shall not be located closer than five feet from the nearest property line. If a permanent generator is located in the rear yard setback then the generator shall be fully enclosed in a sound attenuating cabinet.
2. Mechanical equipment located on top of the principal building:
- (a) Shall not exceed the building height requirement for the zone.
 - (b) Shall not be visible from the street or neighboring properties.
 - (c) Shall be covered by screening material appropriate to the building.