

## ORDINANCE 6-17

### AN ORDINANCE AMENDING ARTICLE VI, CHAPTER 28, ZONING, OF THE ORDINANCES OF THE BOROUGH OF LINCOLN PARK, TO REZONE BLOCK 3.5, LOTS 305 AND 305.5 AS A NEW TH-MF/SA I ZONE

**WHEREAS**, the Municipal Land Use Law (“MLUL”) of the State of New Jersey, N.J.S.A. 40:55D-1 et seq. grants to municipalities the power to adopt a zoning ordinance relating to the nature and extent of the uses of lands, buildings and structures thereon; and

**WHEREAS**, the Borough desires to create additional zones in which inclusionary multi-family non-age-restricted housing developments are permitted to be constructed that will include a substantial set-aside of housing units affordable to low and moderate income households in order that Lincoln Park may satisfy its constitutional obligation to create such affordable housing, especially its obligation to provide affordable housing that is available for rent; and

**WHEREAS**, the Borough finds the area that is proposed to be rezoned available, suitable, developable and approvable, as those terms have been defined at N.J.A.C. 5:93-1, et seq.

**NOW, THEREFORE, BE IT ORDAINED**, by the Governing Body of the Borough of Lincoln Park, County of Morris, State of New Jersey, as follows:

**SECTION ONE.** Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park, shall be amended to create a new Article VI-AAA as follows:

#### **ARTICLE VI-AAA**

##### **TH-MF/SA I, TOWNHOUSE–MULTI-FAMILY HOUSING/SET-ASIDE I ZONE**

###### **Section 28-50AAA. PURPOSE:**

The purpose of the TH-MF/SA I Zone is to create the opportunity for the construction of inclusionary multi-family residential developments, with a set-aside for housing units affordable to very-low, low and moderate income households, which development would be permitted as a matter of right on the sites included in this Zone. Where the affordable housing units will be rental units, the required set-aside rate shall be at least fifteen (15) percent of all multi-family housing units built, and where the affordable housing units will be for sale, the required set-aside rate shall be at least twenty (20) percent of all multi-family housing units built (these units shall hereafter be referred to as "Affordable Units").

###### **Section 28-51AAA. PERMITTED USES:**

1. Subject to the provisions of Subsections 3 and 4, below, the following uses are permitted in the TH-MF/SA I Zone.
  - A. Townhouses as defined in Section 28-2 above, except that individual yards shall not be required and apartment flats may be included in the same building with townhouse units.
  - B. Apartment Units.
2. The following accessory uses shall be permitted in the TH-MF/SA I Zone:
  - A. Common open space including community buildings and recreational facilities.
  - B. Signs subject to the following:
    1. Entrance signs, provided that the total surface area shall not exceed thirty-two (32') square feet in surface area on any single side. No more than one (1) sign shall be permitted per entrance.
    2. Directional signs to identify parking areas, sales or rental offices, recreation areas, entrance and exits, which signs shall not exceed two (2') square feet in surface area.
    3. The design, location and landscaping of signs shall be in accordance with the specifications and conditions set forth in ARTICLE XIII (SIGNS) of this Chapter.

4. Parking garages attached and accessory to the principal permitted uses subject to the design standards set forth in this Section.
3. The foregoing uses are permitted provided that at least fifteen (15) percent of all dwelling units constructed in the Zone shall be Affordable Units if the Affordable Units will be for rent and provided that at least twenty (20) percent of all dwelling units created in the Zone shall be Affordable Units if the Affordable Units will be sold. All Affordable Units shall meet all applicable requirements of (a) Article VI-D below, (b) the regulations of the New Jersey Council on Affordable Housing set forth in N.J.A.C. 5:93-1, et seq., or any successor statutes or regulations and (c) the Uniform Housing Affordability Controls ("UHAC") set forth in N.J.A.C. 5:80-26.1, et seq. (as those regulations may be amended from time to time) except that instead of the requirement at that 10 percent of all rental units shall be affordable to households earning 35 percent or less of regional median income by household size, the requirement shall be that 13 percent of all rental units shall be affordable to households earning 30 percent or less of regional median income by household size, so that the Borough of Lincoln Park shall receive full credit against its affordable housing fair share obligation for all such Affordable Units.
4. The requirements with which all Affordable Units must comply shall include, but shall not be limited to, those in N.J.A.C. 5:93-1, *et seq.*, and/or UHAC, or any successor statutes or regulations, pertaining to (i) site suitability, (ii) phasing of the construction of the Affordable Units in relation to the construction of market rate units, (iii) design and integration with market rate units, (iv) access to community amenities and use of the same heating source as the market rate units, (v) barrier-free accessibility and/or adaptability for first floor units, (vi) affordability controls and (vii) affirmative marketing.
5. The Affordable Units shall be fully integrated with the market units within the development. The site plan/architectural plans submitted with the application for site plan approval shall identify the exact locations and sizes of each of the Affordable Units proposed.
6. A portion of the required number of Affordable Units for a particular development may be transferred from one approved development parcel to another by a developer undertaking multiple simultaneous projects within Lincoln Park, pursuant to a Developer's Agreement executed with the Borough, provided the Affordable Units required for each development can and will be constructed in accordance with COAH's phasing requirements at N.J.A.C. 5:93-5.6 relative to the completion of the market units in the development from which the requirement for the Affordable Units originates.

**Section 28-52AAA. DENSITY AND BULK REQUIREMENTS:**

1. The minimum lot area shall be at least 4 contiguous acres and the density shall not exceed twenty-eight and forty four one hundredths dwelling units per gross acre, up to a maximum of 128 units.
2. There shall be a minimum frontage of one hundred fifty (150) feet upon an accepted public street, improved to the street specification standards of the Borough, County or State.
3. If more than one building is constructed on the site, there shall be a minimum distance between buildings of thirty (30) feet, except that any two buildings that are each taller than thirty-five (35) feet shall be separated from one another by at least fifty (50) feet.
4. The maximum height of any portion of a building or structure located within seventy-five (75) feet of Main Street shall be forty (40) feet to the midpoint of the roof above the original grade and no more than two residential stories. The maximum height of any portion of a building that is located more than 175 feet from Main Street shall be sixty-five (65) feet to the midpoint of the roof above the original grade and no more than four residential stories over a one-story above grade parking garage. Any subsurface parking levels that are partially exposed above grade shall be included in the foregoing height limitations on the Main Street side of the property only.
5. The maximum impervious surface coverage (including all buildings) shall not exceed seventy-five (75) percent of the site area.
6. No building shall be located within seventy-five (75) feet of a front lot line nor within twenty-five (25) feet of a side or rear lot line, and no other structure, including parking, land disturbance or

construction shall be permitted within fifty (50) feet of a front lot line. nor within twenty-five (25) feet of a side or rear lot line except for the following: (a) extensions of required utility lines and underground utility structures, (b) landscaping approved by the Municipal Agency, and (c) non-paved, pervious walking trails, and (d) driveways and/or emergency access ways at locations approved by the Municipal Agency, and further provided that parking areas and access drives may be extended to within five (5) feet of a rear lot line.

7. Accessory buildings, if provided, shall comply in all respects with the bulk requirements set forth in this Section.

**Section 28-53AAA. PARKING REQUIREMENTS:**

1. On-site parking shall be provided in conformance with the requirements of the Residential Site Improvement Standards ("RSIS").
2. Any outdoor parking area for three (3) or more automobiles shall be separated from the nearest building by a sidewalk at least four (4) feet wide.
3. There shall be no parking within fifty (50) feet of the front lot line nor within twenty-five (25) feet of any side lot line, except as specifically permitted by Section 28-52AAA.6 above.
4. Surface parking areas shall be paved and curbed and provided with adequate storm water drainage in conformance with RSIS requirements.
5. In cases where a private one (1) or two (2) car garage is provided for exclusive use of the residents of an individual unit, such garage space shall be used solely for parking of motor vehicles and shall be designed to adequately accommodate the parking of the intended number of vehicles in spaces measuring at least 9 feet by 18 feet. Under no circumstances shall any such area(s) be used for storage or for any other use that would interfere with motor vehicle parking.
6. The design of a common parking garage shall be as follows:

Parking spaces within a common garage shall be individually numbered and reserved for use by a tenant of a designated unit, except that parking spaces that may be designated for visitors shall be marked as "Visitors Only" spaces. Each dwelling unit shall be provided with the correct number of on-site parking spaces in accordance with N.J.A.C. 5:21, et seq., and each Affordable Unit shall be provided with a minimum of two (2) parking spaces as part of the base rent, unless a different allocation is approved by the Planning Board at the time of site plan approval. All parking spaces shall measure a minimum of 9 feet by 18 feet and all traffic aisles shall be a minimum of 24 feet wide. The minimum floor to ceiling height of at least one parking level shall be not less than eight (8) feet, two (2) inches high (98").

In order to facilitate emergency responses to accidents or injuries occurring within the parking garage, an electric, rechargeable, emergency access cart equivalent to the three (3) passenger Electric Ambulance Golf Cart, MotoEV Electro Bubble Buddy LSV Edition manufactured by Moto Electric Vehicles shall be provided and maintained by the owner of the building, to be permanently parked in a location immediately adjacent to the garage entrance. The garage shall be accessible by elevator from within the building, and by a double man-door (6 feet wide) to be located at the rear (north side) of the building to provide direct access to the exposed level of the garage from the exterior of the building.

**Section 28-54AAA. STREETS AND SIDEWALKS:**

1. All streets, sidewalks and driveways in the TH-MF/SA I Zone shall be in conformance with applicable RSIS requirements.
2. Primary access to the development shall be from a County or State road.
3. Sidewalks shall be provided in suitable locations including along the street frontage and at entrances and exits to the development and to the building(s) within the development and wherever pedestrian traffic is anticipated to occur.

**Section 28-55AAA. OPEN SPACE ORGANIZATION:**

It is the intent of the zone plan that all TH-MF/SA I Zone development shall be designated and maintained as a private development. Subject to the provisions of N.J.S.A. 40:67-23.2 the Developer shall comply with the provisions of Chapter 17, Section 187, COMMON OPEN SPACE and Section 188, COMMON OPEN SPACE ON-TRACT AND OFF-TRACT IMPROVEMENTS AND UTILITIES. Maintenance of all internal roadways, sidewalks, curbs, drainage, landscaping, sewer lines, lighting and the provision of other types of common space maintenance services, such as snow and ice removal, shall be provided by the owner or condominium association so as to maintain adequate, convenient and safe use of the project.

**Section 28-56AAA. BUILDING STANDARDS:**

1. The minimum width of any dwelling unit shall be eighteen (18) feet.
2. Each two and three-bedroom Affordable Unit shall be provided with an enclosed, lockable storage space, in addition to the closets located within these units. Such storage space shall be at least 216 cubic feet in area and at least six (6) feet in height and shall be provided: (a) within or adjacent to the dwelling unit served, (b) subject to the requirements of Section 28-53AAA.5 above, within or adjacent to the garage serving the unit, or (c) within or adjacent to a common area such as a basement or hallway provided that such storage space shall have either direct access to the exterior of the building or access to the exterior via a common interior hallway with elevator access, if above the ground level.
4. Built-in air conditioning units shall not project more than two (2) inches from the outside face of the wall.
5. A townhouse unit shall have at least two (2) exterior exposures, each of which shall be provided with windows, doors or a combination thereof, so as to provide cross or through ventilation for such unit. A flat shall have at least one exterior exposure.
6. No structure or equipment of any kind shall be attached to the finished exterior surface of the roof, walls or other portions of any building containing townhouses and/or flats other than (a) residential-style lighting fixtures, (b) gutters, (c) downspouts, (d) shutters, (e) structures, fixtures or equipment required for compliance with the Uniform Construction Code, and/or (f) a maximum of one (1) satellite dish antenna per unit, not exceeding 1 meter (3.28 feet) in diameter, and located wholly within the perimeter of a deck, balcony or patio attached to and intended for the exclusive use of residents of the unit served by the satellite dish antenna. Such deck, balcony or patio must be surrounded by a railing not exceeding 36 inches in height or the minimum height required by the Uniform Construction Code, whichever is greater. No portion of the satellite dish antenna may extend above the top of the surrounding railing, unless the unit owner shall establish that, in the particular case of the unit in question, this requirement will unreasonably impair signal reception. Any satellite dish antenna herein permitted and all of its appurtenances must be painted to match, or blend with, the predominant color of the background surrounding the antenna, as determined by the reviewing authority issuing approvals for installation of the antenna.

**Section 28-57AAA. LANDSCAPING, BUFFER AREAS AND LIGHTING:**

1. The Developer shall furnish, along with the plans and specifications required under Chapter 17 (DEVELOPMENT REVIEW ORDINANCE) of the code of the Borough of Lincoln Park, landscaping plans drawn by a licensed professional which shall include lighting plans for illuminating the grounds, roads, drives, walks, parking areas and building entrances of the development. Plans shall also be provided showing the existing contours, drainage areas, streams, wooded areas, and any other natural features of the land prior to the proposed development.
2. Down lighting shall be provided around all buildings. All walkways, parking areas and outdoor activity areas to be used after dark shall be lighted. Adequate shielding shall be provided so that direct or reflected glare from any on-site source shall measure no more than 0.1 foot candle at any property line.
3. All development shall be provided with liberal and functional landscaping schemes. Roads and pedestrian walkways shall be provided with shade trees of a minimum size and type prescribed by Municipal Agency consistent with ARTICLE VII, Section 17-112 (DEVELOPMENT REVIEW ORDINANCE).

4. Open space adjacent to buildings and spaces between buildings intended for utilization by residents and border strips along the sides of pedestrian walks shall be graded and seeded to provide a thick stand of grass and shall be planted with trees and shrubs or any combination thereof. Areas of the site not used for buildings, terraces, drives and parking spaces shall be seeded and landscaped and shall be maintained in a proper condition, unless approved by the Municipal Agency to remain in a natural state.
5. Screening or buffers consisting of plantings and fences shall be required around outdoor utility structures, and other similar areas, and around all parking areas to shield such areas and any associated lighting, to the extent practicable, from view by occupants and adjoining properties. Such screening or buffers shall consist of either (a) a solid evergreen hedge at least four (4) feet tall at time of planting, or (b) earthen berms with smaller plantings (not less than three (3) feet tall at planting) totaling at least four (4) feet in combined height. Screening and buffer plantings shall also be required along all perimeter property lines, where existing vegetation does not provide an effective buffer or screen. Such plantings shall consist of a double staggered row of evergreen trees to form a continuous horizontal visual barrier. Such plantings shall be at least six (6) to eight (8) feet tall at the time of planting. The spacing of the plantings – center-to-center and offset of the staggered rows – shall be designed to achieve a continuous visual horizontal barrier at the time of planting. The use of earthen berms, with shorter plantings on top, to achieve the stipulated six (6) to eight (8) feet height at the time of planting, shall only be considered for approval by the Municipal Agency when it is determined that the installation of such earthen berms will not adversely impact existing vegetation that should be retained and surrounding properties.
6. There shall be a buffer at least fifty (50) feet in width along Main Street and twenty-five (25) feet in width alongside lot lines. All such buffers, if wooded, shall remain in their natural state and shall be supplemented with additional plantings where necessary for effective screening. Where an emergency access drive constructed of structural grass pavers is located within a required buffer, no plantings shall be required (other than grass within the structural grass pavers). Otherwise, such buffer (when not already sufficiently wooded) shall be planted with a landscaped visual screen at least six (6) to eight (8) feet in height at time of planting.

#### **Section 28-58AAA. OUTDOOR RECREATION.**

1. The Developer shall provide an outdoor walking trail for use of the residents within any residential development in the TH-MF/SA I Zone. The location and design of the walking trail shall be reviewed and approved by the Municipal Agency during site plan review. Walking trails shall be designed, to the extent feasible, in a looped configuration without dead ends, and with at least 1,312 linear feet (400 meters) of trail length. Walking trails may be incorporated into the structural grass pavers used for emergency access drives. The Developer may, in addition, provide other appropriate active and/or passive outdoor recreation areas and facilities. Handicap ramps shall be provided for access to all such areas and facilities as needed. All active recreation areas (except non-paved, pervious walking trails) shall comply with perimeter property line setback and buffer requirements.

#### **Section 28-59AAA. UTILITIES AND GARBAGE DISPOSAL.**

1. Garbage collection shall be accomplished by individual unit pick-up, in the case of a townhouse development, or from common refuse collection containers, in the case of buildings containing apartment flats. Common refuse collection containers shall be located either within one or more separate walled enclosures or within a portion of each building that is walled off from the rest of the building and is directly accessible to the outdoors for collection purposes. Where common refuse collection containers are provided, the enclosure shall have adequate storage space for all recyclable materials as well and shall be readily accessible for collection purposes without the need for special accommodations. Storage of garbage and recyclables for townhouses shall be within the enclosed garages provided for the individual units.
2. Every dwelling unit shall be provided with public water and public sanitary sewer which shall be installed by and at the expense of the Developer. In addition, a fire hydrant shall be provided on-site adjacent to the interior at-grade cul-de-sac as well as in other locations as recommended by the Fire Official.
3. All utilities shall be installed underground.

4. Street lighting on public and private streets shall be in accordance with the specifications in the Borough Ordinance.
5. Adequate lighting shall be provided along pedestrian walkways, within parking areas, and at dwelling entrances and access routes.
6. Cable television service shall be extended to all dwelling units developed pursuant to TH-MF/SA I Zoning. No exterior satellite dish antenna or other antenna of any sort shall be permitted within any lot or property developed under TH-MF/SA I Zoning except in conformance with Section 28-56AAA.6 above.

#### Section 28-60AAA. Application Review Procedures

The Planning Board shall comply with the provisions of N.J.A.C. 5:93-10.1 regarding the expedited review of inclusionary residential development applications.

**SECTION TWO.** A copy of this Ordinance is hereby transmitted to the Borough of Lincoln Park Planning Board (“Planning Board”) for its report and recommendation pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. and the Planning Board hereby has 35 days to submit a report and if it fails to do so, then the Borough Council may proceed to adopt the Ordinance.

**SECTION THREE.** All Ordinances of the Borough of Lincoln Park which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

**SECTION THREE.** If any section, subsection clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of the Ordinance.

**SECTION FOUR.** This Ordinance shall take effect as provided by law.