

Ordinance: #1,576
Introduced: 09/18/17
Adopted: 10/16/17
Effective: 11/5/17

ORDINANCE 12-17

AN ORDINANCE AMENDING ARTICLE VI-AA, CHAPTER 28, ZONING, OF THE ORDINANCES OF THE BOROUGH OF LINCOLN PARK, TO DELETE THE TH/ACHS II, TOWNHOUSE-ADULT COMMUNITY HOUSING/SET-ASIDE II OVERLAY ZONE, AND REZONE BLOCK 35, LOTS 1.01, 3, 5 AND A PORTION OF LOT 8 AS A NEW TH-MF/SA II 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, on March 16, 2009, the Borough of Lincoln Park ("Borough") adopted Ordinance No. 4-09 which added Article VI-AA to Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park and established the TH/ACHS II, Townhouse-Adult Community Housing/Set-Aside II Overlay Zone; and

WHEREAS, the TH/ACHS II Overlay Zone requires that all units constructed within that Overlay Zone be occupied by persons 55 years of age and older and that at least 20 percent of the age-restricted housing built in that Overlay Zone be set aside as low and moderate income age-restricted units; and

WHEREAS, the Borough desires to modify Article VI-AA to remove the requirement all units constructed within the TH/ACHS II Overlay Zone be occupied by persons 55 years of age and older in order to encourage the creation of affordable multi-family, non-age-restricted, rental housing; and

WHEREAS, the Borough also desires to create a separate area within the site that has been designated as the TH/ACHS II Overlay Zone that will be exempt ("Area of Exemption") from the requirement applicable to the rest of the zone that for each foot of building height over thirty-five (35) feet, the building setback shall be increased by eight (8) additional feet due to the following: (1) the Area of Exemption is located directly adjacent to the Evangelical Mission Church, a very tall structure exceeding one hundred (100) feet; (2) the surrounding residential uses are either a substantial distance from the Area of Exemption or are well screened from the Area of Exemption due to existing vegetation that is protected as part of a wetland or wetland transition area; and (3) it will be difficult to see any buildings constructed in the Area of Exemption from US Route 202 and other roadways in the Borough; and

WHEREAS, the Borough also desires to promote the construction of rental affordable units within the Borough and to provide sufficient zoning incentives to achieve that objective.

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. Article VI-AA, TH/ACHS II, Townhouse-Adult Community Housing/Set-Aside II Overlay Zone, of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park, is hereby deleted in its entirety and replaced by the following:

ARTICLE VI-AA

TH-MF/SA II, TOWNHOUSE-MULTI-FAMILY HOUSING/SET-ASIDE II ZONE

Section 28-50AA. PURPOSE:

The purpose of the TH-MF/SA II Zone is to create the opportunity for the construction of inclusionary multi-family residential developments, with a set-aside for housing units affordable to low and moderate income households, which zoning 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 28-51AA. PERMITTED USES:

1. Subject to the provisions of Subsections 3 and 4, below, the following uses are permitted in the TH-MF/SA II Zone.

- A. Townhouses as defined in Section 28-2 above, except that individual yards shall not be required and flats may be included in the same building with townhouse units.
 - B. Apartment Units.
 - C. Houses of Worship and related accessory uses consistent with the regulations therefor in the R-15 and R-20 Zones.
2. The following accessory uses shall be permitted in the TH-MF/SA II 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.

3. 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. 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, *et seq.*, (c) the Fair Housing Act, as amended, (d) the Uniform Housing Affordability Controls ("UHAC") set forth in NJAC 5:80-26.1, *et seq.*, except that in lieu of 10 percent of Affordable Units in rental projects being required to be affordable to households earning 35 percent or less of the regional median income by household size, 13 percent of AFFORDABLE UNITS in rental projects shall be affordable to households earning 30 percent or less of the regional median income by household size), and (e) all provisions of the Borough's Affordable Housing Ordinance. In the event of a conflict among the foregoing regulations and laws, the requirements of the Borough's Court-approved Affordable Housing Ordinance shall prevail.

4. The requirements with which all Affordable Units must comply shall include, but shall not be limited to, those in NJAC 5:93, *et seq.*, and/or UHAC pertaining to (i) phasing of the construction of the Affordable Units in relation to the construction of market rate units, (ii) design and integration with market rate units, (iii) access to community amenities and use of the same heating source as the market rate units, (iv) barrier-free accessibility and/or adaptability for first floor units, (v) affordability controls and (vi) affirmative marketing.

Section 28-52AA. DENSITY AND BULK REQUIREMENTS:

1. The minimum lot area shall be fifteen (15) contiguous acres and the density shall not exceed six (6) dwelling units per gross acre except that an increased density of nine and one-half (9.5) dwelling units per gross acre is permitted if all of the Affordable Units constructed in the TH-MF/SA II Zone District are rental units and are restricted to use as affordable rental units for a period of at least thirty (30) years, until the Borough of Lincoln Park acts to remove the controls on affordability. A maximum of one hundred and fifty (150) units may be constructed in the TH-MF/SA II Zone District.
2. There shall be a minimum frontage of fifty (50) feet upon an accepted public street, improved to the street specification standards of the Borough, County or State.
3. The maximum permitted building height shall be thirty-five (35) feet except that in developments providing rental Affordable Units, the maximum permitted height of any building or structure shall be up to sixty (60) feet provided that for each foot of building height over thirty-five (35) feet, the minimum required building setback under Section 28-52AA.7 below shall be increased by eight (8) additional feet, except that this additional building setback requirement for buildings over thirty-five (35) feet shall not apply in the Area of Exemption, which is described on Schedule A and is depicted on Schedule B, both of which are attached hereto and made a part hereof.
4. There shall be a minimum distance between buildings of thirty (30) feet, except that in developments providing rental Affordable Units, two buildings which are each taller than thirty-five (35) feet shall be separated from one another by at least ninety (90) feet.
5. The maximum coverage of the site by all buildings shall not exceed twenty-five (25) percent and the maximum impervious surface coverage shall not exceed fifty (50) percent of the site area.
6. No building, structure, land disturbance or construction shall be permitted within fifty (50) feet of any perimeter property line except for the following: (a) required access driveways, (b) extensions of required utility lines, (c)

landscaping approved by the Municipal Agency, (d) non-paved, pervious walking trails at a location approved by the Municipal Agency, and (e) where the perimeter property line abuts a non-residential use, parking areas may project up to 25 feet into the required 50 foot setback and/or buffer.

7. The front and rear yard setback from any interior roadway curb shall not be less than twenty-five (25) feet, and the side yard distance from any interior roadway shall not be less than ten (10) feet;
8. Accessory buildings shall comply in all respects with the bulk requirements set forth in this Section.

Section 28-53AA. PARKING REQUIREMENTS:

1. On-site parking for residential uses shall be provided in conformance with the requirements of the RSIS; on-site parking for non-residential uses shall be in accordance with the parking requirements in this Chapter 28, Zoning.
2. Any parking area for three (3) or more automobiles shall be at least twenty-five (25) feet from the front or rear wall of any dwelling unit and at least ten (10) feet from the side or end wall of any single dwelling unit or group of dwelling units;
3. There shall be no parking within fifty (50) feet of any perimeter property line, including existing public rights-of-way, except as otherwise permitted by Section 28-52AA.7 above.
4. Parking areas shall be paved and curbed and provided with adequate storm water drainage in conformance with RSIS requirements.
5. Except for rental Affordable Units, each dwelling unit shall be provided with at least one (1) designated parking space within a garage. The minimum required 9 foot x 18 foot parking area(s) within any one (1) or two (2) car garage provided for use of unit residents shall be used solely for parking of motor vehicles. Under no circumstances may such area(s) be used for storage or for any other use that would interfere with motor vehicle parking.

Section 28-54AA. STREETS AND SIDEWALKS:

1. All streets, sidewalks and driveways in the TH-MF/SA II Zone shall be in conformance with applicable RSIS requirements.
2. Each development shall be provided with at least two (2) means of access one of which may be an approved emergency access roadway. Non-emergency access must be provided from a County or State road.
3. Sidewalks shall be provided in suitable locations including at entrances and exits to the development and to the buildings within the development and wherever pedestrian traffic is anticipated to occur.

Section 28-55AA. OPEN SPACE ORGANIZATION:

It is the intent of the zone plan that all TH-MF/SA II 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 28-56AA. BUILDING STANDARDS:

1. The minimum width of any dwelling unit shall be eighteen (18) feet.
2. The maximum size of any building containing townhouses, flats or a combination thereof shall be eight (8) dwelling units per floor. When a dwelling unit occupies more than one (1) floor, the part of each floor it occupies shall be counted as a separate dwelling unit for the purposes of computing the number of dwelling units per floor.
3. Each building shall contain an enclosed, lockable storage space for each unit, in addition to the closets located within the units. Such storage space shall be at least sixty (60) square feet in area and 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 28-53AA.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 without the need to travel through the interior living space of the dwelling unit.
4. Built-in air conditioning units shall not project more than two (2) inches from the outside face of the wall.

5. Each 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. Each 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 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 28-57AA. 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 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 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 all perimeter lot lines, except as otherwise permitted by Section 28-52AA.7 above. All such buffers, if wooded, shall remain in their natural state and shall be supplemented with additional plantings when necessary for effective screening. Otherwise, such buffer (when not already sufficiently wooded) shall be planted with a landscaped visual screen at least eight (8) feet in height at planting.

Section 28-58AA. 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 II 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 400 meters of trail length. 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 28-59AA. UTILITIES AND GARBAGE DISPOSAL.

1. Garbage collection shall be accomplished by either individual unit pick-up or through the use of common dumpsters. Unit storage of garbage and recyclables shall be in an enclosed garage. If dumpsters are used, they likewise shall be stored/contained within an enclosed structure having access that is adequate and convenient for the placement and removal of dumpsters by refuse vehicles, without special procedures or accommodations. Further, such enclosed structures shall have adequate storage space for all recyclable materials and shall be readily accessible to the trash/recyclable removal vehicles.
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.
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 II 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 II Zoning except in conformance with Section 28-56AA.7 above.

SECTION TWO. 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.

ATTEST:

BOROUGH OF LINCOLN PARK

Cynthia L. Sloane, RMC, CMR, Borough Clerk

Gary Gemian, Council President

Mayor Dr. David Runfeldt

INTRODUCED:

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