

**TOWNSHIP OF MANALAPAN
COUNTY OF MONMOUTH**

ORDINANCE NO. 2020-14

**AN ORDINANCE AMENDING CHAPTER 95 (DEVELOPMENT REGULATIONS),
ARTICLE V, ZONING DISTRICT REGULATIONS, OF THE CODE OF THE
TOWNSHIP OF MANALAPAN, COUNTY OF MONMOUTH, AND STATE OF NEW
JERSEY TO ESTABLISH AN AFFORDABLE HOUSING OVERLAY ZONE UPON
CERTAIN LAND PROVIDING FOR MULTI-FAMILY HOUSING WITH AN
INCLUSIONARY SET-ASIDE OF AGE-RESTRICTED AFFORDABLE HOUSING TO
BE DEVELOPED SUBJECT TO CERTAIN CONDITIONS AND REQUIREMENTS**

WHEREAS, the statutes of the State of New Jersey, N.J.S.A. 40:55D-89, require municipalities, through the local planning board, to reexamine municipal master plans “at least” every ten years; and

WHEREAS, the latest Master Plan Reexamination Report for the Township was adopted on July 16, 2009; and

WHEREAS, the Township Planning Board regularly studies the Township Master Plan and has adopted several amendments to the Township Master Plan since the adoption of the 2009 Master Plan Reexamination Report; and

WHEREAS, since the most recent amendment to the Township Master Plan, the Supreme Court of the State of New Jersey, in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) provided a framework for achieving constitutional compliance with regard to creating a realistic opportunity for producing a fair share of affordable housing for the Third Round; and

WHEREAS, N.J.S.A. 40:55D-62 provides the governing body with the power to create zoning districts and related requirements to effectuate the Township Master Plan and Housing Plan Element and Fair Share Plan;

WHEREAS, the declaratory judgment Plaintiff, the Township of Manalapan (the “Township”) in the lawsuit captioned In the Matter of the Application of the Township of Manalapan, Superior Court of New Jersey, Law Division-Monmouth County Docket No. MON-L-2518-15, which is currently pending in the Superior Court of New Jersey, Monmouth County (the “Action”), and Woodward Estates is an interested party in the Action (“Woodward Estates ”) (each a “Party”, and collectively, the “Parties”); and

WHEREAS, Woodward Estates is owner of Block 67, Lots 22, 25, 32, 35.02 (the “Property”) and it proposed constructing an inclusionary residential development with 130 for sale residential market-rate townhomes (the “Market Rate Townhomes”) and 55 multifamily age-restricted for rent affordable housing units and one additional non-age restricted non-income

restricted on-site manager's two bedroom apartment (the "Affordable Units") for a total of 186 residential units. Each market rate townhome shall be four bedrooms or less, in either fee simple or condominium ownership in developer's discretion. The market rate townhomes may have basements in the developer's discretion. The 55 for rent affordable apartments shall be a combination of one bedroom, two bedroom, and three bedroom units and shall be in compliance with UHAC.

WHEREAS, Woodward Estates LLC and the Township of Manalapan have entered into a Developer's Agreement for purposes of identifying the standards of development of the Woodward Estates site; and

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Manalapan, County of Monmouth, State of New Jersey, that Affordable Housing -Woodward Estates (AH-WE) zone is hereby established and applies to certain lands designated on the tax map of the Township of Manalapan as follows Block 67, Lots 22, 25, 32, 35.02 k as follows:

SECTION I. Chapter 95, "Development Regulations," Article V, "Zoning District Regulations," of the Code of the Township of Manalapan, be and the same is hereby amended and supplemented to add thereto the following subsection:

95-5.6M AH-WE Affordable Housing Overlay District

Section I:

Bulk and Lot Regulations. The development of the Woodward Estates site shall be consistent with the attached Exhibit A entitled "Concept Plan Drawing" which includes conceptual building footprints, building orientation, and building locations. Said plan is entitled "Concept Plan" prepared by Concept Engineering Consultants, PA dated September 18, 2019.

A. Purpose and Intent:

The intent of the AH-WE district is to provide for inclusionary affordable and market rate housing development consistent with the Settlement Agreement entered into by and between the Township and Fair Share Housing Center dated July 11, 2019 and an Amended Settlement Agreement dated October 16, 2019. The Township is obligated to create an affordable housing inclusionary zoning district on certain lands in the Township in accordance with the applicable rules of the New Jersey Council On Affordable Housing (COAH) in order to meet its constitutional obligation to provide for its fair share of affordable housing.

B. Permitted Uses:

1) Principal Uses:

- i. Market rate townhomes
- ii. Multifamily age restricted affordable apartments
- iii. One on-site residential manager's two bedroom apartment

2) Accessory Uses:

- i. Parking
- ii. Utilities
- iii. Patios, decks & porches
- iv. Parks and playgrounds
- v. Fences and Walls
- vi. Any use which is customarily incidental and subordinate to the principal use.

C. Minimum Tract Area:

- 1) 10 acres

D. Overall Tract Requirements:

- 1) There shall be a building setback of at least 35 feet along the perimeter of the tract. Within this 35 foot perimeter setback, a vegetative buffer which may include existing wooded areas in whole or in part, at the developer's option, with a minimum width of 20 feet shall be provided.

E. Minimum Front Yard Setbacks for Principal Structures:

- 1) Townhomes: 26 feet from the edge of pavement to the face of principal structure
- 2) Multifamily, age restricted, affordable apartments: 12 feet from pavement
- 3) Chimneys, bay windows, or oriel overhangs are permitted to encroach into a front yard setback by a maximum of 2 feet.
- 4) Porches or stoops are permitted to encroach into a front yard setback by a maximum of 6 feet. A covered porch which encroaches into a front yard setback shall have a maximum height of 15 feet.

F. Minimum Side Yard and Rear Yard for Principal Structures:

- 1) Townhomes: Side clearance: 25 feet between buildings; rear clearance: 50 feet between back of structures

- 2) Multifamily, age restricted, affordable apartments: Side setback: 35 feet between buildings; rear setback: 50 feet between buildings
- 3) Chimneys, bay windows, or oriel overhangs are permitted to encroach into a side yard or rear yard setback by a maximum of 2 feet.
- 4) Decks and patios are permitted as follows:
 - i. Townhomes: Deck or patio may extend a maximum of 12' off the rear of the main structure and no more than 60% of the total width of the unit.
 - ii. Multifamily, age restricted, affordable apartments: 12. Ft maximum

G. Maximum Density: 10/du/ac

H. Maximum Building Height:

- 1) Townhomes: 35 feet or 2-1/2 stories
- 2) Multifamily, age restricted, affordable apartments: 45 feet or 3 stories

I. Minimum Lot Area and Width:

- 1) 200 ft.

J. Maximum Impervious Coverage:

- 1) 50%

K. Maximum Number of Dwelling Units Per Building:

- 1) Townhomes: 8 dwelling units per building
- 2) Multifamily, age restricted, affordable apartments: 60 units per building

L. Additional Requirements:

- 1) Common recreation facilities, consisting of any of the following: walking trails, playgrounds, athletic fields, courts or other such grounds shall be provided within the development at a ratio of 10 square feet per market rate dwelling unit.
- 2) Off-street parking stalls shall have a minimum width of 9 feet and a minimum depth of 18 feet.

- 3) All parking, garages and circulation shall be designated in accordance with the New Jersey Residential Site Improvement Standards (RSIS).
- 4) Waiver of Cost Generative Measures pursuant to N.J.A.C. 5:93-10.1, et seq. In order to permit the intended, agreed upon development of the Property, the Township agrees to abide by the COAH Regulations against cost generative measures as set forth at N.J.A.C. 5:93-10.1(b). Specifically:
 - i. Any inclusionary development within the AH-WE zone shall be exempt from the Township Tree Replacement Regulations set for at Section 188-194, et seq., within the Township code. It is understood that any costs that may have accrued, but are waived for any inclusionary development within the ML-12 zone pursuant to the Tree Replacement Regulations may be paid to the Township from the Township's Affordable Housing Trust Fund in Accordance with the approved Spending Plan.
 - ii. There shall be no affordable housing fees assessed against the market rate units.
 - iii. Any inclusionary development within the AH-WE zone shall be subject to the provisions of N.J.A.C. 5:93-10.2 which set forth limitations on application requirements and provide a standard of review for the Planning Board for necessary variances or deviations necessary to accomplish the intent of this district.

M. Multifamily Age Restricted Affordable Apartment Requirements:

- 1) A minimum of fifty-five (55) of the dwelling units shall be age restricted and affordable to low and moderate income households in accordance with the Superior Court's January 21, 2020 Order entered In the Matter of the Application of the Township of Manalapan, County of Monmouth, Docket MON-L-2518-15 and in accordance with the Developer's Agreement between Woodward Estates LLC and Manalapan Township approved by the Township Committee on June 10, 2020.
- 2) All of the age restricted, affordable apartments shall be restricted in accordance with the provisions of the Uniform Housing Affordability Controls N.J.A.C. 5:80-26.1, et seq. (UHAC), which shall govern the number of bedrooms of the affordable units.
- 3) All Affordable Units shall comply with the regulations of UHAC and/or the New Jersey Council on Affordable Housing ("COAH"), as may be applicable, including, but not limited to those concerning (a) income qualification, (b) controls on affordability for a period of thirty (30) years, (c) deed restrictions,

(d) bedroom distribution, (e) low/moderate income split, (f) affirmative marketing and (g) handicap accessibility.

- 4) Pursuant to N.J.S.A. 52:27D-329.1, thirteen percent (13%) of the affordable housing units of each bedroom type shall be reserved as very low-income housing units, as such term is defined in N.J.S.A. 52:27D-304 and the UHAC,
- 5) All Affordable Units shall be subject to deed restrictions on income limits for a period of not less than thirty (30) years.
- 6) The affordable dwelling units shall be split equally between moderate income units and low income units.
- 7) In the event that an equal split of the affordable dwelling units between moderate and low income units results in a fraction of a unit, the additional unit shall be reserved for low income households.
- 8) Any phasing of development of market rate units in comparison to affordable units shall include the construction of affordable units in accordance with the schedule established by N.J.A.C. 5:93-5.6(d), and in accordance with the phasing requirements of the Township's Affordable Housing Ordinance, found in Chapter 8. However aside from phasing requirements for the construction of market rate units to affordable units, the Developer may phase any portion of the remaining development at its own discretion to be approved by the Planning Board.

Section II. All Manalapan Township existing Ordinances or parts of existing Ordinances that are in conflict or inconsistent with the requirements of this Ordinance are hereby expressly repealed to the extent that they are in conflict or inconsistent with this Ordinance.

Section III. In the event that any Section or provision of this Ordinance is found or determined to be unenforceable or invalid by a competent Court of Jurisdiction, such holding of the competent Court of Jurisdiction shall be deemed not to affect the validity of the Ordinance as a whole, or any part thereof, other than the parts specifically so held to be unenforceable or invalid by said Court of Competent Jurisdiction.

Section IV. This Ordinance shall not be effective until approved by the Superior Court of New Jersey after a compliance hearing and after the proper adoption of the Ordinance including first and second reading and publication, in accordance with New Jersey law.

NOTICE OF PUBLIC HEARING

The Ordinance published herewith was Introduced and approved at a meeting of the Township Committee of the Township of Manalapan held on June 10, 2020 and will be further considered for final passage after a Public Hearing thereon before the Township Committee of the Township of Manalapan during a meeting to be held on Wednesday, July 8, 2020 at the Municipal Complex, 120 Route 522 and Taylors Mills Road, Manalapan, New Jersey at 7:30 p.m. or as soon thereafter as the matter may be reached, or at any meeting to which that meeting may be adjourned, at which time any and all persons who may be interested therein will be given an opportunity to be heard.

The proposed Ordinance in its entirety is on file in the Municipal Clerk's Office and copies may be obtained without charge between the hours of 8:30 a.m. and 4:30 p.m. Monday through Friday. A complete copy may also be obtained from the Manalapan Township web-site www.mtnj.org by clicking on the Ordinance title listed on the Agenda posted for the Township Committee meeting of July 8, 2020.

SHARI ROSE, RMC
Deputy Municipal Clerk