

**ORDINANCE NO. 04-2024
BOROUGH OF SEA GIRT**

**ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF SEA GIRT
AMENDING AND SUPPLEMENTING CHAPTER 17 (ZONING) OF THE BOROUGH OF SEA
GIRT CODE CREATING A NEW SECTION 17-5.26.2 ESTABLISHING AN AFFORDABLE
HOUSING OVERLAY ZONE (AH-3) IN THE BOROUGH'S COMMERCIAL DISTRICT**

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 Borough instituted a declaratory judgment action entitled In the Matter of the Application of the Borough of Sea Girt, Superior Court of New Jersey, Law Division-Monmouth County, Docket No. L-2312-2020 (the "D/J Action") wherein the Borough sought a declaration as to its affordable housing obligation and the opportunity to develop a plan to meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Borough and the Borough Planning Board entered into a Settlement Agreement with the Developer in the Builder's Remedy Action and the Court approved the Settlement Agreement after conducting a Fairness Hearing on June 3, 2021 finding it fair, reasonable and adequately protecting the interests of very low, low and moderate-income households in the region; and

WHEREAS, the Borough entered into a Settlement Agreement with Fair Share Housing Center resolving the D/J Action and the Court entered an Order approving the Settlement Agreement on October 3, 2023;

WHEREAS, the Settlement Agreement requires the Borough to implement and adopt an overlay zone in the commercial district to address the Borough's unmet need obligation; 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 Settlement Agreement by creating an overlay zone in its commercial district to address the Borough's unmet need obligation; and

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey, that it hereby amends Chapter 17, and creates a new Section 17-5.26.2 entitled "Affordable Housing Overlay Zone ("AH-3") as follows:

§17: -5.26.2

SECTION 1. Purpose. The purpose of this ordinance is to establish an Affordable Housing Overlay Zoning Ordinance that imposes an overlay zone over specific areas of the Borough. Given the built-out nature of the Borough, an effective affordable housing overlay zone will produce affordable units when suitable opportunities become available through redevelopment or other planning mechanisms. This ordinance will ensure that residential affordable housing developments accompany major development on tax lots included in the overlay zone. The specific areas included are the portions of the Borough that is able to realistically

accommodate affordable housing development, which are in proximity to public transit and the Borough's main mixed-use commercial thoroughfares.

The ordinance includes parcels fronting Washington Street for both the 2 East and 2 West Zoning Districts as delineated in the Settlement Agreement with Fair Share Housing Center. The list of specific tax lots are identified as follows:

Block 76 Lot 1; Block 76 Lot 2; Block 76 Lot 3; Block 76 Lot 4; Block 76 Lot 6; Block 76 Lot 7; Block 76 Lot 8; Block 76 Lot 9; Block 76 Lot 10; Block 77 Lot 4; Block 77 Lot 5; Block 77 Lot 6; Block 77 Lot 7.01; Block 77 Lot 7.02; Block 77 Lot 7.03; Block 77 Lot 7.04; Block 77 Lot 7.05; Block 77 Lot 7.06; Block 77 Lot 7.07; Block 77 Lot 7.08; Block 77 Lot 7.09; Block 77 Lot 7.10; Block 77 Lot 7.11; Block 77 Lot 7.12; Block 77 Lot 7.13; Block 77 Lot 7.14; Block 77 Lot 7.15; Block 77 Lot 7.16; Block 77 Lot 7.17; Block 77 Lot 7.18; Block 77 Lot 7.19; Block 77 Lot 7.20; Block 77 Lot 8; Block 77 Lot 9; Block 77 Lot 10; Block 77 Lot 11; Block 77 Lot 12; Block 77 Lot 13; Block 77 Lot 14; Block 77 Lot 15; Block 77 Lot 16; Block 77 Lot 17; Block 92 Lot 1; Block 92 Lot 2; Block 92 Lot 3; Block 105 Lot 1; Block 105 Lot 20; Block 105 Lot 21; Block 105 Lot 22.

The affordable housing overlay zone will regulate said developments through bulk and design standards. However, the Borough's underlying zoning will still be in effect. This will allow affordable housing to be approved under local ordinance and regulations without detriment to the existing Borough zoning plan and ordinance. This creates a realistic opportunity to provide for the development of affordable housing in accordance with the Fair Housing Act (N.J.S.A. 52-27D-301), New Jersey Council on Affordable Housing ("COAH") prior round regulations, and the Housing Element and Fair Share Plan prepared by the Borough to address its Third-Round affordable housing obligation.

SECTION 2. A new section entitled "Affordable Housing Overlay Zoning Provisions" is hereby established as follows:

Affordable Housing Overlay Zoning Provisions

- A. Purpose: The purpose of the Affordable Housing Overlay Zone is to provide an opportunity to develop affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, in conformance with the requirements of the Court, the Fair Housing Act, and the Housing Element and Fair Share Plan of Sea Girt. Permitted and conditional uses within the designated Overlay Zone shall include all permitted and conditional uses in the underlying zoning district in which the Overlay Zone is located and allow for affordable housing development within the provisions of this section.
- B. Affordable Housing Overlay Zone: Tax lots with frontage on Washington Street within the Borough of Sea Girt shall be included in the overlay zone and allow for affordable housing development with no affect to any existing zoning district regulations or standards. A map is attached to this ordinance that delineates the overlay zone.
- C. Principal Permitted Uses:
 - a. All uses permitted within the underlying zoning district in which the overlay zone is located.
 - b. Affordable housing development as defined in Section 5.26.4.3 of the Affordable Housing Ordinance of the Borough Code as for sale or rental housing which may include the following uses:

i. Mixed Use Buildings that include commercial, restaurant, retail or office space on the ground floor and residential development on the second and third floors.

c. Permitted Accessory Uses: Uses that are customary and incidental to multi-family housing, including, but not limited to:

1. Parking
2. Garages
3. Signs
4. Fences
5. Trash Enclosure
6. Temporary construction trailers
7. Utility pump stations, transformers, switches and meter facilities to support the development
8. HVAC units
9. Generators

d. Bulk regulations: Pursuant to this ordinance for purposes of this Ordinance, Seventh Avenue (Route 71) shall be considered the front yard and any intersecting street shall be considered the side yard

1. Minimum Lot Frontage (Feet)	50
2. Minimum Lot Depth (Feet)	150
3. Minimum Front Yard Setback (Feet)	10
4. Minimum Side Yard Setback	6
5. Minimum Rear Yard Setback (Feet)	20
6. Maximum Height (Stories/Feet)	3/45
7. Maximum Building Coverage (Percent)	40
8. Maximum Improved Lot Coverage (Percent)	85

e. 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 all property lines.

f. All property lines abutting a residential use shall provide a 10-foot landscaped buffer. Said buffer shall not be in addition to the required setback

g. 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.

h.

1. Minimum Side Yard Set-back (Feet)	3
2. Minimum Rear Yard Setback (Feet)	5
3. Minimum Distance Between Accessory and Principal Structures (Feet)	0
4. Maximum Height (Stories/Feet)	1/15

i. Parking


1. Commercial uses - 0 spaces


2. Residential uses - 1.7 spac

- D. Affordable housing requirement: A 20% set-aside with a minimum of one (1) unit. All affordable housing developments shall conform to the standards found in the Borough of Sea Girt's Affordable Housing Ordinance including provisions for affordability, very low-income units, and UHAC standards.
- E. REPEALER. The remainder of all other sections and subsections of the aforementioned ordinance not specifically amended by this Ordinance shall remain in full force and effect.
- F. INCONSISTENT ORDINANCES. All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.
- G. SEVERABILITY. If any section, paragraph, subdivision, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.
- H. EFFECTIVE DATE. This Ordinance shall take effect upon its passage and publication according to law.

Introduced: February 7, 2024

Adopted: March 13, 2024

Attest: 
Dawn Harriman
Municipal Clerk

Approve: 
Donald Fetzer
Mayor