

**NOTICE OF PENDING ORDINANCE**

**ORDINANCE NO. 09-1261**

The Ordinance published herewith was introduced and passed upon first reading at a meeting of the Borough Council of the Borough of Tinton Falls, in the County of Monmouth, State of New Jersey, held on Tuesday, January 6, 2009. This Ordinance will be further considered for adoption, after the public hearing is held thereon, at a meeting of the Borough Council to be held on Tuesday, February 3, 2009, in the Municipal Center, 556 Tinton Avenue, Tinton Falls, NJ beginning at 7:30 o'clock P.M. During the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's Office to the members of the public who shall request the same.

KAREN MOUNT-TAYLOR, RMC, CMC

PLEASE PUBLISH IN FULL ON: JANUARY 22, 2009

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XL ENTITLED "LAND USE REGULATIONS" ARTICLE VI ENTITLED "ZONING REGULATIONS", SECTION 40-75 ENTITLED "ZONING MAP" AND SECTION 40- 91 ENTITLED "ZONING REGULATIONS FOR THE "AARZ" ACTIVE ADULT REDEVELOPMENT ZONE" OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TINTON FALLS – LAND USE ORDINANCE**

SECTION 1: BE IT ORDAINED by the Council of the Borough of Tinton Falls that Chapter XL entitled " Land Use Regulations", Article VI entitled " Zoning Regulations", Section 40-75 entitled "Zoning Map" and Section 40-91 Entitled "Zoning Regulations for the "AARZ" Active Adult Redevelopment Zone", be amended and supplemented as follows:

SECTION 2: Section 40-75 shall be deleted and replaced with the following:

40-75 Zoning Map:

The boundaries of zoning districts are established on the maps entitled "Zoning Map - Southern Portion – Borough of Tinton Falls Monmouth County – New Jersey" dated February 2001 and "Zoning Map – Northern Portion – Borough of Tinton Falls Monmouth County – New Jersey" dated February 2001 which accompanies and is made part of this Chapter, as amended. (Ord. #99-992 §7; New; Ord. #01-1048 §1; Ord. 03-1108 §2; Ord. #04-1120; Ord. #04-1129, §1; Ord. #1140, §I) The Zoning Map referenced herein shall be amended to include Block 85 Lots 1, 2, 3.01 and 4 in the Zoning District "AARZ" and said Block and Lots shall be subject to the regulations applicable thereon.

SECTION 3: Section 40-91 shall be deleted and replaced by the following:

40-91 Zoning Regulations for the "AARZ" Active Adult Redevelopment Zone

A. Purpose. The purpose of the Active Adult Redevelopment Zone is to provide for the redevelopment of a former office use for a use that would be less intrusive in terms of height, impervious surface and traffic generation than the current use. The Borough finds it to be in the best interests of the Borough to expand the AARZ Zone to include an adjoining property. The expansion of the zone operates to provide for the potential of a public dedication of land for municipal uses while providing an enhancement to existing approvals.

B. Permitted Principal Uses (Land and Building).

- (1) An active adult community of single-family detached housing and uses incidental and accessory to an active adult use.
- (2) On-Site Affordable Housing Units/Structures necessitated by the development not to exceed 4 dwelling units per structure.

C. Single-Family Detached Dwelling Standards.

- (1) Minimum lot area – Five thousand (5,000) square feet.

- (2) Minimum lot width – Fifty (50) feet, with the exception of corner lots which shall be a minimum width of seventy-five (75) feet.
- (3) Notwithstanding the provisions of Section 40-77H, corner lots in the AARZ Zone shall be considered to have two (2) front yards, a rear yard and a side yard. The rear yard shall be the area of land between the lot line and the architectural rear of the single-family home.
- (4) Minimum lot depth – One hundred (100) feet.
- (5) Minimum yards:
  - (a) Front yard – Twenty-five (25) feet.
  - (b) Rear yard – Twenty (20) feet.
  - (c) Decks and patios – The rear yard setback of decks and patios shall be ten (10) feet; provided that the rear yard setback of decks and patios that do so exceed three (3) feet in height shall be eight (8) feet.
  - (d) Side yard – Six (6) feet each.
  - (e) Fireplaces, flues, chases and angled bays, roof, overhangs, leaders, gutters, exterior trim and fascia may extend no more than two and one-half (2.5) feet into the side yard building setback. In no event shall permitted projections into the side yard setback result in any portion of a single-family dwelling to be placed within nine and a half (9.5) feet of another single-family dwelling.
- (6) Maximum lot coverage – Sixty five percent (65%).
- (7) Maximum building coverage – Forty-eight percent (48%).
- (8) Each dwelling unit shall have a two (2) car garage. Such garage shall not be permitted to be converted to living space.
- (9) Maximum building height – Forty (40) feet.
- (10) All driveways to single-family detached home shall emanate from internal streets.
- (11) Single-Family Dwelling Design Requirements.
  - (a) Each single-family dwelling on a lot (the subject lot), pursuant to approval under this section, shall be substantially different in exterior design and appearance from any existing or proposed neighboring dwellings situated on any lot on the same side of the street or on any lot facing the subject lot on the opposite side of the street.
  - (b) For a dwelling to be deemed substantially different, the building elevation facing the street line must be different from the street elevations of the neighboring dwellings in at least three (3) of the following categories:
    - [1] The relative location of the garage, portico, angled or box bay, or any other such significant structural appurtenance attached to the dwelling.
    - [2] The relative location or the size and type of windows and doors.
    - [3] The pitch of the roof as determined by its type and angle.
    - [4] The type or pattern of siding materials.

[5] Color of siding materials.

- (c) In no event, regardless of the number of different categories that have been met, shall there be more than three (3) consecutive occurrences of the same model of dwelling.
- (d) In no event shall there be more than forty percent (40%) of the same model dwelling occurring throughout the development.

D. Tract Standards.

- (1) Minimum tract size – Thirty-five (35) acres.
- (2) Minimum lot width – Seven hundred (700) feet.
- (3) Average tract buffer – Twenty-five (25) feet.
- (4) No building shall be located within fifty (50) feet of the Wayside road right-of-way. All buildings along Wayside shall be screened with a landscaped berm found acceptable by the Planning Board.
- (5) Maximum density – 4.1 units per acre.
- (6) In the event the requisite number of affordable housing units are not constructed as an integral part of an AARZ development, then there may be created a flag lot. A flag lot for the purposes of this section shall contain not less than twice the minimum lot area otherwise required in the zone exclusive of the area contained in the access strip. The flag lot shall have access to an existing public road by way of an access strip which shall be owned in fee rather than served by an easement or right of way. Such access strip shall have a width of no less than 50 feet fronting upon such road and shall have a width of no less than 50 feet at all other points between the intersection of the access strip with the public road and the rear line of the flag lot created. The flag lot shall be deemed to front upon such access strip and the required lot width at the street line shall be measured along the access strip. All other dimensional requirements applicable to the zone district in which the flag lot is located shall be complied with and shall be measured from and deemed to relate to the access strip.
- (7) Accessory Structures – Accessory structures and buildings are not permitted on single-family detached lots except for patios and first floor decks. The homeowner's association shall record a master deed and bylaws with a permanent prohibition on accessory structures and buildings on single-family detached lots except for patios and first floor decks. The community building may have a maximum height of forty (40) feet.
- (8) Outdoor parking of recreational vehicles (as defined in this Chapter) or boats shall not be permitted anywhere within an age associated community.
- (9) There shall be within each dwelling unit adequate area for the temporary storage of solid waste and recyclable materials.
- (10) The entire tract shall be under the control of one (1) ownership and/or contract purchaser for purposes of obtaining all required development approvals and committing the tract to the requirements of an active adult community except as permitted hereafter. The submittal of applications by separate entities for separate Lots shall be permitted provided that the proposed developments are to be developed as one community and all units, including affordable housing units, shall be members of the same association entitled to access and use of all amenities located on either site. Furthermore, the Planning Board shall be permitted to impose single access, supplemental buffers or adequate fencing as

conditions to ensure the development of separate parcels as one community. In the event separate applications are filed the provisions of Section 40-91(F) shall apply. Upon approval of the tract for development, no further development will be permitted and appropriate restrictions will be incorporated in the approval.

- (11) The active adult community shall not gain access to Water Street, except for emergency access.
- (12) Minimum common open space – Fifteen percent (15%). At least one-third (1/3) of this open space area shall be located outside of wetlands, wetlands buffers, stream corridors steep slopes and required perimeter buffers.
- (13) Parking shall be provided in accordance with the Residential Site Improvement Standards (RSIS).
- (14) A comprehensive open space and recreation plan shall be prepared and approved by the Planning Board which shall include all proposed passive and active recreational space and facilities. At least one (1) passive and active recreational space and recreation area shall have a minimum contiguous area of not less than one and one-half (1.5) acres. All open space and recreational areas shall be dedicated to a homeowner's association established pursuant to Section 40-45 of this Chapter. No more than thirty-five percent (35%) of the housing units within the community shall receive construction permits prior to the active recreation facilities being fully constructed and operational. The facilities shall include:
  - (a) A community clubhouse with a minimum area equal to twelve (12) square feet for each housing unit within the age associated community. Facilities with the clubhouse shall include an all purpose room, commercial style kitchen, restrooms and other such accommodations proposed by the applicant and deemed appropriate by the Planning Board.
  - (b) A swimming pool area of at least twelve (12) square feet for each housing unit.(This shall include any “patio” within the safety fence area)
  - (c) Additional outdoor recreational facilities, such as, for example, a putting green, bocce courts, tennis courts, etc. geared toward active adults shall also be provided. Any recreational facility shall be utilized only by residents of the age associated community or their guest, and shall not be available to the general public.
  - (d) Parking for the above facilities in the amount of one (1) parking space for each two hundred (200) square feet of the community clubhouse building area.
  - (e) The above facilities, except parking lots, shall be located no closer than fifty (50) feet to a residential structure. Parking lots shall in no case be less than 15 feet from a residential structure and provide a vegetative buffer.
- (15) A homeowner's association established pursuant to Section 40-45 of this Chapter shall be responsible for owning, maintaining, and repairing all common areas in the community. All residents in the community shall be required to be members of the association. This requirement shall be set forth in the contract of sale and deed for each unit as well as in any public offering statement by State law.
- (16) Landscaping. All lawn areas and planting beds within the front yard shall be serviced by sprinklers. In order to insure the consistent and continued operation of the sprinkler system, the maintenance and cost of the operation (including water) of sprinkler systems shall be borne by the homeowners association. All other landscaping shall conform to the requirements of this Chapter (including but not limited to Section 40-47).

- (17) The applicant shall comply with the Borough's Housing and Fair Share Plan for the site designated as Block 85, Lots 1, 2, 3.01 and 4, which site shall be considered an inclusionary site for the COAH requirement for that site which shall consist of six (6) COAH units, which units may be constructed on site or, subject to Borough approval, off site. The COAH requirement for the site designated as Block 76.01, Lot 1.01 (the "CECOM") property are not modified nor abrogated by this ordinance.

E. ON-SITE AFFORDABLE HOUSING BULK STANDARDS FOR BLOCK 85 LOTS 1, 2, 3.01 AND 4 (NEWMAN)

- (1) Minimum lot area – Twenty- thousand (20,000) square feet.
- (2) Minimum lot width – Sixty (60) feet.
- (3) Minimum lot depth – One hundred (100) feet.
- (5) Minimum yards:
  - (a) Front yard – Seventy Five (75) feet.
  - (b) Rear yard – Fifteen (15) feet.
  - (c) Decks and patios – The rear yard setback of decks and patios shall be five (5) feet;
  - (d) Side yard – (30) feet each.
- (6) Maximum lot coverage – Sixty five percent (65%).
- (7) Maximum building coverage – Forty-eight percent (48%).
- (8) Each dwelling unit shall have such on-site surface parking as required by the Residential Site Improvements Standards which may or may not include garages.
- (9) Maximum building height – Forty (40) feet.
- (10) All driveways to On-Site Affordable Housing shall emanate from internal streets and shall have a width of not less than fifteen feet.
- (11) There is no required setback of driveways from property lines.

(F) Requirements Related to Separate Parcels/Applications

The submittal of applications by separate entities for separate Lots shall be permitted provided that the proposed developments are to be developed as one community and all units, including affordable housing units, shall be members of the same association, entitled to access and use of all amenities located on either site. Furthermore, the Planning Board shall be permitted to impose single access, supplemental buffers or adequate fencing to ensure the development of the separate parcels as one community, although phasing of improvements shall be permitted. In the event separate applications are filed, the provisions of this Section 40-91(F) shall apply. Upon approval of the tract for development, no further development will be permitted and appropriate restrictions will be incorporated in the approval.

- (1) The Density of the overall development shall be calculated by including all parcels/lots which form the overall development including any lots to be dedicated to the Borough.
- (2) The Recreation and Open Space requirements shall be calculated by including all parcels/lots which form the overall development.
- (3) The Provisions of Section in the AARZ District 40-29D (Critical Areas Ordinance") do not apply to the overall development

- (4) The Requirements of Section 40-91(D) shall be calculated by including all parcels/lots which form the overall development.
- (5) Notwithstanding any definition of a bulk requirement, all bulk standards shall be measured from the property lines and/or references to measurements related to constrained portions of any property shall be disregarded.
- (6) Where any provision of this ordinance conflicts with any other provision of the land use ordinances of the Borough of Tinton Falls, the provisions of this ordinance shall apply and the conflicting portion shall be deemed inapplicable.

SECTION 4. All ordinances or parts thereof inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistency.

SECTION 5. If any section, paragraph, subdivision, clause or provision of this ordinance is adjudged to be invalid, such adjudication shall apply only to section paragraph, subdivision, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

SECTION 6. This ordinance shall take effect upon its passage and publication according to law.

**This Ordinance shall become effective twenty (20) days after it has been adopted and published in accordance with applicable law.**