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ORDINANCE 2018-20

## Amending and Supplementing Chapter 62, Land Use, Creating the PRD VI Mixed Development Zone

**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-4436-17 (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 May 3, 2016, by Richardson Fresh Ponds and Princeton Orchards Associates (POA) entitled, Richardson Fresh Ponds LLC v. Township of South Brunswick, et al., Docket No. MID-L-2638-16 (Builder's Remedy Action); and

**WHEREAS**, POA is the owner of the real property located on Route 522, Ridge Road and Griggs Drive, and designated as Block 31, Lots 30.012 and 35.09 on the tax map of the Township of South Brunswick (POA Property), consisting of approximately 49 acres, with a 24 acre portion of the Property developed for 120 two-bedroom apartments, known as "Princeton Orchards", and the remaining 25 acres fronting on Route 522 being currently vacant; and

**WHEREAS**, the Township had previously acquired title to certain property adjoining the existing Princeton Orchards apartments for affordable housing known as 368 Ridge Road, Dayton, NJ, and designated as Block 31, Lots 35.712 and 35.811, being approximately 6.04 acres in area, and commonly referred to as the "Stover Tract" (Stover Tract); and

**WHEREAS**, the Township and POA have reached an agreement to settle the Builder's Remedy Action that will involve conveyance of the Stover Tract to POA as an adjoining property owner in consideration of POA's agreement to modify its proposed development to redistribute a portion of the proposed inclusionary housing development on to the Stover Tract; and

**WHEREAS**, the settlement of the Builder's Remedy Action further requires the Township to rezone the POA Property and the Stover Tract for a mixed use development and POA to develop the POA Property and the Stover Tract for a subdivided commercial lot consisting of approximately (9) contiguous acres fronting on Route 522, and a residential inclusionary project consisting of a total of 120 existing and 184 new apartments, with a 25% affordable housing set aside allocated to 184 new market rate apartments, resulting in the creation of 46 affordable family rental apartments; and

**WHEREAS**, the 46 affordable units will be set-aside for ten (10) very low income households, fourteen (14) low income households and twenty-two (22) moderate income households, in satisfaction of a portion of the Township’s Third Round Affordable Housing Fair Share Obligation; and

**WHEREAS**, a duly noticed Fairness Hearing was held by the N.J. Superior Court on May 22, 2018, at which time the court found that the proposed settlement and rezoning of the POA Property and Stover Tract was fair to low 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 create the appropriate zone standards, rezone the affected properties and process POA’s application for subdivision and site plan approval; and

**WHEREAS**, it is appropriate to create the PRD VI Mixed Development Zone standards, to be applied to the POA Property and Stover Tract, 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 Code, shall be and is hereby amended and supplemented with the addition of the following:

## **Article IV. Zoning.**

### **Subdivision XV(B) PRD VI. Mixed Development Zone**

#### **Section 62-867 - Purpose**

The PRD VI Mixed Development Zone includes Block 31, Lots 30.012, 35.09, 35.712 and 35.811 (hereafter, “the Tract”) containing approximately 55 acres. The purposes of the PRD VI Zone are to permit up to nine (9) acres of commercial development adjacent to the intersection of Routes 522 and 130 (excluding any future right-of-way dedications or vacations)(the “Commercial Tract”); render the 120 existing multi-family units within the existing Princeton Orchards Apartments a conforming use and permit the construction of 184 additional housing units on the remaining undeveloped acres (the “Residential Tract”). The PRD VI Zone shall permit within the Residential Tract up to 304 total units, consisting of 120 existing apartments and 184 new apartments, of which an amount equal to 25% of the new apartments (46 units) shall be set-aside for and affordable to very low, low and moderate income households.

#### **Section 62-868 - Uses Permitted**

The following uses are permitted in the PRD VI district:

- (1) Multifamily residential units, but only within the Residential Tract.
- (2) Within the Commercial Tract:

- 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. Offices for physicians, dentists, engineers, lawyers, architects, public accountants, real estate and insurance brokers, city planners and similar professions.
- d. Medical HMO facilities and medical laboratories.
- e. Educational facilities for learning and training.
- f. Health Clubs.
- g. Dance studios.
- h. Medical service and retail medical supply.
- i. Duplicating or office supply service.
- j. Product demonstration, display or showroom facilities.
- k. Conference or training centers.
- l. Family recreation facilities.
- m. Nursing homes.
- n. Child care centers.
- o. Assisted living facilities, with an affordable housing component.
- p. Laboratory or research facilities.
- q. Existing Contractor business and related storage.

**Section 62-869 - Uses permitted as conditional uses.**

Uses permitted as conditional uses in the PRD VI district 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 quasipublic, social or fraternal character.

**Section 62-870 - Accessory uses permitted.**

Accessory uses permitted in the PRD VI district:

- (1) Private garages.
- (2) Community swimming pools, tennis courts, basketball courts, tot lots, volley ball 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.
- (7) Fences and walls, as regulated in this chapter.

## **Section 62-871 - Tract and open space requirements.**

- (1) It is recognized that the Tract may be subdivided. The Tract bulk standards associated within the PRD VI 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 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 Tract buffers.** Residential Tract buffers shall be provided along the residential portion of the Tract (the portion south of the proposed commercial subdivision line), which residential buffers shall include a landscaped berm of 20' in width within the buffer as follows:
  - a. 65 feet along the western property line.
  - b. 100 feet along the eastern property line, adjacent to the existing right of way of Griggs Drive.
  - c. 50 feet along the southern property line, including adjacent to Ridge Road and along the westerly property line of Lot 35.812.
- (5) **Commercial Tract buffers.** Commercial Tract buffers shall be as follows:
  - a. 40 feet along the northerly property line, adjacent to Route 522 and Route 130 frontage.
  - b. 10 feet along the remaining property lines.
- (6) **Griggs Drive cul-de-sac bulb buffer.** There shall be a 50 foot buffer adjacent to the cul-de-sac bulb of Griggs Drive. The buffer shall begin at the subdivision line separating the Residential Tract from the Commercial Tract. There shall be a landscaped berm of 20' in width within the 50 foot buffer. The purpose of the landscaped berm is to provide additional screening of existing and proposed non-residential improvements for the properties adjacent to this portion of the PRD VI zone.
- (7) 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. Stormwater facilities shall not be located within 20 feet of the Tract boundary line.
  - c. Driveways are permitted within the Tract buffer adjacent to Route 522.
  - d. An access drive is permitted to connect Griggs Drive to the existing Contractor Business. However, in the event the existing Contractor Business ceases operation, the Contractor Business driveway onto Griggs Drive shall be closed, and no interconnection between the Tract and Griggs Drive shall be allowed.
  - e. Emergency access if required by Township
- (8) Existing roads, existing parking areas and related improvements are exempt from all Tract buffer requirements.

## **Section 62- 872 - Area, Yard, and Density Tract Requirements**

- (1) The maximum residential yield shall be 304 units.
- (2) The maximum impervious coverage shall be 70%.
- (3) Multiple principal buildings and multiple principal uses shall be allowed on a single lot.
- (4) No building shall exceed three (3) stories and 40 feet in height, except as regulated by the height exception provision of Section 62-2341 of this chapter.
- (5) **Residential Building Setbacks.** Residential buildings shall be setback at least:
  - a. 400 feet from the northerly property line, adjacent to Route 522.
  - b. 65 feet from the westerly property line, adjacent to Summerfield.
  - c. 50 feet from the southerly property line, adjacent to Ridge Road.
  - d. 100 feet from the easterly property line, adjacent to Griggs Drive.
  - e. 10 feet from any street or driveway.
  - f. 6 feet from any parking area.
- (6) **Commercial Building Setbacks.** Commercial buildings shall be setback at least:
  - a. 100 feet from Route 522 and Route 130.
  - b. 40 feet from all other property lines.
  - c. 10 feet from any street or driveway (other than Route 522 and Route 130).
  - d. 5 feet from any parking area.
- (7) Minimum distances between buildings. The following minimum distances between buildings is required:
  - a. 50 feet between residential and nonresidential buildings within the Tract, irrespective of a subdivision of the tract.
  - b. 30 feet between residential buildings, exclusive of covered and uncovered stairs and stoops, stairways, balconies, decks, cornices, eaves, gutters, bay windows, chimneys and other projections from buildings.
- (8) Non-residential uses shall be subject to the following bulk standards:
  - a. Minimum lot area: 40,000 square feet.
  - b. Minimum lot frontage: 200 feet.
  - c. Front Yard setback : 100 feet from Route 522 and Route 130
  - d. Minimum rear setback: 40 feet
  - e. Maximum Building Coverage: 25%
  - f. Maximum lot coverage: 70 %
- (9) All residential development must be served by public water and sanitary sewer service.

**Section 62-873 - Off-street parking requirements and loading requirements.**

- (1) Off-street parking in the PRD VI district 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 the 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. No parking is allowed within any Tract buffer. Parking and drive aisles shall be permitted in all building setback areas.
  - b. All nonresidential parking shall be setback a minimum of 40 feet from Routes 130 and 522, 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 62-874 - 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 62-875 - 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.

#### **Section 62-876 - Recreational facilities.**

Section 62-206(5)e shall not apply to the PRD VI Zone. Instead, 80 square feet of recreational facilities per housing unit shall be provided. Recreational facilities in the PRD VI Zone may include a clubhouse, pool and pool area, outdoor courts, and fenced off play areas designated for children of different ages. The existing clubhouse, pool, pool area and outdoor courts shall be available to all residents of Princeton Orchards and shall be credited toward satisfaction of the recreational facility requirement.

#### **Section 62-877 - Affordable Housing**

- (1) Forty-six (46) affordable housing units shall be provided which equates to 25% of the 184 new residential units.
- (2) Pursuant to the Uniform Housing Affordability Controls ("UHAC"), the affordable units shall be restricted to eligible very-low, low and moderate income households for a minimum of thirty (30) years from the date of their initial occupancy ("Deed- Restriction Period").
- (3) Ten (10) units, or 21.7% 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; fourteen (14) units, or 30.4% 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 twenty two (22) units, or 47.8% 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 following bedroom distribution requirements: ten (10) three bedroom units (2 very-low, 3 low and 5 moderate), twenty seven (27) two bedroom units (6 very-low, 8 low and 13 moderate) and nine (9) one bedroom units (2 very-low, 3 low and 4 moderate).
- (5) The affordable units shall comply with the UHAC regulations with regards to the pricing of rents 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 62-877(3) above) for households at 30% or less of median income and pursuant to N.J.A.C. 5:80-26.12.
- (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:

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

- (7) The affordable units shall comply with the UHAC bedroom distribution requirements, N.J.A.C. 5:80-26.3(b), as follows:
  - a. The combined number of efficiency and one-bedroom units is 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 are two bedroom units;
  - c. At least 20 percent of all low- and moderate-income units are three bedroom units; and
  - d. The remainder, if any, may be allocated at the discretion of the developer as two or three bedroom units.
- (8) The two (2) bedroom affordable units shall be reasonably dispersed within the existing Princeton Orchards buildings. The one (1) and three (3) bedroom affordable units shall be reasonably dispersed within the new housing. The two (2) bedroom units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector, and brought up to code as necessary.
- (9) Each affordable unit shall contain at least one bedroom with an area of at least 150 square feet and no bedroom shall have an area of less than 100 square feet. The minimum area of each affordable unit shall be as follows:
  - a. One (1) bedroom - 650 square feet.
  - b. Two (2) bedroom - 875 square feet.
  - c. Three (3) bedroom - 1,150 square feet.
- (10) The affordable units shall utilize the same heating sources as the market units within the inclusionary development.

- (11) 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.
- (12) The cost of amenities shall be included within the maximum housing fees permitted by the UHAC regulations.
- (13) The developer shall contract with an experienced administrative agent as per the UHAC regulations (N.J.A.C. 5:80-26.14).
- (14) The affordable units shall comply with the UHAC regulations with regards to affirmative marketing per N.J.A.C. 5:80-26.15.

**Section 62-878 - Conflicts in Standards**

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

**Section 62-879 - 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.

The above ordinance was introduced and passed on first reading at a regular meeting of the Township Council of the Township of South Brunswick held on June 26, 2018, and will be considered on second and final reading and final passage at a regular meeting of the Township Council of the Township of South Brunswick to be held at the Municipal Building, Monmouth Junction, New Jersey, at 7:30 p.m. on July 24, 2018, at which time and place any person having an interest therein will be given an opportunity to be heard.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Joseph Camarota, Councilman
<b>SECONDER:</b>	Josephine "Jo" Hochman, Councilwoman
<b>AYES:</b>	Bierman, Camarota, Grover, Hochman, Carley

This is to certify that the foregoing is a true copy of a Ordinance Adopted at the South Brunswick Township Council meeting held on July 24, 2018.

  
 Barbara Nyitrai, Township Clerk