

**PLEASE PUBLISH THE FOLLOWING NOTICE AND ORDINANCE WITHIN THE JULY 10, 2009 EDITION.**

TOWNSHIP OF MIDDLETOWN  
NOTICE

This is a copy of Ordinance No. 2009-2979 that was introduced at a scheduled meeting of the Township Committee of the Township of Middletown, July 6, 2009 held over for further consideration upon second reading and final passage at a meeting of the said Township Committee to be held in the Main Meeting Room in the Township Hall, One Kings Highway, Middletown, on Monday, July 20, 2009 at 8:00 p.m., at which time all persons interested will be given an opportunity to be heard.

**ORDINANCE AMENDING CHAPTER 16 OF THE  
REVISED GENERAL ORDINANCES FACILITATING  
DEVELOPMENT OF INCLUSIONARY SITES AS PROSCRIBED  
PURSUANT TO THE PROVISIONS OF THE TOWNSHIP'S  
HOUSING ELEMENT AND FAIR SHARE PLAN**

**WHEREAS, on December 11, 2008, the Middletown Township Planning Board adopted an amended Master Plan Housing Element and Fair Share Plan; and**

**WHEREAS, the Township Committee subsequently endorsed the action of the Planning Board and petitioned the New Jersey Council on Affordable Housing ("COAH") for Substantive Certification of said Fair Share Plan on December 30, 2008; and**

**WHEREAS, on April 13, 2009, COAH determined the Township's petition for substantive certification to be complete; and**

**WHEREAS, in accordance with the Municipal Land Use Law at N.J.S.A. 40:55D-62, the Township Committee is charged with the responsibility of adopting ordinances designed to effectuate the goals, objectives and recommendations of the Master Plan, including the Housing Element and Land Use Element; and**

**WHEREAS, consistent with the intent and purpose of the Housing and Land Use Elements of the Township Master Plan, the Planning Board has recommended making certain zoning changes in accordance therewith; and**

**WHEREAS, it is in the best interests of the taxpayers of the Township of Middletown to plan for inclusionary development in a manner consistent with sound planning and zoning principles; and**

**WHEREAS**, it is in the best interests of the taxpayers of the Township of Middletown to take these steps to ensure it is effectively protected from potential future litigation and to advance the settlement of other currently pending litigation.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Middletown, County of Monmouth, State of New Jersey that the following zoning amendments be effectuated under Chapter 16 of the Revised General Ordinances of the Township of Middletown, as follows:

**SECTION 1.** Block 281, Lots 14 and 15 shall be rezoned as Residential Multifamily (RMF-1) per the following standards:

**16-9.51 Standards and Regulations Affecting the RMF-1 Zone**

- A. Minimum Standards
  - 1. Tract area 1 acre
  - 2. Building setbacks
    - i. From public right of way 15 feet
    - ii. From side yard line 10 feet
  - 3. Surface parking area setbacks
    - i. From roadway 10 feet
    - ii. From any lot line 10 feet
    - iii. From buildings 5 feet
  - 4. Driveway side setback 20 feet
  - 5. Distance between buildings 20 feet
  - 6. Open space
    - i. Active 5% of tract area
    - ii. Total 10% of tract area
  - 7. Affordable Housing Set-Aside 25%
- B. Maximum Regulations
  - 1. Building Height 48 feet
  - 2. Building Cover 30%
  - 3. Lot Cover 60%
  - 4. Density 24 dwelling units per acre
- C. Design Standards – In addition to the specific Architectural and Building Design Standards set forth in Section 16-6.4, the following design standards shall apply:

1. Where practical, the lowest floor shall be elevated at least eighteen inches above the established base flood elevation.
2. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork) shall be elevated at least eighteen inches above the established base flood elevation.
3. All portions of buildings lower than 18 inches above the established base flood elevation must be constructed using flood-damage-resistant materials.
4. All garages shall meet the minimum flood opening requirements for enclosures.
5. Exterior building facades shall incorporate design features such as offsets, balconies, projections, window reveals, or similar elements to preclude large expanses of uninterrupted building surfaces. Along the vertical face of a building, such features shall occur at a minimum of every 30 feet, and on each floor shall, to the greatest degree practicable, contain a minimum of two of the following features:
  - a. Recesses (e.g., deck, patio, courtyard, entrance, window reveals) that have a minimum depth of 3 feet;
  - b. Extensions (e.g., floor area, deck, patio, entrance) that have a minimum depth of 2 feet and minimum length of 4 feet; and/or
  - c. Offsets or breaks in roof elevation of 2 feet or greater in height.
6. To the greatest degree practical, neither rear building facades nor garages shall be oriented towards Main Street. Garage doors shall include fenestration.
7. Adequate, accessible and secure storage space shall be provided for each dwelling unit. A minimum of 112 cubic feet of enclosed storage shall be required separate from each living unit. This is an area 4' x 4' x 7'. Garages and storage units adjoining a dwelling (e.g., attached to decks and patios) shall qualify as storage space.
8. Trash receptacles shall not be located in any front yard setback, or within 10 feet of an adjacent property line.

D. Other Regulations:

1. Temporary construction trailers shall be permitted where active construction work is proposed. Such trailers shall not be placed on site until building permits have been issued and in no case more than seven

days prior to the commencement of work. Trailers shall not remain on site more than seven days after the completion of all work. Temporary construction trailers shall not be placed within the right-of-way of any improved public road.

2. All affordable units shall be constructed and maintained in a manner consistent with the rules and regulations adopted by the New Jersey Council on Affordable Housing. Affordable housing units shall be deed restricted to remain affordable for a period of 30 years, unless the rules adopted by the New Jersey Council on Affordable Housing are changed. Should such a change occur the term of the affordability deed restriction shall be consistent with any new rule(s).

### **16-9.1 Zoning Map**

The Official Zoning Map is hereby amended to change the zone designation for Block 281, Lots 14 and 15 to Residential Multifamily (RMF-1).

### **16-9.2.B Schedule of Permitted Uses**

The Schedule of Permitted Uses is hereby amended as follows for the RMF-1 Zone: All principal, accessory and conditional uses permitted for the RTH shall be permitted principal, accessory and conditional uses in the RMF-1 Zone.

### **16-9.2.C Schedule of Area, Yard and Building Requirements**

The Schedule of Area, Yard and Building Requirements is hereby amended to incorporate the provisions of 16-9.51(A) and 16-9.51(B).

**SECTION 2.** Block 825, Lots 53, 54, 55, 56, 57, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69.01, 72, 73, 74, 75, 76, 77, 78, 79, 80 and 81 shall be zoned as a Planned Development (PD) zone per the following standards:

### **16-9.39 Standards and Regulations Affecting the PD Zone**

- A. Minimum Standards:
  1. Minimum Lot Area: 20 acres.
  2. Minimum Building Setbacks:
    - a. From arterial or collector roadway: 50 feet except where any jughandle intrudes into property which buildings shall be no less than 20 feet to the ROW jughandle in that instance.
    - b. From tract boundary or right of way: 35 feet.

- c. From single family residential zone: 75 feet, except detached single family homes are permitted with frontage on an extension of Carriage Lane so long as the “standards and regulations” of the R-22 Zone are complied with for each lot and structure.
- d. From internal streets: 12 feet.

3. Parking Setbacks:

- a. From arterial or collector roadway: 60 feet, except that parking for affordable housing units may be located to within 30 feet from arterial or collector roadways.
- b. From tract boundary or right of way (other than internal streets): 50 feet, except for parking for affordable housing units which may be no closer than 20 feet.
- c. From principal buildings: 6 feet, except for driveway parking spaces.

4. Buffer Requirements:

- a. No structure or paved area associated with a retail use shall be located within 150 feet of a single family residential zone.
- b. No structure or paved area associated with any office use shall be located within 100 feet of a single family residential zone.
- c. Structures associated with drainage facilities may be permitted within any required buffer area.

5. Open Space: 30% (open space includes all area of the tract meeting the definitions of “open space” and/or “open space”, unoccupied in 16-2.3. It specifically includes all drainage and storm water drainage and recharge basins.

B. Maximum Regulations:

- 1. Lot Coverage: The overall lot coverage for the gross tract area shall not exceed 50%.
- 2. Building Height:
  - a. Single family detached residential uses – 2 ½ stories, 35 feet
  - b. Retail, Office, Commercial, Mixed-Use And Multi-Family Residential Buildings – 4 stories, 60 feet

- 3. Floor Area Ratio: 0.12 excluding residential uses.

C. Other Regulations:

1. All residential uses on the site shall be developed at a density not to exceed 4.5 units per gross tract area.
2. Performance residential development shall be permitted on any portion of the PD Zone consistent with the R-22 standards and shall be exempt from the minimum tract size requirement.
3. Any application for development greater than 100 acres in size may, in addition to the application for site plan approval, also include a request for a General Development Plan approval for the full development of the project. This application shall be submitted consistent with N.J.S.A. 40:55D-45, 45.1, 45.2 and 45.3 and include information outlined in the above referenced Statutory Sections that the Board deems necessary for review and determination of General Development Plan approval. The term of the General Development Plan approval shall be determined by the Planning Board using the guidelines set forth in N.J.S.A. 40:55D-45.1(c), however, the term shall not be less than 10 years nor more than 20 years from the date upon which the developer receives final approval of the first section of the planned development.
4. The General Development Plan for the full development of the project must contain a minimum of three of the below uses, and each use shall not comprise more than the maximum percentage listed below, unless otherwise specified herein. Nonresidential development shall comprise a minimum 30% of the full development of the PD zone.

<u>Uses</u>	<u>Maximum Percent of Full Development</u>
Office uses	40%
Retail uses	50%
Multi-family residential	50%
Single family residential	40%
Other uses	30%
Farms	100%

5. At the request of the applicant, any of the standards and regulations applicable to the PD Zone may be increased or decreased up to 10% by the approving authority, without need for a variance application.
6. Buildings containing a mix of uses, including residential, shall be permitted in the PD Zone. Any structure containing a mix of uses which includes residential shall be considered a nonresidential structure (except the residential floor area shall not be included in the floor area ratio calculation). Additionally, for the purpose of

calculating the mix of uses per Section C4, the square footage of any use within a mixed use structure shall be added separately and shall contribute to the maximums specified in Section C4.

7. After approval (including General Development Plan approval, preliminary site plan approval and/or final site plan approval), it shall be permissible to sell individual portions of the project (and obtain subdivision approval if necessary) so long as all portions of the project shall remain consistent and in conformance with the General Development Plan. Such subdivision and sale shall not add additional requirements to the project that were not present prior to the proposal to subdivide and sell a portion of the project.
8. Parking Lot Landscaping: Section 16-6.22 (D-4 and 5) shall not apply to the PD Zone.

### **16-9.1 Zoning Map**

The Official Zoning Map is hereby amended to designate Block 825, Lots 53, 54, 55, 56, 57, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69.01, 72, 73, 74, 75, 76, 77, 78, 79, 80 and 81 as Planned Development.

### **16-9.2.B Schedule of Permitted Uses**

The Schedule of Permitted Uses is hereby amended to add “Mixed Use Developments,” “Hotels,” “Motels” and “Assisted Living” as Permitted Uses in the PD Zone District.

**SECTION 3.** Block 1063, Lot 10 shall be rezoned as Residential Multifamily (RMF-2) per the following standards:

### **16-9.52 Standards and Regulations Affecting the RMF-2 Zone\***

- A. Minimum Regulations
  1. Gross Lot Area 65 acres
  2. Tract Frontage Minimum 100 feet
  3. Minimum Building Setbacks
    - i. From Arterial or Collector Roadway 250 feet
    - ii. From Tract Boundary 30 feet
    - iii. From any existing residence/residential zone 75 feet

4. Parking or Driveway/Roadway Setback

- |   |          |
|---|----------|
| i. From Arterial or Collector Roadway         | 300 feet |
| ii. From Tract Boundary or other Right of Way | 60 feet  |

5. Open Space 30%

6. Affordable Housing Set-Aside 20%

B. Maximum Regulations

1. Dwelling Unit Density 5.5 dwelling units per acre

2. Building Height 40'

3. Maximum Building Coverage 35%

4. Lot Coverage 40%

C. Design Standards – In addition to the specific Architectural and Building Design Standards set forth in Section 16-6.4, the following design standards shall apply:

1. Exterior building facades shall incorporate design features such as offsets, balconies, projections, window reveals, or similar elements to preclude large expanses of uninterrupted building surfaces. Along the vertical face of a building, such features shall occur at a minimum of every 30 feet, and on each floor shall, to the greatest degree practicable, contain a minimum of two of the following features:

- a. Recesses (e.g., deck, patio, courtyard, entrance, window reveals) that have a minimum depth of 3 feet;
- b. Extensions (e.g., floor area, deck, patio, entrance) that have a minimum depth of 2 feet and minimum length of 4 feet; and/or
- c. Offsets or breaks in roof elevation of 2 feet or greater in height.

2. Adequate, accessible and secure storage space shall be provided for each dwelling unit. A minimum of 112 cubic feet of enclosed storage shall be required separate from each living unit. This is an area 4' x 4' x 7'. Garages and storage units adjoining a dwelling (e.g., attached to decks and patios) shall qualify as storage space.

3. Trash receptacles shall not be located in any front yard setback, or within 75 feet of an adjacent property line.

D. Other Regulations:

1. Temporary construction trailers shall be permitted where active construction work is proposed. Such trailers shall not be placed on site until building permits have been issued and in no case more than seven days prior to the commencement of work. Trailers shall not remain on site more than seven days after the completion of all work. Temporary construction trailers shall not be placed within the right-of-way of any improved public road.
2. All affordable units shall be constructed and maintained in a manner consistent with the rules and regulations adopted by the New Jersey Council on Affordable Housing. Affordable housing units shall be deed restricted to remain affordable for a period of 30 years, unless the rules adopted by the New Jersey Council on Affordable Housing are changed. Should such a change occur the term of the affordability deed restriction shall be consistent with any new rule(s).

\*NOTE: The standards in 16-9.52 are intended to apply to inclusionary multifamily housing development. Except as applied to inclusionary multifamily housing development as contemplated herein, Office-Research (OR-1) Zoning Standards shall apply.

**16-9.1 Zoning Map**

The Official Zoning Map is hereby amended to change the zone designation for Block 1063, Lot 10 to Residential Multifamily (RMF-2).

**16-9.2.B Schedule of Permitted Uses**

The Schedule of Permitted Uses is hereby amended as follows for the RMF-2 Zone: All principal, accessory and conditional uses permitted for the RTH Zone shall be permitted principal, accessory and conditional uses in the RMF-2 Zone.

**§ 16-9.2.C Schedule of Area, Yard and Building Requirements**

The Schedule of Area, Yard and Building Requirements is hereby amended to incorporate the provisions of 16-9.52(A) and 16-9.52(B).

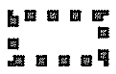
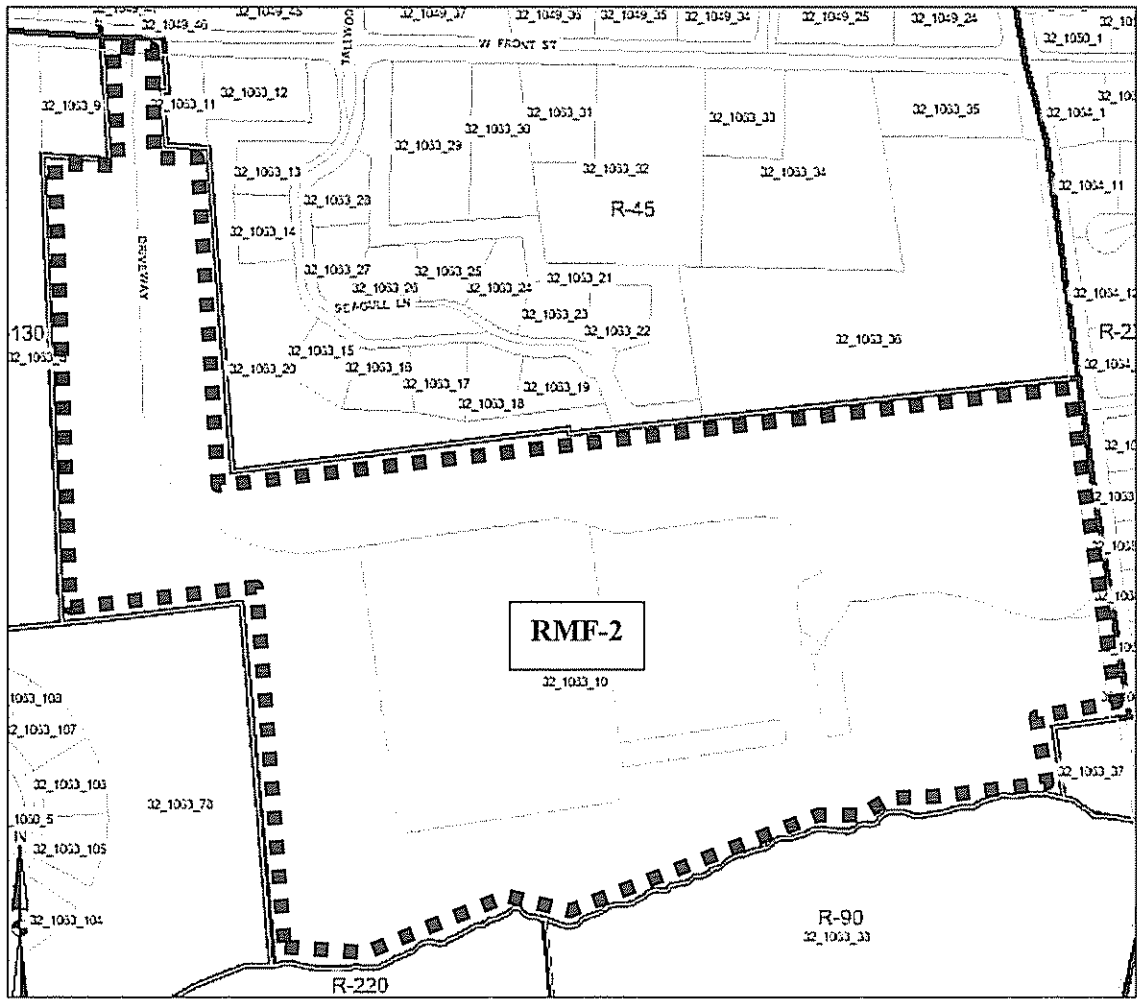
**SECTION 4.**

If a court of competent jurisdiction shall declare any section, paragraph, subsection, clause or provision of this ordinance invalid, such decision shall not affect the validity of this ordinance as a whole or any part hereof.

**SECTION 5.**

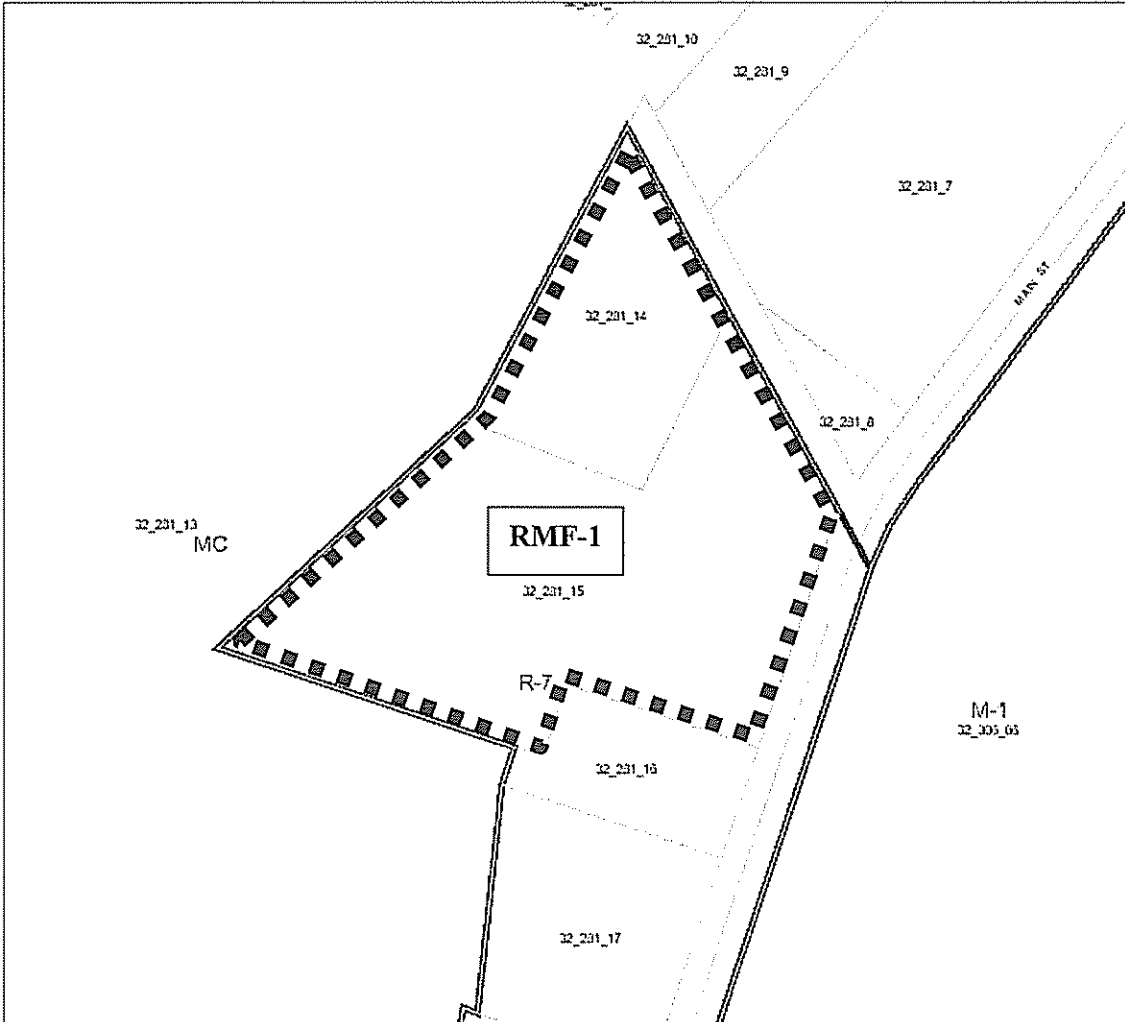
This ordinance shall take effect immediately upon final passage. Notice of adoption shall be published as provided by law.

HEIDI R. ABS  
TOWNSHIP CLERK



Block 1063, Lot 10: To be Zoned Residential Multifamily (RMF-2)





Block 281, Lots 14 & 15: To be Zoned Residential Multifamily (RMF-1)