

ORDINANCE NO. 2026-3491

TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH

**Ordinance Amending Chapter 540 Of The Code Of The Township Of
Middletown Governing The Development Standards For Block 1045, Lots 2, 3
And 4 On The Township’s Official Tax Maps**

WHEREAS, Adoni Property Group, LLC (“**Adoni**”), is an affiliate to the Franklin at Middletown LLC (“**Franklin**”), which is the owner of record of certain real property located in the Township of Middletown (the “**Township**”) designated as Block 1045, Lots 2, 3 and 4 on the Township’s tax maps, commonly known as 1114 West Nut Swamp Road (the “**Nut Swamp Property**”); and

WHEREAS, on April 21, 2023, Adoni filed a Mount Laurel builder’s remedy action against the Township regarding the Nut Swamp Property, captioned Adoni Property Group, LLC v. Township of Middletown, et al., Docket No. MON-L-1260-23 (the “**Builder’s Remedy Action**”); and

WHEREAS, on June 19, 2024, Franklin filed a complaint in lieu of prerogative writs against the Township, captioned The Franklin at Middletown, LLC v. Township of Middletown, et al., Docket No. MON-L-2040-24 (the “**Prerogative Writ Action**”) (along with the Builder’s Remedy Action, collectively, the “**Litigation**”); and

WHEREAS, the Township and Adoni have agreed to the terms of a Settlement Agreement to stay the Litigation contingent upon the rezoning of the Nut Swamp Property as an inclusionary townhome development consisting of not more than 136 total units including 27 affordable units (the “**Inclusionary Development**”); and

WHEREAS, on December 16, 2025, the Township’s Planning Board adopted a Master Plan Reexamination Report and an Amended Housing Plan Element recommending that Block 1045, Lots 2, 3 and 4 be rezoned for the Inclusionary Development.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Middletown in the County of Monmouth, State of New Jersey that Chapter 540 of the Code of the Township of Middletown be and is hereby amended and supplemented as follows:

SECTION 1. Article XII - Inclusionary Zoning District (IZD-1)

A. § 540-___. Purpose and Intent.

The purpose of this section is to establish the bulk, area, dimensional, affordable housing, and other development standards as applied to Block 1045, Lots 2, 3 and 4 on the official tax maps of the Township to memorialize the terms set forth in the fully-executed Settlement Agreement by and between the parties in the matters captioned Adoni Property Group, LLC v. Tp. of Middletown, et al., Docket No. MON-L-1260-23 and The Franklin at Middletown, LLC v. Township of Middletown, et al.. The standards set forth in this section will create the requisite “realistic opportunity” for the development of housing units affordable to the region’s low- and moderate-income households pursuant to and consistent with the guiding zoning and development principles associated with New Jersey’s Mount Laurel doctrine.

B. § 540-___. Bulk Standards.

The following development standards shall apply to Block 1045, Lots 2, 3 and 4:

- 1. Permitted Principal Use:** Multi-Family Residential
- 2. Zoning Requirements:**

Minimum Tract Area	16 acres
Minimum Tract Frontage	1,000 ft
Minimum Front Yard Setback – Garden State Parkway	35 ft
Minimum Front Yard Setback – West Nut Swamp Road	50 ft
Minimum Front Yard Setback – Internal Street	20 ft ⁱ /25 ft ⁱⁱ
Minimum Side Yard Setback	30 ft
Minimum Rear Yard Setback	30 ft
Open Space (% of Gross Tract Area)	33.0% ⁱⁱⁱ
Maximum Tree Removal (% of Gross Tract Area)	70%
Minimum Clubhouse Indoor Space	1 Story/3,300 SF
Minimum Clubhouse Outdoor Recreation Space	7,700 SF ^{iv}
Minimum Clubhouse Refuse Space ^v	10 ft by 20 ft
Maximum Residential Density	7.6 units per acre
Maximum Number of Residential Dwelling Units	136 units
Minimum Affordable Set Aside (%)	20%
Minimum Number of Affordable Dwelling Units	27

Maximum Building Coverage	16.5%
Maximum Lot Coverage	40%
Maximum Building Height	3 stories / 37.5 ft ^{vi}
Minimum Building Setback to Internal Parking	6 ft
Minimum Distance Between Buildings – Side to Side, Back to Side	25 ft
Minimum Distance Between Buildings – Front to Front	60 ft
Minimum Dwelling Unit Width	20 ft
Minimum Stacked Dwelling Unit Size/Habitable Area ^{vii}	600 SF
Minimum Common Indoor Area Dedicated to Refuse and Storage - Stacked Dwelling Unit	100 SF and 900 CF (whichever is greater)
Minimum Townhouse Dwelling Unit Size/Habitable Area	2,200 SF ^{viii}
Maximum Affordable Dwelling Units Per Building	6
Minimum Market Rate Dwelling Units Per Building	3
Maximum Market Rate Dwelling Units Per Building	8
Maximum Building Length	175 ft
Minimum Landscape Buffer Width – Along West Tract Boundary	30 ft
Minimum Landscape Buffer Width – Along West Nut Swamp Road	20 ft
Accessory Structures:^{ix}	
Minimum Accessory Front Yard Setback – Garden State Parkway	25 ft
Minimum Accessory Front Yard Setback – West Nut Swamp Road	20 ft
Minimum Accessory Side Yard Setback – Other Lot Lines	20 ft
Minimum Accessory Rear Yard Setback – Other Lot Lines	20 ft
Maximum Accessory Building Height – Clubhouses	2 stories/ 35 ft
Maximum Accessory Building Height – Sanitary Pump Stations	1 story/ 16 ft ^x
Maximum Accessory Building Height – Water Towers	35 feet ^{xi}
Maximum Accessory Building Height – All Other	1 story/ 10 ft ^{xii}
Maximum Patio Size per Dwelling Unit	200 SF
Maximum Deck Size per Dwelling Unit	200 SF
Retaining Walls:^{xliixiv}	
Minimum Setback to Principal Structure	10 ft
Minimum Setback to Tract Boundary	8 ft
Minimum Setback to Decks and Patios	4 ft ^{xv}

Minimum Setback – Wall to Wall	6 ft
Maximum Height of Individual Wall	8 ft ^{xvi}
Maximum Height of Tiered Walls	24 ft combined and 8 ft for each tier of wall

Minimum Parking Requirements:

<u>Unit Type (RSIS)</u>	<u>Units</u>	<u>Spaces Required</u>
Townhouse (Garage & Driveway) 3 & 4 – Bedroom Unit (2.4 spaces/unit)	109	262
Subtotal	109	262
Garden Apartment (Affordable)		
1-Bedroom Unit (1.8 spaces/unit)	5	9
2-Bedroom Unit (2.0 spaces/unit)	16	32
3-Bedroom Unit (2.1 spaces/unit)	6	13
Subtotal	27	54
10% EVSE Space Reduction ^{xvii}		(109 common spaces x 0.10) = 11
Subtotal		-11
Total	136	305

SECTION 3. § 540-____. Architectural and Site Design Standards.

1. Architectural Design Standards

- a. Flat, shed, and mansard roof types are prohibited to be used as primary roof structures. These roof types may be used as accent roofs.
- b. All building mechanical equipment must be located entirely within each dwelling unit; mechanical equipment at grade around the building perimeter (other than AC condenser units) or on roofs is prohibited. Where wall mounted or mini-split HVAC systems are used, no portion of the equipment may project from the exterior wall,

and ventilation grills shall be composed of a material and color that compliments that of the building facade (flush to walls, architecturally screened).

- c. Architectural treatments of Multi-Family Developments as depicted on the Colored Rendering Exhibit B shall be continued around all facades, not just the front and sides of each building.
- d. Architectural treatments of the clubhouse shall be consistent with those of the Dwelling Units depicted in Colored Rendering Exhibit B, and treatments shall be continued around all facades.
- e. Affordable Units shall be integrated with market-rate units throughout the site, as Stacked Dwelling Units and shall not be clustered into a building separate from market-rate units.
- f. Stepped Townhouse Units are permitted within each building. However, each individual Townhouse Dwelling Unit and each Stacked Dwelling Unit must adhere to the maximum building height requirement. Building Height shall be calculated and measured for each individual Unit within the Building, and not the entire Building as a whole.
- g. For all sides of any structure where a concrete foundation will be exposed more than 12 inches above adjacent finished grade, the exposed foundation must be finished with split-faced block or articulated stone veneer that matches the stone treatments shown for the dwelling units in Colored Rendering Exhibit B.
- h. Basements are strictly prohibited.
- i. Garages shall not be permitted to be converted to habitable living space nor bedrooms, nor shall they be designed in such a way as to be convertible such as having cooking facilities or full bathrooms.
- j. Habitable attics are strictly prohibited, and attics shall be utilized for storage and HVAC purposes only.
- k. Leasing individual bedroom(s) — whether single or multiple — to separate tenants within market-rate townhouse dwelling units is expressly prohibited.
- l. Architectural design of accessory buildings and structures including the enclosure of the pumping equipment and the clubhouse building

should complement and be consistent with the design of the residential buildings.

- m. Exterior building facades shall be designed with offsets, recesses, balconies, projections, window reveals, and changes of material and color at a minimum of every 30 feet of horizontal wall area to avoid long uninterrupted stretches of façade. Recesses and projections shall have a minimum depth of 2 feet and maximum of 3 feet. Variations in roof height of two or more feet are also encouraged, provided that they do not deviate from the maximum permitted building height.
- n. Balconies in front of the building shall not project more than five (5) feet from the building line.
- o. All patios shall be no more than 30 inches above adjacent grade. All first-floor decks shall have a finished floor elevation within 6 inches of the proposed finished first floor elevation of the dwelling unit, and shall not be permitted to be roofed or enclosed. 2nd floor decks are permitted, but the area below shall not be permitted to be enclosed, and the area above shall not be permitted to be roofed or enclosed. 3rd floor decks and roof decks are strictly prohibited.

2. Site Design Standards

- a. Developer shall be required to provide 25 ft. wide right-of-way halfwidth dedication along West Nut Swamp Road frontage and shall be required to upgrade Cartway (from Crawfords Corner Road to the eastern terminus of the tract) to meet RSIS standards for Residential Access, Medium Intensity. This shall include a paved cartway width of 28 ft. and sidewalks on both sides of the roadway. Developer shall be responsible to obtain all NJDEP regulatory permits as may be required for same, and stormwater management shall be provided in accordance with RSIS and NJAC 7:8.
- b. After improvement, on-street parking shall only be permitted on the south side of West Nut Swamp Road, and the Developer shall be required to coordinate with the Township for the adoption of an Ordinance prohibiting parking on the north side of the roadway, for the entire length of road.
- c. On-street parking for the internal roadways within the development is strictly prohibited, and the Developer shall be required to accept Title

39 enforcement on the entirety of the Tract, which shall be memorialized by resolution of the Governing Body of Township.

- d. Ownership and maintenance of all roadways, stormwater management basins, retaining walls, clubhouses, recreational areas, common areas, open space, pump stations, and all utility infrastructure within the tract shall be vested in and remain the responsibility of the Developer, Developer's successor(s) or assign(s), or a Homeowners Association. The Developer, Developer's successor(s) or assign(s), and/or HOA shall enter into an indemnification and hold harmless agreement with the Township of Middletown for same.
- e. Limits of proposed tree clearing shall be in substantial conformance with Colored Site Rendering Exhibit B, and shall also adhere to the Minimum Open Space, Maximum Tree Clearing and Minimum Landscape Buffer bulk standards set forth in the bulk standards for this zone.
- f. Disturbance to Steep Slopes and Critical Areas as defined by Township Code shall be in substantial conformance with the Colored Site Rendering Exhibit B.
- g. Outdoor Clubhouse Recreation space shall meet the minimum bulk standards for this zone, and shall include similar and compatible amenities as depicted on the "Sample Clubhouse & Amenities Design" inset provided on the Grading and Layout Exhibit A. This shall include but is not limited to pergolas with table seating, BBQ areas, fire pits, a golf simulator space, swimming pool with associated equipment, cabanas, outdoor spa, bag toss and kids play area, decorative paver patio, decorative fencing, etc.
- h. All Roadway, Site and Building Lighting shall comply with Township standards and shall be Dark Sky compliant.
- i. Developer agrees site design will be modified to save the existing 250-year old specimen tree on the West Nut Swamp Tract.
- j. Site Design shall comply with the Statewide standard for electric vehicle (EV) charging stations required at P.L. 2021, c. 171.
- k. Shade trees shall be planted along the main internal roadway at intervals of not less than 40 feet on center, except that deviations from those intervals are permitted where compliance is not possible

due to the position of utilities, driveways, retaining walls, and other obstructions.

- l. All deciduous trees shall be planted between 3.0 and 3.5 inch caliper.
- m. The base of each tree shall be at least 4 feet from any paved surface in common spaces.
- n. Parking areas shall have one (1) shade tree for every five (5) parking spaces.
- o. No buildings or structures, including pump stations, shall be erected in conservation easements.
- p. Sheds shall not be permitted.

SECTION 4. § 540-___. Affordable Deed Restrictions.

The affordable units shall be properly deed-restricted as affordable for at least a term of 30 years and shall comply with all relevant laws and policies regarding affordable housing units including, but not limited to the low and moderate split, bedroom distribution, income stratification, and related requirements as set forth under the Uniform Housing Affordability Controls (“UHAC”) regulations. All deed restrictions shall be approved by the Township prior to execution and recording.

[SECTION 5. Severability.

If any section, subsection or paragraph of this ordinance is declared unconstitutional, invalid or inoperative, in whole or in part, by a court of competent jurisdiction, such chapter, section subchapter or paragraph shall to the extent that is not held unconstitutional, invalid or inoperative remain in full force and effect and shall not affect the remainder of this ordinance.

SECTION 6. Repealer.

All ordinances and resolutions, and parts of ordinances and resolutions which are inconsistent with provisions of this ordinance shall be, and are hereby, repealed to the extent of any such inconsistency.

SECTION 7. Effective Date.

This ordinance shall take effect upon final adoption and publication in accordance with law.]

ⁱ Where sidewalk is not proposed along the internal street, setback shall be 20 ft and shall be the shortest horizontal distance as measured perpendicularly from the front (internal street side) façade of the dwelling unit to the curbline.

ⁱⁱ Where sidewalk is proposed along the internal street, setback shall be 25 ft and shall be the shortest horizontal distance as measured perpendicularly from the front (internal street side) façade of the dwelling unit to the curbline.

ⁱⁱⁱ Open Space shall not include areas of Stormwater Management BMPs, Clubhouse(s) and recreation amenities, retaining walls and maintained grass areas that are adjacent to internal roads, parking areas and dwelling units. Areas of Open Space shall be dedicated as a Conservation Easement to the Township of Middletown. For this tract and calculation, all other areas inclusive of all wetlands, steep slopes, and other constrained areas which are not proposed to be permanently disturbed with this development shall be included.

^{iv} This shall be the recreation/amenity area immediately adjacent to the clubhouse, which shall be in addition to areas of landscaping and maintained lawn.

^v Refuse enclosure shall be split face block masonry enclosure, and shall have board on board or solid white vinyl gate.

^{vi} The vertical distance shall be measured only at the front of the individual townhouse dwelling units, from garage floor elevation to the average distance between the ridge and eaves for gable, hip or gambrel roofs. Building Height shall be calculated and measured for each individual Townhouse Dwelling Unit and Stacked Dwelling Unit within the Building, and not the entire Building as a whole.

^{vii} Exclusive of all common indoor space that is dedicated to refuse and storage for stacked dwelling units.

^{viii} Habitable floor area for this development shall not include garages, covered porches, decks, balconies, terraces and patios.

^{ix} No accessory structures, patios, or decks are permitted in the front yard area between the building and the internal street, nor in the front yard area between the building and the West Nut Swamp Road right-of-way line. The only exceptions are accessory structures which are located within the first 10 ft of the building façade for the practical rear yard of Buildings #3 and #5. In addition, pump stations, meter pits/vaults, and hot box structures, are also excepted but subject to compliance with the accessory front yard setback requirement set for this zone; these exceptions must be buffered from the public right-of-way with fencing and landscaping to the maximum extent practicable.

^x Maximum accessory building height for sanitary pump stations shall be the vertical distance measured from the average elevation of the finished grade five feet from the foundation to the to the average distance between the ridge and eaves for gable, hip or gambrel roofs.

^{xi} Maximum accessory building height for water towers shall be the vertical distance measured from the average elevation of the finished grade five ft from the foundation of the tower to the topmost point of the tower including all affixed appurtenances. Water towers shall be subject to the principal setback requirements.

^{xii} Maximum building height for all other accessory buildings shall be the vertical distance measured from the average elevation of the finished grade 5 ft from the foundation to the to the average distance between the ridge and eaves for gable, hip or gambrel roofs.

^{xiii} 4 ft high aluminum Jerith style fence to be provided atop all retaining walls abutting sidewalks, pedestrian access ways and within practical rear and side yards of all dwelling units, and in all other areas required by building code.

^{xiv} Required setbacks for retaining walls shall be measured as follows:

- From the bottom and front side of the wall to the tract boundary.
- From the top and back side of the wall to principal structures.
- From the top and back side of the wall to patios and decks.
- For tiered retaining walls, from the bottom and front side of one wall to the bottom and front side of the next successive tier.

^{xv} Building foundations that also function as retaining walls are not subject to this minimum setback requirement.

^{xvi} Site Design shall comply with the Statewide standard for electric vehicle (EV) charging stations required at P.L. 2021, c. 171.

^{xvii} Maximum retaining wall height within stormwater management basins shall be 15 ft without stepping wall. Developer shall be required to obtain all municipal building permits for such retaining walls, and a minimum four-foot-high aluminum Jerith style fence to be provided atop such retaining walls.