

South Brunswick Township ORD-2020-14

540 Ridge Road

Monmouth Junction, NJ 08852

ORDINANCE 2020-14

Amending and Supplementing Chapter 62, Land Use, by the Creation of the PRD VII Mixed Development Zone Standards and Rezoning Certain Property to be Consistent with Said Standards (Amended 5/26/2020)

WHEREAS, on July 1, 2015, the Township filed a declaratory judgment action seeking a Judgment of Compliance and Repose approving its Affordable Housing Plan and seeking related relief in a matter entitled In the Matter of the Application of the Township of South Brunswick, County of Middlesex, Docket No. MID-3878-15, transferred to Mercer County under Docket No. MER-L-0810-17 by order of April 20, 2017, and transferred back to Middlesex County by order of July 26, 2017, subsequently given Docket No. MID-L-4433-17 (DJ Action); and

WHEREAS, on February 19, 2016, the Superior Court revoked the Township's immunity and permitted the filing of various builder's remedy lawsuits, which were consolidated with the DJ Action, including a builder's remedy complaint filed on July 7, 2017, by PPF Industrial - Route 130/Exit 8A, LLC (PPF) entitled, PPF Industrial - Route 130/Exit 8A, L.L.C., a limited liability company organized under the laws of the State of Delaware v. Township of South Brunswick, et al., Docket No. MID-L-4094-17 (Builder's Remedy Action); and

WHEREAS, PPF is the owner of the real property located adjacent to or near the intersection of N.J. State Route 130 and Friendship Road, and designated as Block 6, Lots 15.021 and 15.022 and Block 11, Lot 13.02 and Lot 15.03 on the tax map of the Township of South Brunswick (PPF Property), consisting of approximately 147.37 acres; and

WHEREAS, the Township had previously acquired title to certain property adjoining the existing PPF Property for affordable housing designated as Block 11, Lot 15.05, being approximately 6.15 acres in area (Township Property); and

WHEREAS, the Township and PPF have reached an agreement to settle the Builder's Remedy Action that will involve conveyance of the Township Property to PPF as an adjoining property owner in

consideration of PPF's agreement to modify its proposed development to redistribute a portion of the proposed inclusionary housing development onto the Township Property and dedicate a portion of the PPF Property to the Township for general municipal purposes; and

WHEREAS, the settlement of the Builder's Remedy Action further requires the Township to rezone the PPF Property and the Township Property for a mixed use development, and PPF to develop the PPF Property and the Township Property for a subdivided commercial lot consisting of approximately three contiguous acres on the northwest corner of the intersection of Route 130 and Friendship Road, and a residential inclusionary project consisting of a total of 326 housing units, with a 30% affordable housing set aside, consisting of 98 two-story townhomes on fee simple lots, 130 three-story townhomes on fee simple lots, 83 affordable family rental apartments, and 15 affordable family "for sale" units in stacked townhomes, resulting in the creation of a total of 98 affordable family units; and

WHEREAS, at least 13% of the affordable units will be set-aside for very-low income households, at least 37% for low income households and up to 50% for moderate income households, in satisfaction of a portion of the Township's Third Round Affordable Housing Fair Share Obligation; and

WHEREAS, the settlement and this ordinance are both subject to approval of the settlement at a duly noticed Fairness Hearing to be held by the N.J. Superior Court, at which time the court must find that the proposed settlement and rezoning of the PPF Property and Township Tract is fair to low and moderate income persons for whom the affordable housing units were intended, thereafter remanding the matter to the Township and Planning Board to take such actions as are required to process PPF's application for subdivision and site plan approval; and

WHEREAS, it is appropriate to create the PRD VII Mixed Development Zone (the "PRD VII Zone") standards, to be applied to the PPF Property and Township Property, so as to consummate the terms of the settlement and produce the affordable housing units contemplated by the court-approved settlement;

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of South Brunswick, County of Middlesex, State of New Jersey, that:

I. Chapter 62, Land Use, of the South Brunswick Township Code, shall be and is hereby amended and supplemented with the addition of the following:

Article IV. Zoning.

Section 62-879 - 62-900885.

Reserved.

Subdivision XV(C)

PRD VII Mixed Development Zone

Section 62-886 - Purpose

The PRD VII Zone includes Block 6, Lots 15.021 and 15.022 and Block 11, Lots 13.02 (portion), 15.03 and 15.05 (hereafter, “the Tract”) containing approximately 120 acres. The purposes of the PRD VII Zone are to create an integrated mixed use zone for a combination of commercial and residential development; to permit approximately three (3) acres of commercial development at the northwest corner of the intersection of Route 130 and Friendship Road (excluding any future right-of-way dedications or vacations) (the “Commercial Subzone”); and permit the construction of housing units on the remaining undeveloped acres (the “Residential Subzones”). The Residential Subzones and the Commercial Subzone are depicted on a revised zoning map which shall be adopted by the Township. The PRD VII Zone shall permit within the Residential Subzones up to 326 total units, of which 30% shall be set-aside for, and shall be, affordable to very-low, low and moderate income households, consisting of 98 two-story townhomes on fee simple lots, 130 three-story townhomes on fee simple lots, 83 affordable family rental apartments, and 15 affordable family “for sale” units in stacked townhomes. The Residential Subzones are as follows:

- Friendship Road North Inclusionary Housing Subzone
- Friendship Road South Inclusionary Housing Subzone
- Route 130 Affordable Housing Subzone

Section 62-887 - Uses Permitted

The following uses are permitted in the PRD VII Zone:

- (1) Multifamily residential units and townhouse attached dwellings, but, in each case, only within the Residential Subzones.
- (2) Within the Commercial Subzone:

- a. Communitywide and area-wide retail establishments, including department and variety stores, supermarkets, clothing stores, furniture and appliance stores, drugstores and liquor stores, but excluding warehouse/discount clubs.
- b. Communitywide and area-wide service activities, excluding movie theaters, but including banks, restaurants, fast food restaurants, exercise and dance schools, taverns, travel agencies, indoor recreation facilities and fitness centers and other such ancillary supermarket services.
- c. Convenience retail store with vehicle fuel sales. The regulations in Section 62-1921 shall not be applicable to this use.
- d. Offices for physicians, dentists, engineers, lawyers, architects, public accountants, real estate and insurance brokers, city planners and similar professions.
- e. Medical HMO facilities and medical laboratories.
- f. Educational facilities for learning and training.
- g. Health Clubs.
- h. Dance studios.
- i. Medical service and retail medical supply.
- j. Duplicating or office supply service.
- k. Product demonstration, display or showroom facilities.
- l. Conference or training centers.
- m. Family recreation facilities.
- n. Nursing homes.
- o. Child care centers.
- p. Assisted living facilities, with an affordable housing component.
- q. Laboratory or research facilities.

Section 62-888 - Uses permitted as conditional uses.

Uses permitted as conditional uses in the PRD VII Zone shall be subject to planning board approval under N.J.S.A. 40:55D-67. Provisions and performance standards for conditional uses shall apply, as specified in this chapter. The following uses shall be permitted as conditional uses:

- (1) Community buildings or activities of a quasi-public, social or fraternal character.

Section 62-889 - Accessory uses permitted.

Accessory uses permitted in the PRD VII Zone:

- (1) Parking lots and private garages.
- (2) Community swimming pools, tennis courts, basketball courts, tot lots, volleyball courts and other recreational facilities.
- (3) Gazebos, trellises, arbors, pergolas, decks, patios, gardens and landscaped areas including fountains, ponds and other water features.
- (4) A clubhouse, including, but not limited to: a fitness center; multi-purpose rooms, wellness center; leasing office; entertainment center; meeting rooms; resident food and beverage area; and business center.
- (5) Maintenance and storage buildings.
- (6) Signs, as regulated in this chapter. The installation of signs shall comply with regulations contained in Article IV, Division 7, §62-1816 thru 1823; signage for the Commercial Subzone development may be located in the Route 130 Affordable Housing Subzone and signage for the Route 130 Affordable Housing Subzone may be located in the Commercial Subzone development, and the actual location of such signage is set forth in the settlement agreement to be entered into between the Township and PPF to settle the Builder's Remedy Action (the "Settlement Agreement").
- (7) Fences and walls, as regulated in this chapter.
- (8) Electric vehicle charging stations.
- (9) Home occupations and home professional offices, as defined and regulated by the provisions in this chapter.

Section 62-890 - Tract and open space requirements.

- (1) It is recognized that the Tract may be subdivided. The Tract bulk standards associated within the PRD VII Zone shall apply to the overall Tract. In the event there are subdivided lots within the Tract, there may be easements for vehicular and pedestrian circulation, shared parking and storm water management facilities for use on a Tract wide basis, so as to permit the development of the PRD VII Zone as a comprehensive mixed use project.
- (2) The maximum building coverage shall be 25 percent of the total land area of the Tract.
- (3) The minimum open space standard shall be 30 percent of the Tract.

(4) Residential Subzones buffers. Buffer areas shall be provided in the Residential Subzones with a landscaped berm along that portion of the property that abuts a roadway or existing land use. Below are the minimum buffer widths for the various subzones:

- a. Friendship Road North Inclusionary Housing Subzone: 50 feet wide, except for emergency access roadways and cul-de-sacs.
- b. Friendship Road South Inclusionary Housing Subzone: 40 feet wide, except for areas where (a) head-in parking (including driveways and parking spaces) is provided, and (b) a basin is provided, in which cases the buffer shall be no less than 15 feet in width.
- c. Route 130 Affordable Housing Subzone: 50 feet wide along Route 130 frontage as measured from the existing right-of-way line of Route 130, except for areas where a driveway or an internal roadway is provided, in which case the buffer shall be no less than 15 feet in width.

(5) Commercial Subzone buffers. Commercial Subzone buffers shall be as follows:

- a. 50 feet wide along the southern and eastern property lines, adjacent to Friendship Road and Route 130 frontages (as measured from the existing right-of-way line of Route 130 prior to any dedication of the right-of-way along Route 130), except for areas where parking is provided, in which case the buffer shall be no less than 10 feet in width.

(6) The following encroachments into the Tract buffers are permitted:

- a. Pedestrian trails, sidewalks, signs, retaining walls, and landscaped areas are permitted in all buffer areas.
- b. New stormwater basins shall not be located within 20 feet of the Tract boundary line, but this limitation shall not be applicable to other stormwater facilities, including, but not limited to, pipes, headwalls, swales, and riprap.
- c. Driveways and access roadways are permitted within the Tract buffer adjacent to Route 130 and Friendship Road.
- d. Emergency access if required by Township

(7) Existing roads, existing stormwater facilities, existing parking areas and related improvements are exempt from all Tract buffer requirements.

(8) All residential development must be served by public water and sanitary sewer service.

Section 62- 891 - Area, Yard, and Density Tract Requirements

(1) Overall Tract

- a. The maximum residential yield shall be 326 units.
- b. The maximum impervious coverage shall be 70%.

- c. Multiple principal buildings and multiple principal uses shall be allowed on a single lot.
- d. Residential buildings shall be setback at least:
 - 1. 15 feet from any street or driveway.
 - 2. 10 feet from any parking area.
- e. The following minimum distance between buildings is required: 50 feet between residential and nonresidential buildings within the Tract, irrespective of a subdivision of the Tract.
- f. In measuring building separation distances set forth herein, covered and uncovered stairs and stoops, stairways, balconies, decks, cornices, eaves, gutters, bay windows, chimneys and other projections from buildings shall be excluded from the measurements.
- g. Additional requirements for residential use:
 - 1. Maximum number of attached units per townhouse dwelling: 7
 - 2. No building intended for residential occupancy shall be located within 20 feet of the Tract boundary line.
 - 3. Common area property may contain certain improvements, such as underground utility lines, stormwater management features, decks/patios, landscaping, signage, walking paths and sidewalks.
 - 4. All provisions of the Residential Site Improvement Standards (RSIS) shall be applicable within the PRD VII Zone.

(2) Friendship Road North Inclusionary Housing Subzone

- a. The maximum residential yield shall be 98 market-rate units.
- b. For townhouse dwellings constructed on fee-simple lots, the following area and dimensional requirements shall apply:
 - (i) Minimum Lot Area: 2,340 square feet
 - (ii) Minimum Lot Width: 26 feet
 - (iii) Minimum Lot Depth: 90 feet
 - (iv) Building separation, front to front: 60 feet
 - (v) Building separation, side to side: 25 feet
 - (vi) Building separation, all other: 30 feet
 - (vii) No residential building or structure shall exceed 41 feet or 2.5-stories in height, except as regulated by the height exception provisions of this chapter

(3) Friendship Road South Inclusionary Housing Subzone

a. The maximum residential yield shall be 145 units, including 130 townhomes (market rate) and 15 stacked townhomes (affordable).

b. For townhouse dwellings constructed on fee-simple lots, the following area and dimensional requirements shall apply:

- Minimum Lot Area: 1,920 square feet
- Minimum Lot Width: 24 feet (except that 50%, i.e., up to five (5), of the 2-bedroom stacked townhome affordable units shall have a minimum lot or unit width of 18 feet)
- Minimum Lot Depth: 80 feet
- Building separation, front to front: 60 feet
- Building separation, side to side: 25 feet
- Building separation, all other: 30 feet
- No residential building or structure shall exceed 45 feet or 3-stories in height, except as regulated by the height exception provisions of this chapter

c. For the stacked townhomes to be offered for sale as low or moderate-income condominium units, the following area and dimensional requirements shall apply:

- Building setback from Friendship Road frontage: 60 feet
- Building setback from other property boundaries: 20 feet
- Building setback from roadway: 20 feet
- Building setback from parking: 10 feet
- Minimum distance between buildings: 35 feet
- No residential building or structure shall exceed 45 feet or 3-stories in height, except as regulated by the height exception provisions of this chapter

(4) Route 130 Affordable Housing Subzone

a. The maximum residential yield shall be 83 rental units.

b. The following area and dimensional requirements shall apply:

- Building setback from Route 130 frontage: 125 feet
- Building setback from other property boundaries: 50 feet
- Building setback from internal roadways and driveways: 10 feet
- Building setback from parking: 10 feet
- Minimum distance between buildings: 30 feet

- No residential building or structure shall exceed 45 feet or 3-stories in height, except as regulated by the height exception provisions of this chapter

(5) Commercial Subzone

- a. Minimum lot area: 40,000 square feet.
- b. Minimum lot frontage: 200 feet.
- c. Minimum commercial building setbacks shall be as follows:
 1. 100 feet from Friendship Road and Route 130.
 2. 40 feet from all other property lines.
 3. 10 feet from any street or driveway (other than Friendship Road and Route 130).
 4. 5 feet from any parking area.
- d. Maximum building coverage: 25%
- e. Maximum lot coverage: 70%
- f. The maximum building height shall be 35 feet.

Section 62-892 - Off-street parking requirements and loading requirements.

- (1) Off-street parking for residential uses shall be provided as follows: All off-street parking shall be designed to comply with the standards set forth in the New Jersey Residential Site Improvements Standard (RSIS). The parking requirement for a clubhouse shall be 2.5 spaces per 1,000 square feet of gross floor area.
- (2) The parking requirement for non-residential development shall be four (4) parking spaces per 1,000 square feet. Shared parking arrangements are encouraged.
- (3) Parking and parking setbacks are as follows:
 - a. Parking and drive aisles shall be permitted in all building setback areas.
 - b. All nonresidential parking shall be set back a minimum of 40 feet from Route 130 cartway and Friendship Road right-of-way, and 10 feet from all other Tract boundaries.
- (4) All nonresidential buildings shall face the public roadways or entrance boulevard. Any service or loading areas facing public roadways shall be sufficiently screened from view from the public road.
- (5) Parking Stall and Aisle dimensions:
 - a. Parking stall dimensions shall be nine (9') feet wide and eighteen (18') feet deep.

- b. Parking aisle width shall be twenty four (24') feet.

Section 62-893 - Lighting.

Lighting shall be provided in accordance with Section 62-208, with the exception that Section 62-208(g)(4) regarding lighting of sidewalks and pedestrian walkways may be accomplished by ambient lighting from buildings and parking areas and such lighting as may be required to ensure pedestrian safety. No lighting is required for pedestrian trails located within buffer areas, except for such lighting as may be required to ensure pedestrian safety.

Section 62-894 - Trash and Recycling Enclosures.

- (1) There shall be one enclosure (18' X 24') for every three (3) residential buildings for trash and recycling.
- (2) Trash and recycling enclosures shall be completely surrounded by a six-foot-high solid architectural fence and solid gate. All outside trash shall be stored in this area and shall not be in public view over the fence height. All similar accessory appurtenances, such as propane tanks, must be similarly enclosed.

Sec. 62-895 - Recreational facilities.

Sec. 62-206(5)e shall not apply to the PRD VII Zone. All recreational facilities shall be agreed to by the Township and set forth in a Settlement Agreement that shall address all active and passive recreational amenity requirements.

Section 62-896 - Affordable Housing

- (1) Ninety-eight (98) affordable housing units shall be provided which equates to 30% of the 326 residential units.
- (2) Pursuant to the Uniform Housing Affordability Controls ("UHAC"), the affordable units shall be restricted for at least thirty (30) years from the date of their initial occupancy ("Deed-Restriction Period") to eligible very-low, low and moderate income households (with one exception that very-low income units shall be provided (as noted in 62-896(3) below) for households at 30% or less of median

income and pursuant to N.J.S.A. 52:27D-329.1). Thereafter the municipality's decision as to when and whether to extinguish affordability controls shall be governed by the applicable UHAC provisions.

(3) At least 13 units, or 13% of the affordable units, shall be affordable to very-low income households, defined as those households earning 30 percent or less of the regional median income, all of which shall be located in the rental portion of the Inclusionary Development; at least 36 units, or 37% of the affordable units, shall be affordable to low-income households, defined as those households earning between 30 percent and 50 percent of the regional median income; and up to 49 units, or 50% of the affordable units, shall be affordable to moderate-income households, defined as those households earning between 50 percent and 80 percent of the regional median income.

(4) The affordable units shall comply with the UHAC bedroom distribution requirements set forth in N.J.A.C. 5:80-26.3(b), as follows: For each bedroom type, the units shall be proportionally distributed between very-low-income households, low-income households, and moderate-income households in accordance with the percentages of such units in the overall number of affordable units referenced above, and as follows:

- a. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
- b. At least 30 percent of all low- and moderate-income units shall be two bedroom units;
- c. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
- d. The remainder, if any, may be allocated at the discretion of the developer as two or three bedroom units.

Therefore, the bedroom mixes for the very-low, low and moderate income units shall be in accordance with the following table:

Unit Type	Total	Maximum One bedroom				Minimum Two bedroom	Minimum Three
bedroom	Remainder						
Very low income	13	2	4	3	4		
Low income	36	7	11	8	10		
Moderate income	49	9	15	10	15		
Total	98	18	30	21	29		

The number of units in the Remainder column set forth in the above chart will be allocated at the discretion of the developer as two or three bedroom units, in accordance with this Section 62-896(4)d hereof.

(5) The affordable units shall comply with the UHAC regulations with regards to the pricing of rents or sale prices associated with very-low, low and moderate income units pursuant to N.J.A.C. 5:80-26.3(d) (with one exception that very-low income units shall be provided (as noted in 62-896(3) above) for households at 30% or less of median income and pursuant to N.J.S.A. 52:27D-329.1).

(6) The affordable units shall comply with the phasing of market housing and affordable housing pursuant to N.J.A.C. 5:93-5.6(d), and in accordance with the following schedule:

Minimum Percentage of Low and Moderate Income Units Completed	Percentage of Market Rate Housing Units Completed
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0	25
10	25 + 1 unit
50	50
75	75
100	90
	100

(7) The Settlement Agreement shall address minimum area of units, minimum bedroom size, and floor area inclusions and exclusions.

(8) The affordable units shall utilize the same heating sources as the market units within the inclusionary development.

(9) With regard to ADA compliance, all low and moderate-income housing provided as townhouses or multistory dwelling units shall comply with N.J.A.C. 5:97-3.14.

(10) The developer shall contract with an experienced administrative agent as per the UHAC regulations (N.J.A.C. 5:80-26.14).

(11) The affordable units shall comply with the UHAC regulations with regard to affirmative marketing per N.J.A.C. 5:80-26.15 and the Township's Housing Element and Fair Share Plan.

Sec. 62-897 - Conflicts in Standards

RSIS standards and the PRD VII Zone standards shall supersede any conflicting standards within this chapter.

Section 62-898 - 62-900. Reserved.

II. If any clause, sentence, paragraph, section or part of this ordinance or any other codes or ordinances incorporated herein shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

III. This ordinance shall become effective twenty (20) days after its final passage and approval after a duly noticed Fairness Hearing to be held by the N.J. Superior Court.

The above ordinance was introduced and passed on first reading at a meeting of the Township Council of the Township of South Brunswick held on February 25, 2020. It was scheduled for a hearing on March 24, 2020, but was tabled at that time to April 28, 2020, at which time it was tabled again to May 26, 2020, at which time it was amended. It will be considered on second and final reading and final passage at a meeting of the Township Council of the Township of South Brunswick to be held either: (1) at the Municipal Building, Monmouth Junction, New Jersey; or, if that is not possible, (2) via video conference, at 6:00 p.m. on June 23, 2020. If the meeting is held via video conference, an electronic link to the meeting will be made available to the public at www.sbtnj.net no later than noon on the day of the meeting. In either case, at the time of second reading and final passage any person having an interest therein will be given an opportunity to be heard.

RESULT: ADOPTED [UNANIMOUS]

MOVER: Joseph Camarota, Deputy Mayor

SECONDER: Archana "Ann" Grover, Councilwoman

AYES: Joseph Camarota, Archana "Ann" Grover, Charlie Carley

ABSENT: Ken Bierman, Josephine "Jo" Hochman

This is to certify that the foregoing is a true copy of a Ordinance Amended at the South Brunswick Township Council meeting held on June 23, 2020.

