ADOPTED
DATE As Amended 7/13/2020
ATTEST:

Town of Johnston
State of Rhode Island and Providence Plantations

Ordinance 2019- 23

"AN ORDINANCE AMENDING CHAPTER 340, "ZONING" SUBSECTIONS 4 DEFINITIONS AND WORD USAGE; 8 TABLE OF USE REGULATIONS; 9.3 FLEXIBLE DESIGN RESIDENTIAL PROJECTS; 27.1 SITE PLAN REVIEW AND APPROVAL FOR COMMERCIAL AND BUSINESS USES; 27.3 UNIFIED DEVELOPMENT REVIEW; 62 SUBSTANDARD LOTS OF RECORD; OF THE JOHNSTON CODE OF ORDINANCES"

The Town Council of the Town of Johnston hereby ordains:

(Amendments to existing text noted by "Underline" for new proposed text or Strikethrough" for proposed text to be removed)

Amend Article II. Definitions, Section 340-4. Definitions and word usage. As follows:

[340-4 Definitions and Word Usage]

ADULT ENTERTAINMENT: All terms used in this ordinance that relate to adult entertainment shall have the meaning as defined in Chapter 83, Adult Entertainment, of the Town Code of Ordinances.

BUILDING CODE: Rhode Island State Building Code, RIGL § 23-27.3-100.0 et seq. as amended from time to time.

~~**BUILDING HEIGHT:** The vertical distance from grade, as determined by the Town of Johnston, to the top of the highest point of the roof or structure. The distance may exclude spires, chimneys, flag poles, and the like.~~

BUILDING HEIGHT - For a vacant parcel of land, building height shall be measured from the average, existing-grade elevation where the foundation of the structure is proposed. For an existing structure, building height shall be measured from average grade taken from the outermost four (4) corners of the existing foundation. In all cases, building height shall be measured to the top of the highest point of the existing or proposed roof or structure. This distance shall exclude spires, chimneys, flag poles, and the like. For any property or structure located in a special flood hazard area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), building height shall be measured from base flood elevation, and where freeboard, as defined in this section, is being utilized or proposed, such freeboard area, not to exceed five feet (5'), shall be excluded from the building height calculation; provided, however that the Rhode Island coastal resources management council design elevation maps may be used by an owner or applicant to establish a base flood elevation for a property that is higher than the official FEMA FIRMs.

COMMUNITY RESIDENCE: A home or residential facility where children and/ or adults reside in a family setting and may or may not receive supervised care. This shall not include halfway houses or ~~substance abuse treatment facilities~~ substance use disorder treatment facilities. This shall include, but not be limited to, the following:

(1) Whenever six or fewer ~~retarded~~ children or adults with intellectual and/or developmental disabilities reside in any type of residence in the community, as licensed by the state pursuant to RIGL § 40.1-24-1 et seq. All requirements pertaining to local zoning are waived for these community residences.

(2) A group home providing care or supervision, or both, to not more than eight mentally disabled or mentally handicapped or physically handicapped persons, and licensed by the state pursuant to RIGL Title 40.1, Chapter 24.

(3) A residence for children providing care or supervision, or both, to not more than eight children including those of the care giver and licensed by the state pursuant to RIGL § 42-72.1-1 et seq.

(4) A community transitional residence providing care or assistance, or both, to no more than six unrelated persons or no more than three families, not to exceed a total of eight persons, requiring temporary financial assistance, and/or to persons who are victims of crimes, abuse, or neglect, and who are expected to reside in that residence not less than 60 days nor more than two years. Residents will have access to and use of all common areas, including eating areas and living rooms, and will receive appropriate social services for the purpose of fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

~~**DUPLEX:** Two single dwelling units each with separate entrances divided by a common party wall.~~

~~**DUPLEX**~~ **DWELLING ~~UNIT~~, DUPLEX.** Two dwelling units in one structure that share a common wall, each with primary living areas (living room, kitchen) on the ground level. May include single-family attached dwelling units with separate entries and garages or a structure with two units and one common entry with the exterior design of a single-unit dwelling.

HOUSEHOLD. One or more persons living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit. The term "household unit" shall be synonymous with the term "dwelling unit" for determining the number of such units allowed within any structure on any lot in a zoning district. An individual household shall consist of any one of the following:

(1) A family, which may also include servants and employees living with the family; or

(2) A person or group of unrelated persons living together. The maximum number shall not exceed ~~five~~ three.

SIGN: Any advertisement, direction or communication ~~other than an identification or announcement sign~~, produced in whole or in part by the construction, erection, affixing or placing of the structure on any land or on any structure, or produced by painting, pasting, or placing any printed, lettered, pictured, figured or colored material on any building, structure or surface; ~~provided, however, that signs placed or erected by the Town or state for the purposes~~

~~of showing street names or traffic directions or regulations or for other municipal or governmental purposes shall not be included herein nor shall this include~~ s Signs which are part of the architectural design of the building are not considered signs for this ordinance. See Article VIII for more detailed sign definitions.

~~**SIGN, ANNOUNCEMENT:** An outdoor sign within the view of persons passing on a public highway, whether a separate structure, object, or device, or attached to or painted on another structure, object or device bearing and advertisement relating to the premises on which the sign is located.~~

~~**SIGN, IDENTIFICATION:** An outdoor sign displaying the name and address of the occupant or identifying a permitted use or an accessory use, no greater than 1 1/ 2 square feet in area.~~

~~**SIGN, MOBILE:** A self-contained sign or advertising device that is transportable with or without wheels.~~

Amend Article III – Zoning Districts and Map; Use Table by ADDING to Section 340-8. Table of Use Regulations, Attachment 1, Subsection 2 Residential Uses Number 16, as follows:

Use	R-40	R-20	R-15	R-10	R-7	B-1	B-2	B-3	PD	PMUD	I	IS	IL	ROD
16. Flexible Design Residential Properties	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	N

Amend Article III – Zoning Districts and Map; Use Table by ADDING Section 340-9.3. Flexible Design Residential Projects as follows:

Sec. 340-9.3. Flexible Design Residential Projects. These regulations are established to allow the Board flexibility in approving subdivisions on private roads or with reduced lot frontage.

A. **Purpose.** Flexible Design Residential Projects (FDRP), are:

1) To encourage the preservation of open space for its scenic beauty and the appropriate use thereof;

2) To preserve historical and archeological resources;

3) To protect the natural environment and the varied landscapes of Johnston;

4) To protect the value of real property;

5) To promote more sensitive siting of buildings and better overall site planning;

6) To perpetuate the appearance of the town's traditional New England landscape;

7) To allow landowners a reasonable return on their investment and to reward landowners with reduced infrastructure costs and density bonuses;

8) To facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; and

9) To offer an alternative to conventional subdivision development.

B. **Approval procedure**. The Board may approve, in accordance with the Regulations, a FDRP in zoning districts where allowed in Section 340-8 of this Ordinance. Application must be made in accordance with the procedures of the Regulations.

C. **Lot frontage and width, flexible provisions.** The Board may grant a waiver pursuant to the Regulations to permit lot frontage and lot width variations in all Residential Zones. In no case may the lot width and lot frontage be less than 20 feet.

1) To grant this waiver the Board must find that:

a) using flexible zoning is in the best interest of good planning design as evidenced by consistency with the Comprehensive Community Plan and the Zoning Ordinance; and

b) would result in a better use of the land than permitted under conventional zoning.

2) Open space lots, within an approved Conservation Development may have zero frontage on a street, if the Board approves private access to the open space by easement.

D. **Maximum density for FDRP.** A conventional yield plan, as defined, must be submitted as part of the waiver request. The total number of lots permitted in FDRP shall not exceed the number of lots shown in the conventional yield plan.

E. **Modification of lot requirements.**

1) Applicants are encouraged to modify lot size, shape, and other dimensional characteristics within an FDRP.

2) Lots must conform to all dimensional requirements except frontage for the applicable zone.

F. **Streets.** Streets within an FDRP may be publicly or privately owned and maintained. Streets shall be designed to conform with the standards of the Town where the street is or may be ultimately intended for dedication and acceptance by the Town. Private streets shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or such other means or entity as may be approved by the Board.

AMEND Section 340-27.1 Site plan review and approval for commercial and business uses as follows:

340-27.1. Site plan review and approval for commercial and business uses. The provisions of this section shall pertain to properties under single ownership on a single or contiguous lot or lots with an overall size of one acre or more.

A. Planning Board.

(1) No building permit shall be issued for any commercial and/or business use construction in any zone of the Town until a site plan review of the proposed construction has been conducted by the Planning Board. Site plan review shall also be required for any enlargement in size of any commercial and/or business building or change in use of any commercial and/or business building, including accessory structures, which is located on a parcel of land of one acre or more.

(2) ~~In addition, a~~ Any commercial and/or business use which requires a special use permit and/or a variance~~, at the Zoning Board's option, may be~~ shall be subject to Unified Development Review as a Land Development Project ~~a site plan review~~ by the Planning Board ~~before a public hearing is held by the Zoning Board. It shall also be required for any enlargement in size of any commercial and/or business building or change in use of any commercial and/or business building, including accessory structures, which is located on a parcel of land of one acre or more.~~

(3) Site plan review is not required for repairs or alterations to existing commercial and/or business buildings or structures, provided that such work does not increase the floor area of any commercial and/ or business building or structure and does not change the actual use thereof.

AMEND Section 340-27.3 Unified development review. as follows:

340-27.3. Unified development review.

A. Purpose. This section authorizes unified development review for any development in B Zones ~~zone~~. The Board may review and approve dimensional variances, use variances and/or special use permits for properties undergoing review as a land development or a subdivision.

B. Adoption of regulations and rules. In accordance with R.I.G.L. 45-24-46.4 the planner shall draft, and the Board shall adopt regulations which implement unified development review.

C. Eligibility and relief. Any person, group, agency, or corporation that files an application for a land development project or a subdivision project in a B-~~3~~ zone may also file requests for relief from the literal requirements of a zoning ordinance on the subject property, pursuant to R.I.G.L. 45-24-41, and/or for the issuance of special-use permits for the subject property,

pursuant to R.I.G.L. 45-24-42, by including such within the application to the administrative officer of the Board with the other required application materials, pursuant to R.I.G.L. 45-23-50.1(b).

AMEND § 340-62 Substandard lots of record as follows:

§ 340-62 Substandard lots of record Except as required in § 340-63, a lot or group of contiguous lots having dimensions and/or area of lesser amounts than required in § 340-9 for the district in which such lot is located may be considered as coming within the minimum lot requirements of § 340-9, provided that: ~~such lot or group of contiguous lots was shown on a recorded plat or on a recorded deed prior to December 14, 1994. These are also referred to as prior recorded lots.~~

A. Proof that such lot or group of contiguous lots was shown on a recorded plat or on a recorded deed prior to December 14, 1994, and
B. A title report showing that any and all lots which at any point in time since December 14, 1994 were or are immediately adjacent to or abutting such lot or group of contiguous lots were never subject to §340-63, and
C. A Schedule 1 Survey defining the dimensions of such lot or group of contiguous lots, and
D. Any building on a prior recorded lot must connect to public water and/or sewer systems, except in an R-40 zone.

Such lots are referred to as prior recorded lots.

This Ordinance shall take effect immediately upon its passage.

Councilperson

Approved to form:

Town Solicitor

Ordinance 2019-13

Date of passage **July 13, 2020**

Aye
Linda L. Folcarelli-Councilwoman
District 1

Aye
David J. Santilli, Jr. - *Councilman*
District 2

Aye
Joseph M. Polisena, Jr. - Vice-President
District 3

Aye
Robert J. Civetti - Councilman
District 5

Aye
Robert V. Russo -*President*
District 4

Approve ✓ *Veto* ____

Joseph M. Polisena
Mayor

Attest: _____ *Date* 7/21/2020
Vincent P. Baccari, Jr
Town Clerk