**ORDINANCE NO. 15 -2021**

**BOROUGH OF SEA GIRT**

**COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**COUNTY OF MONMOUTH, STATE OF NEW JERSEY AN ORDINACE AMENDING CHAPTER 17, “ZONING”, SECTION 17-3.1 “ZONING DISTRICTS”, SECTION 17-3.3, “DESCRIPTION OF ZONING DISTRICTS” AND SECTION 17-4.1 “SCHEDULE OF LIMITATIONS”, OF THE CODE OF THE BOROUGH OF SEA GIRT BY CREATING A NEW ZONING DISTRICT ENTITILED AFFORDABLE HOUSING ZONING DISTRICT (AH-1)**

**WHEREAS**, the Borough was the subject of a Mount Laurel exclusionary zoning suit filed in the Superior Court of New Jersey entitled 501 Washington Blvd, LLC, 503 Washington Blvd., LLC, Sea Girt Fifth Avenue LLC, Sitco Sea Girt, LLC v. Borough of Sea Girt, Borough Council of Sea Girt, and Sea Girt Planning Board, (the plaintiffs shall be collectively referred to as the “Developer”), Docket No. MON-L-000102-20, seeking to compel the Borough to provide a realistic opportunity for the construction of housing affordable to low and moderate-income households and their fair share of the housing region’s need for such housing, (“Builder’s Remedy Action”); and

**WHEREAS**, the Developer is the owner of identified as Block 76, Lot 1, Block 76, Lot 2 Block 77, Lot 16, and Block 77, Lot 17 (the “Properties”); and

**WHEREAS**,the Borough and the Borough Planning Board entered into a Settlement Agreement with the Developer in the Builder’s Remedy Action allowing the Properties to be collectively developed with a total of 19 units, of which 3 units will be deed restricted as affordable housing available to very low, low and moderate-income households in conformance with the specific terms of the Settlement Agreement; and

**WHEREAS**, the Court conducted a Fairness Hearing on June 3, 2021 and as a result of the hearing, it preliminarily approved the Settlement Agreement finding it fair, reasonable and adequately protecting the interests of very low, low and moderate-income households in the region; and

**WHEREAS,** the court’s approval of the Settlement Agreement requires the Borough to rezone the Properties to allow for a 19-unit family rental project including 3 affordable housing units available to very low, low and moderate-income households in order to assist the Borough in meeting its obligation to create a realistic opportunity to provide for the Borough’s fair share of affordable housing; and

**WHEREAS,** this Ordinance shall set forth the zoning regulations and bulk standard requirements for all development within the newly created AH-1 Zone; and

**WHEREAS,** the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey finds it is in the best interest of the Borough to comply with the Court’s Order and implement the terms and conditions of the Settlement creating the Affordable Housing Zoning District (AH-1).

**NOW THEREFORE BE IT ORDAINED** by the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey, that Chapter 17, Sections 17-3.1, 17-3.3 and Section 17-4.1 shall be amended to include a new Section entitled Affordable Housing Zone (AF-1), which shall regulate development through the following zoning regulations and bulk standards. (additions are underlined)

Section 1.

Section 3.1 Zoning Districts shall be amended as follows:

|  |  |  |
| --- | --- | --- |
| 1E | 1 East | Single Family |
| 1W | 1 West | Single Family |
| 2E | 2 East | Convenience  Commercial |
| 2W | 2 West | Convenience  Commercial |
| 3 | 3 | Beach |
| 4 | 4 | Recreational Open Space |
| 5 | 5 | Affordable Housing |

Section 2.

Section 3.3 Description of Districts shall be amended to include a new subsection (g) as follows:

a-f No changes

g. District 5-The properties designated as Block 76, Lot 1, Block 76, Lot 2 Block 77, Lot 16, and Block 77, Lot 17 on the Borough of Sea Girt’s tax map.

Section 3.

Section 17-4.1 Schedule of Limitations shall be amended to include a new zoning District entitled Affordable Housing (AH-1) as follows:

AFFORDABLE HOUSING ZONE

1. Purpose

The purpose of the Affordable Housing Zone is to provide a realistic opportunity for very low, low and moderate- income housing within an inclusionary development. The creation of the Affordable Housing Zone is in furtherance of the Borough’s Settlement Agreement in the matter captioned 501 Washington Blvd, LLC, 503 Washington Blvd., LLC, Sea Girt Fifth Avenue LLC, Sitco Sea Girt, LLC v. Borough of Sea Girt, Borough Council of Sea Girt, and Sea Girt Planning Board, Superior Court of New Jersey, Law Division-Monmouth County, Docket No. MON-L-000102-20 The zone appears on the zoning map impacting Block 76, Lots 1 and 2; and Block 77, Lots 16 and 17.

Pursuant to the settlement agreement, the Affordable Housing Zone permits: 10 apartment units on Block 77, Lots 16 and 17; and nine apartment units, of which 3 will be available to low, very low and moderate-income households, and one retail use on Block 76, Lots 1 and 2. The settlement agreement includes a concept plan that is the basis of this ordinance.

1. Permitted Principal Uses:
2. Apartment units on all floors
3. Mixed-Use buildings that include commercial or office space on the first floor and housing on the second and third floors. A mixed use building may also include housing on the first floor.
4. Permitted Accessory Uses: Uses that are customary and incidental to multi-family housing, including, but not limited to:
5. Parking
6. Garages
7. Club rooms
8. Fitness facility
9. Satellite Dish
10. Signs
11. Fences
12. Trash Enclosure
13. Temporary construction trailers
14. Utility pump stations, transformers, switches and meter facilities to support the development
15. Management and/or leasing office
16. HVAC units
17. Generators
18. Bulk regulations: Pursuant to this ordinance, Washington Boulevard is the front yard and Fifth Avenue is a side yard.
19. Minimum Lot frontage along front yard. (Feet) 95
20. Minimum Lot Frontage Along Side Yard (Feet) 145
21. Minimum Front Yard Setback – (Feet) 10
22. Minimum Side Yard Setback from Fifth Avenue – (Feet) 10
23. Minimum Side yard from other property line (Feet) 0 on north side of Washington Avenue and 10 feet on the south side of Washington Avenue
24. Minimum Rear Yard Setback (Feet) 40
25. Maximum Height (Stories/Feet) 3/45
26. Maximum Building Coverage (Percent) 40
27. Maximum Improved Lot Coverage (Percent) 85
28. Projections from buildings, such as, but not limited to balconies, patios, chimneys and windows may extend into the building set-back provided they shall be set-back a minimum of 5’ from the front yard property line and 5’ on the side yard property line.
29. Area, Yard and Bulk Requirements for Accessory Structures (including parking) & Uses. Pursuant to this ordinance, Washington Boulevard is the front yard and Fifth Avenue is a side yard. No accessory structures shall be permitted in the front yard set-back.
30. Minimum Side Yard Set-back from Fifth Avenue (Feet) 5
31. Minimum Side Yard from western property line (Feet) 2
32. Minimum Rear Yard Setback (Feet) 3
33. Minimum Distance Between Accessory

and Principal Structures (Feet) 0

1. Maximum Height (Stories/Feet) 1/15
2. Parking
3. Commercial uses - 0 spaces
4. Residential uses - 1.7 spaces
5. Notwithstanding the set-back requirements for other accessory uses, fencing is permitted along the rear yard or the western side yard property line. Such fencing may be up to six feet in height and be of solid construction. Fencing may be provided in lieu of landscaping.
6. Signage.
7. One monument sign with a maximum area of 30 square feet may be provided along Washington Boulevard if set-back five feet from the property line.
8. Numbers indicating the addresses of the multi-family residential buildings are permitted to be mounted on the building facade, not to exceed 8 square feet and not to protrude more than 6 inches from the building’s surface.
9. Deviations from Concept Plan. Development in the Affordable Housing Zone shall generally conform to the Concept Plan, dated December 4, 2020, prepared by Dynamic Engineering. However, it is the intent that the applicant can make reasonable refinements to the Concept Plan and that the Board shall approve those refinements even if such refinement requires a “c” variance.
10. Affordable Housing – Fifteen (15) percent of all the housing units shall be affordable to very low, low and moderate-income households. The affordable units within the inclusionary development shall be constructed pursuant to the phasing schedule at N.J.A.C. 5:93-5.6(d).
    1. The development of all affordable units shall comply with the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et. seq. or any successor legislation. Similarly, the monitoring, advertisement, tenant eligibility requirements, and deed restrictions shall comply with the UHAC regulations.
    2. A minimum of 50% of all affordable units shall be affordable to very-low and low-income households. All other affordable units shall be affordable to moderate-income households.
    3. A minimum of 13% of all affordable units will be affordable to very-low income households, defined as households earning no more than 30 percent of median income.
11. Conflicting Standards and Exemptions – The standards set forth in the AH-1 Zone shall supersede any conflicting standards elsewhere in the Land Development Ordinance. It is recognized that the subject properties are relatively flat; and therefore, any Borough land regulation related to slope shall not apply to the Affordable Housing Zone. No municipal standard regulating tree removal or tree replacement shall apply in the Affordable Housing Zone.

**BE IT FURTHER ORDAINED**, that

1. All other Ordinances or provisions of the Code of the Borough of Sea Girt or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.
2. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
3. This Ordinance shall take effect upon its passage and publication as required by law.

DATE INTRODUCED: July 14, 2021

DATE ADOPTED: August 11, 2021

APPROVED: ATTEST:

Donald Fetzer Dawn Harriman

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Council President Fetzer Dawn Harriman, Municipal Clerk

Date: August 12, 2021

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I, DAWN HARRIMAN, Clerk of the Borough of Sea Girt, do hereby *certify* the above to be a true and exact copy of the Ordinance adopted after a public hearing thereon held on the 11th day of August, 2021.

Dawn Harriman

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DAWN HARRIMAN, RMC

Municipal Clerk