

ORDINANCE #1018

AN ORDINANCE OF THE BOROUGH OF OCEANPORT, COUNTY OF MONMOUTH, STATE OF NEW JERSEY TO AMEND CHAPTER 390 "ZONING", TO CREATE THE MONMOUTH PARK AGE-RESTRICTED AFFORDABLE HOUSING OVERLAY INCLUSIONARY DISTRICT - 1(MPAR-AH)

WHEREAS, the Borough filed a declaratory judgment action captioned In the Matter of the Application of the Borough of Oceanport, Superior Court of New Jersey, Law Division-Monmouth County, Docket No. MON-L-2528-15 (the "Mt. Laurel Litigation") following the New Jersey Supreme Court's decision in the matter of In Re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, wherein the Supreme Court directed that municipalities were required to file declaratory judgment actions in the Superior Court to evaluate compliance with their *Mount Laurel* obligations in order to maintain immunity from builder's remedy litigation; and

WHEREAS the Court appointed Michael P. Bolan, P.P., AICP to serve as the Special Master in the Mt. Laurel Litigation to advise the Court and the parties on affordable housing compliance issues; and

WHEREAS, the Fair Share Housing Center ("FSHC") is a Supreme Court designated interested party in this Mt. Laurel Litigation to advocate on behalf of low and moderate income households in the State of New Jersey and the County of Monmouth; and

WHEREAS, the Borough entered into a Settlement Agreement on May 17, 2019 with FSHC which established the Borough's affordable housing obligation for the time period 1999-2025 and the Court entered an Order of Fairness and Compliance on July 19, 2019 which approved the Settlement Agreement subject to certain conditions of compliance which need to be approved by the Borough prior to the Final Compliance Hearing at which time the Borough will receive a Judgment of Compliance and Repose protecting the Borough from builder's remedy litigation through July 1, 2025; and

WHEREAS, one of the Court's condition of compliance includes an affordable housing overlay zone on a portion of the Monmouth Park Racetrack property which will only be triggered upon the complete cessation of live horse racing activity of any kind at the Monmouth Park Racetrack.

WHEREAS, the Borough Council of the Borough Oceanport believes it is in the best interest of the Borough of Oceanport to comply with the Court's Order and adopt an overlay zone on a portion of the Monmouth Park Racetrack property which will only be triggered upon the complete cessation of live horse racing activity of any kind at Monmouth Park Racetrack.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of Oceanport Borough as follows:

Article III (Establishment of Zones) is hereby amended to create the Monmouth Park Age-Restricted Affordable Housing Overlay Inclusionary District (MPAR-AH) with the following standards.

Article IV (General Regulations) is hereby amended to create the Master Plan Age-Restricted Affordable Housing Overlay Inclusionary District (MPAR):

In any instance in which these regulations and standards do not address a particular land development control, or when specific reference to the LDO is made, the standards of the Development Regulations shall apply:

Chapter 390

31.6 Monmouth Park Age-Restricted Affordable Housing Overlay Inclusionary Zone

- a. Purpose: The Borough adopts this ordinance to advance the following objectives: To address its affordable housing unmet need obligation, the Borough shall implement a Monmouth Park Age- Restricted Affordable Housing Overlay Inclusionary Zone Ordinance that creates a realistic opportunity for housing in the Borough that is affordable to low- and moderate-income households. This Ordinance establishes the Monmouth Park Affordable Housing Overlay Inclusionary Zone, and permits the creation of multi-family housing only upon the complete cessation of live horse racing activity of any kind at Monmouth Park Racetrack provided that such housing complies with a required inclusionary set-aside requirement and with the requirements of this ordinance.
- b. Location. The Monmouth Park Age-Restricted Affordable Housing Overlay Inclusionary District is applicable to Block 122, Lot 28.
- c. Permitted uses. The following uses shall be permitted in the Monmouth Park Age-Restricted Affordable Housing Overlay Inclusionary District:
 1. Inclusionary multi-family development provided:
 - a) The minimum percentage of very low, low- and moderate-income housing shall be fifteen percent (15%) of the total number of dwelling units for rental affordable units and twenty percent (20%) of the total number of dwelling units for for-sale affordable units.
 - b) In any multi-family development having five (5) or more residential units, at least one (1) unit must be established as affordable to low- and moderate-income households;
 - c) All affordable units produced must comply with the Borough's Affordable Housing Ordinance;
 - d) All residential units are age-restricted in accordance with the definition provided in the Borough's Affordable Housing Ordinance; and
 - e) Inclusionary multi-family residential development is only permitted upon the cessation of live horse racing activity of any kind at Monmouth Park Racetrack.
- d. Accessory Uses Permitted. The following accessory uses and structures shall be permitted in the MPAR-AH District provided they are located on the same premises as the principal use or structure to which they are accessory and are located in the rear yard:
 1. Accessory uses on the same lot with and customarily incidental to, any of the above permitted uses.
 2. Surface parking area and garages.
- e. Development Standards
 1. Maximum density: 12 dwelling units per acre
 2. Maximum Building Coverage: 65%
 3. Maximum Impervious Surfaces: 80%
 4. Townhouses
 - a) Maximum Height 45 feet or 3 stories
 - b) Maximum dwelling units in one building 8
 - c) Rear-Loaded Townhouses:
 - 1) Minimum distances from front facade to private streets:

- i. Building to sidewalk 14 feet
 - ii. Building to curb 21 feet
- 2) Minimum distance from garage facade to curb, edge of alley pavement or edge of sidewalk: 20 feet
- 3) Minimum distances for side facades:
 - i. Building to building 28 feet
 - ii. Building to private street 15 feet

5. Apartments

- a) Maximum Height 45 feet or 3 stories
- b) Maximum dwelling units in one building 36
- c) Minimum Building setbacks:
 - i. Building to building 30 feet
 - ii. Building to private street 16 feet
 - iii. Building to parking area or driveway 15 feet
- d) For each affordable apartment, in addition to any storage areas contained within the apartment, there shall be provided 300 cubic feet of storage in a conveniently accessible area either within the apartment building or in a separate building where storage will not constitute a fire hazard and where belongings can be kept locked and separated from the belongings of other occupants.

6. Design Standards

a) Building Design.

- 1) Buildings shall be required to incorporate high-quality architectural features that are characteristic of and complimentary to other significant multi-family buildings reflecting the traditional architecture within the Borough. The applicant for any development shall demonstrate such design by providing examples of and comparisons with existing high-quality architecturally significant buildings.
- 2) If more than one primary structure is proposed, the architecture of each primary structure shall be compatible but different from one another in terms of style, materials and layout.
- 3) All HVAC and mechanical equipment shall be adequately screened from view.
- 4) Front-loaded townhouses are prohibited.

b) Recreational/Social Amenities. Developments shall be required to include both interior and exterior common areas devoted to recreational, social and similar functions for residents and their guests, as set forth below:

- 1) At least 40 square feet per dwelling unit shall be devoted to interior common areas, such as but not limited to meeting rooms, community centers, fitness centers, indoor recreational areas, lounges, libraries, etc. Areas such as hallways, stairs, elevators, entrance lobbies, storage, mail areas, mechanical space or office space and similar areas shall not count towards meeting this requirement.
- 2) At least 40 square feet per dwelling unit shall be devoted to exterior common areas, such as but not limited to recreational areas, gardens, courtyards, plazas, decks, patios, etc. Such areas may be located at grade level, on building terraces or on the roof of the building. Lawn and landscaped areas shall not count towards meeting this requirement unless such areas are specifically designed to be part of the aforementioned features.

c) Parking shall be located in the side or rear yards only.

13. Affordable Housing. All residential development shall be required to include affordable housing as a component. The following requirements shall apply:

- a) The minimum percentage of very low, low- and moderate-income housing shall be fifteen percent (15%) of the total number of dwelling units for rental affordable units and twenty percent (20%) of the total number of dwelling units for for-sale affordable units.
- b) Very low, low and moderate-income housing shall be constructed and rented in accordance with the Council on Affordable Housing rules at N.J.A.C. 5:93-1 et seq. and the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-26.1 et seq. including standards for the split between very low, low and moderate income housing, provided a minimum of 13% of the affordable units are very low income units at 30% of the median income and 37% of the affordable units are low income units with the 50% balance of units allowed at moderate income; bedroom distribution; range of affordability; pricing and rent of units; affirmative marketing; 30-year minimum affordability controls and construction phasing with the market rate units developed on the tract.
- c) The Borough designated Affordable Housing Administrator shall be responsible to affirmatively market, administer and certify the occupant of each affordable unit, with all administrative costs to be paid by the Developer.

APPROVED ON FIRST READING

DATED: January 16, 2020


JEANNE SMITH
Clerk of the Borough of Oceanport

ADOPTED ON SECOND READING

DATED: February 20, 2020


JEANNE SMITH
Clerk of the Borough of Oceanport

APPROVAL BY THE MAYOR ON THIS 20th DAY OF February, 2020


JOHN F. COFFEY, II
Mayor