

\*\*\*\*ADOPTED SEPTEMBER 9, 2013\*\*\*\*

**TOWNSHIP OF DELANCO**

**ORDINANCE NO. 2013-9**

**AN ORDINANCE OF THE TOWNSHIP OF DELANCO AMENDING SECTION 33 ENTITLED “PLANNED RESIDENTIAL DEVELOPMENT/AFFORDABLE HOUSING DISTRICT” OF CHAPTER 110 OF THE CODE OF THE TOWNSHIP OF DELANCO ENTITLED “ZONING”.**

WHEREAS the Township of Delanco entered into a Mediation Agreement on April 3, 1998 with Russ Farm, LLC (Developer) for the inclusionary development of an age restricted community that resulted in the adoption of the PRD/AH Planned Residential Development/Affordable Housing zoning district through Ordinance 1999-1, which originally contemplated 250 single family homes, a 125-bed assisted living facility, 15,000 square feet of commercial development, and recreational and social facilities to serve the needs of the over-55 population of the new development and the entire Township on approximately 94.9 acres of real property, which supported the creation of 45 credits of affordable housing to be created through scattered site development within the Township; and,

WHEREAS the PRD/AH District was amended on September 8, 2003 by Ordinance 2003-13 at the Developer’s request to provide for an additional use, allowing the development of up to 55 semi-attached age restricted homes as a replacement for any medically related housing, orienting the development to an active adult community; and,

WHEREAS the PRD/AH District was amended on May 2, 2005 by Ordinance 2005-10 at the request of residents to remove the requirement that the recreational and social facilities be available to Township residents; and,

WHEREAS the Mediation Agreement was amended on October 25, 2004 at the request of the Township to substitute a Regional Contribution Agreement (RCA) for a portion of the affordable units that were to be located within the Township; and,

WHEREAS the single family component of the development has been built and occupied and is known as Traditions; the semi-detached portion has been built and occupied and is known as The Point; all recreational facilities and open space amenities for the tract have been completed, and the requirement to provide 45 units of affordable housing credits has been fully satisfied through a combination of off-tract development of affordable housing units and an RCA; and,

WHEREAS the Developer, despite diligent efforts has not been successful in developing the commercial portion of the development over many years, and the market feasibility of such development has been negatively affected by the relocation of Creek Road; and,

WHEREAS the Township continues to support the concentration of community services along Burlington Avenue and recognizes that creating additional competition for those uses at Russ Farm is not in the best interests of the Township; and,

WHEREAS the Developer, in seeking to complete the overall development with a use that was relevant to demonstrated needs for senior housing, has applied for a use variance seeking approval for 18 attached age-restricted apartments within the development parameters permissible for the commercial development; and,

WHEREAS the deadline for a decision on the use variance application by the Joint Land Use Board of Delanco has been extended to allow the Township Committee time to consider zoning changes to address the underlying issue; and,

WHEREAS the Township Planning Board conducted an open forum on September 4, 2012, wherein a number of residents of Traditions and The Point indicated a general desire for residential development and expressed a preference for single family development of the site; and,

WHEREAS the Developer agreed to research the viability of smaller single family homes as a use for his tract and has submitted a conceptual site plan and an architectural plan for consideration by the Township Committee, which have been the basis for the proposed standards herein; and,

WHEREAS the Township Committee desires to providing zoning for an Age-Restricted Single Family Cottage Community as an alternative use to the commercial development of the remaining tract on Russ Farm;

NOW THEREFORE BE IT ORDAINED AND ESTABLISHED by the Township Committee of the Township of Delanco, County of Burlington and State of New Jersey as follows:

SECTION 1. Chapter 110-33, entitled “Planned Residential Development/Affordable Housing (PRD/AH) District”, of Chapter 110 of the Code of the Township of Delanco entitled “Zoning” is hereby amended and supplemented as follows:

1. Subparagraphs (2) and (3) of Paragraph B pertaining to “Permitted Uses” are deleted and the following new Subparagraphs (2) and (3) are inserted in its place and stead:

(2). In the alternative, one of the following two uses may be provided within the PRD/AH:

(a). Commercial use designed for the convenience of the residents which may incorporate such uses as professional offices and neighborhood retail services such as mail services, banking, medical necessities,

sundries, groceries and prepared foods or drinks. In no event shall the retail space within the PRD Zone exceed 7,500 square feet nor all commercial development exceed 15,000 square feet.

- (b). Age-Restricted Single Family Cottage Community, subject to the occupancy restrictions described in Section (B)1 above. This housing must take the form of single family detached housing on individual lots which shall conform to the bulk standards for cottage lots. This form of development is limited to a maximum of 14 homes.
- (3). Reserved.

2. Paragraph E entitled “Bulk Requirements” is amended to add a new Subparagraph (1.2) as follows:

(1.2). Age-Restricted Cottage Single Family

- (a) Minimum lot size: 4,500 square feet, of which a minimum of 3,200 square feet must not be subject to any drainage easement.
- (b) Minimum lot width at the minimum building setback for face of garage: 45 feet.
- (c) Minimum lot width at street right-of-way: 20 feet.
- (d) Minimum lot depth measured through the midpoint of the front and rear facades of the building: 80 feet.
- (e) Front yard setback:
  - [1] From right-of-way to garage facade: 19 feet.
  - [2] From right-of-way to facade of structure/porch: 10 feet.
- (f) Rear yard setback: 25 feet. Note that there is no restriction against the rear yard being subject to any drainage and/or landscaping easements.
- (g) Side yard setback: a minimum of 5 feet on any one side, and a total of 10 feet aggregating the side yards on both sides of the same lot. Where a cottage lot abuts the 50’ buffer area along Creek Road, the side yard setback adjacent to the buffer may be reduced to 3’.
- (h) Minimum building to building distance: 10 feet.
- (i) Minimum Private Deck/Porch Area: 150 square feet, of which any portion to be included in the total area must be able to

accommodate a circle 6' in diameter and include at least 50 square feet.

- (j) Maximum height: Two stories and 30 feet, provided that the finished, habitable area of the second floor is not larger than 60% of the first floor habitable area. In addition, the facades of any cottage dwelling which face either a single family lot designed pursuant to Section E(1) above or a public right-of-way other than a residential access street providing access to the cottage home shall be limited to a vertical wall face height of one-story and 14 feet to the eave line from the finished floor elevation. Penetrations of the roof plane by dormers, gables or other architectural treatments are limited to a maximum of 50% of both the aggregate surface area of the roof and 50% of the length of the roof segment. No half story, habitable attic, loft or other finished space is permitted above the second story.
- (k). Required Parking Facilities: All homes will include at least one parking space within a garage and will provide a driveway at least 19' in length.
- (l). Reverse Frontage Buffer: All reverse frontage lots shall be provided with a naturalized buffer planting within the rear of the property to provide filtered views between the roadway and the units. At a minimum, the following shall be provided, in naturalized masses:
  - [1] Evergreen trees- 6' in height, planted at 7 per 100 lf of buffer.
  - [2] Shrubs- 3' in height, planted at 18 per 100 lf of buffer.
  - [3] Shade Trees- 2.5" caliper, planted at 3 per 100 lf of buffer.

3. Paragraph E(6)(c) included in the section entitled "Inclusionary Housing Implementation" is replaced as follows:

(c) Requirements for uses provided under Section 110-33.B(2)

- [1] The developer may file a development application for the retail and professional office section of the development authorized under Section 110-33.B(2)(a) and receive approval for this nonresidential section without submitting a plan for addressing the 45 units of credit to the Township or COAH. The developer shall pay a six-percent fee on the equalized assessed value of the proposed retail and professional office uses. Half of the fee shall be paid prior to receiving a building permit and the remaining fee shall be paid prior to receiving certificates of occupancy. This fee shall be paid pursuant to the agreement developed pursuant to COAH's mediation process and the Township's Development Fee Ordinance.

*Editor's Note: See § 60-3, Development fees.* There shall be no development fee on any other development within the PRD Zone

- [2] Should the developer seek to develop the single family homes authorized by Section 110-33B(2)(b), the developer shall produce, within the Township but off site, an additional three (3) off-site affordable rental housing units, with two (2) being affordable to families of low income and one (1) being affordable to families of moderate income. None of the affordable units may be age-restricted. A plan for the development of the units and provisions for phasing and default consistent with the following requirements, to be implemented in a Developers Agreement between the developer and the Township, shall be a requirement of subdivision approval.
  - [2.1] The Township will provide a list of pre-approved sites for the location of these “in-fill” sites or market-to-affordable units. The Developer may request this list at any time, and the Township shall have forty-five (45) days to produce the list. The list shall contain at least three (3) sites and may be prioritized in order of preference by the Township. The Developer may also submit a site for consideration by the Township for approval. The Developer shall use its best efforts to acquire a suitable site from the list for the production of the affordable units.
  - [2.2] These units shall be produced within the following timeline. Within 120 days of the issuance of the last market-rate certificate of occupancy on the primary development, the developer shall provide a copy of a deed evincing closure on the property or properties necessary to produce the three (3) affordable units. At least 120 days before a certificate of occupancy is issued for the affordable units, the developer shall provide an executed contract with HAS as administrative agent, or with an entity acceptable to the Township. The actual affordable units must be produced, as evinced by a final certificate of occupancy, within one (1) year of the issuance of the last market-rate certificate of occupancy on the primary development.

[2.3] As units are sold in the primary development, the developer shall place at least \$11,000 per unit up to a maximum of \$150,000 into a separate escrow account or trust fund. This fund is intended to be used to implement the development of the required units, including acquisition, rehabilitation and construction. In the event that the developer does not identify and close on a property within the milestone requirements set forth in the Developers Agreement, the Township may immediately require the Developer to release the \$150,000 to the Township, which funds shall be placed in the Township's Affordable Housing Trust Fund.

- (d) All low- and moderate-income units created shall comply with all COAH's rules (at N.J.A.C. 5:97 et seq. as well as with the Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq. unless otherwise exempted by COAH's rules) as outlined in the Township's Fair Share Plan *Editor's Note: See Ch. 58, Fair Housing*, unless the Township and COAH agree to a waiver or variance. If off-site units are produced through a market-to-affordable program per NJAC 5:97-6.9, there is an exemption from the bedroom distribution requirements of the Township ordinance or UHAC. If the off-site affordable units are new construction "in-fill" units, all Township ordinance and UHAC requirements shall be addressed.

SECTION 2. All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. In the event that any portion of this ordinance is determined to be invalid, such determination shall not affect the remaining portions of this ordinance, which are hereby declared to be severable.

SECTION 4. This ordinance shall take effect immediately upon (a) final passage, (b) publication according to law, (c) filing with the Burlington County Planning Board pursuant to N.J.S.A. 40:55D-16, and (d) execution of an amendment of the Mediation Agreement.