

TOWNSHIP OF MAHWAH
SPECIAL IN-PERSON COUNCIL MEETING AGENDA
THURSDAY, SEPTEMBER 15, 2022

Honorable Anthony J. Gianni Jr. Chambers
Richard J. Martel Municipal Center
475 Corporate Drive, Mahwah, New Jersey

7:00PM

COUNCIL PRESIDENT’S STATEMENT

SALUTE TO THE FLAG

MOMENT OF SILENCE

- Veterans and Those Serving in the Military
- Those affected by the Coronavirus

ROLL CALL: _____ Ariemma; _____ Bolan; _____ Ervin; _____ Ferguson; _____ May;
_____ Paz; _____ Wong

LEGAL

1a. Ordinance No. 1968

PUBLIC PORTION

Prior to speaking, each Speaker shall provide their Name and Address

- Mahwah Residents shall speak first
- In this Public Portion, Speakers may speak about any topic
- Speaker must direct questions or comments to the Council President
- There will be no back and forth dialogue between the Speaker and Representatives on the dais
- When the Speaker is finished with statement or questions, the Council will respond as appropriate
- Each Speaker shall be limited to 3 minutes, when 3 minutes expires, Council will move on to the next Speaker
- This Public Portion shall be a maximum of 30 minutes
- Speakers may only speak once during each Public Portion

ORDINANCE – PUBLIC HEARING

- * #1968 An Ordinance of the Township of Mahwah, Amending and Supplementing Chapter 24 “Zoning” of the Land Development Code to Establish a New MF-1 Multi-Family-1 District and to Set Forth the Standards and Criteria Applicable Thereto (To Be Carried)

CLOSED SESSION

C1. Litigation Update

ADJOURNMENT

THIS AGENDA IS SUBJECT TO CHANGE.

**TOWNSHIP OF MAHWAH
ORDINANCE NO. 1968**

**AN ORDINANCE OF THE TOWNSHIP OF MAHWAH, AMENDING AND
SUPPLEMENTING CHAPTER 24 "ZONING" OF THE LAND DEVELOPMENT CODE
TO ESTABLISH A NEW MF-1 MULTI-FAMILY-1 DISTRICT AND TO SET FORTH
THE STANDARDS AND CRITERIA APPLICABLE THERETO**

WHEREAS, Mahwah Township has a constitutionally mandated requirement to provide affordable housing; and

WHEREAS, the Township Council desires to create opportunities for the creation of affordable housing within the Township; and

WHEREAS, the Township Council has determined that certain lands known as 1 Fyke Road, identified as Block 21, Lots 21, 22, and 23 are suitable for inclusionary development, and

WHEREAS, the Township's 2019 Housing Element and Fair Share Plan ("HEFSP") identifies the parcels as a location for inclusionary multi-family housing development to address a portion of the Township's Third Round Unmet Need Obligation; and

WHEREAS, the preliminary judgment of compliance entered by the Honorable Judge Christine A. Farrington on July 10, 2018, includes the following provision "The Mayor and Council shall adopt zoning ordinance amendments to rezone Block 21, Lots 21,22 and 23 (commonly known as 1 Fyke Road) to permit a maximum of 14 units per disturbed/impervious acre with a maximum of 42 total residential units with a 20% set aside for affordable housing". This provision was incorporated in a final judgment of compliance and repose entered by the Court on or about December 18, 2020; and

WHEREAS, the Township adopted an overlay zone for 1 Fyke Road to implement the HEFSP on August 8, 2019 and the Township amended the zoning map on October 13, 2019; and thereafter the Court held under Bergen County Docket number BER-L-004131-21 that the notice was invalid whereby the Township wishes to reconsider the adoption of this revised ordinance; and

WHEREAS, the Township now seeks to reconsider the adoption of this revised ordinance; and

WHEREAS, the ordinance does not impact affordable housing yield and is consistent with the Township's HEFSP.

NOW THEREFORE, BE IT ORDAINED by the Township Council of the Township of Mahwah as follows:

Section 1. The Land Development Code, Chapter 24 "Zoning", Subsection §24-2.1 "Districts Designated" is amended and supplemented to include:

MF1 Multi-Family-1

Section 2. The Land Development Code, Chapter 24 "Zoning", Subsection §24-4.1 "Schedules of Regulations" is hereby amended and supplemented as underlined in the attached "Area, Bulk and yard Requirements" table, which is attached to the end of this document.

Section 3. The Land Development Code, Chapter 24 "Zoning", Subsection §24-4.27 is hereby amended in its entirety to read as follows:

§24-4.27 MF-1 Multi-Family-1.

The following standards shall apply to development within the MF-1 Zone, which is located on Block 21, Lots 21, 22, and 23. When the standards herein conflict with other provisions of Chapter 24, the standards herein shall apply.

a. Permitted Uses.

1. Townhomes.
2. Stacked townhomes, which are defined as a one (1) family unit in a row of at least three (3) such units, where units are stacked on each other. Units may be multi-level; however, all units shall have common fire-resistant walls and have direct access from the outside.
3. Affordable housing units within a townhome configuration, which may be designed as one-over-one condominium flats.

b. Accessory Uses.

1. Home occupations subject to §24-3.6a8.
2. Parks, playgrounds, open space, and tenant recreation facilities.
3. Fences and walls subject to §24-5.6b.

4. Surface parking subject to §24-3.7.
 5. Community rooms and amenity spaces for the use of building owner and/or tenants.
- c. Signs.
1. Signage shall comply with §24-6, Signs.
 2. In addition to the above, a ground sign, next to the site entrance, identifying the development shall be permitted. Said sign shall not exceed twenty-five (25) square feet, may be illuminated and shall be setback ten (10') feet from any property line.
- d. Area, Bulk and Yard Requirements.
1. Area, Yard and Bulk Controls shall be in accordance with the Zoning Schedule of Area, Bulk and Yard Requirements at the end of this chapter.
 2. Density. Maximum density of the site shall not exceed fourteen (14) units per disturbed/impervious acre. In no event shall the density within the zone exceed a total of forty-two (42) residential units including any affordable housing units.
 3. Internal setbacks.
 - (a) Buildings shall be setback at least twenty-five (25') feet from one another.
 - (b) No building shall exceed one hundred fifty (150') feet in length.
 - (c) Buildings shall be setback a minimum of five (5') feet from parking lots.
 - (d) No parking shall be permitted within twenty (20') feet of an adjacent single-family use.
- e. Affordable Housing.
1. Twenty (20%) percent of the units shall be reserved for, and affordable to, low- and moderate-income households. The units shall be family units available to the general public and not restricted to any specific segment of the population and meet the low-/moderate-income split required by the Uniform Housing Affordability Controls ("UHAC") except, in lieu of ten (10%) percent of units at thirty-five (35%) percent of median income, the developer shall provide at least thirteen (13%) percent of the units within each bedroom distribution as very-low-income units at thirty (30%) percent of median income if the affordable units are rental in tenure.
 2. The affordable units shall have a minimum thirty (30) year deed restriction. Any such affordable unit shall comply with UHAC, applicable affordable housing regulations, the Fair Housing Act, any applicable order of the Court, and other applicable laws. Affordability restrictions shall not expire automatically and may only be released at the discretion of the Township.
 3. The units shall meet the bedroom distribution required by the UHAC.

4. The developer shall be responsible for retaining a qualified Administrative Agent, as approved by the Township, at the developer's sole cost and expense.
 5. All necessary steps shall be taken to make the affordable units provided creditworthy pursuant to applicable law.
- f. Off-Street Parking Requirements.
1. Off-street parking shall be in accordance with Off-street and Loading, §24-3.7.
 2. All parking spaces shall measure no less than nine (9') feet in width by eighteen (18') feet in length.
 3. Off-street parking shall be provided in accordance with RSIS.
 4. Parking lot lighting shall comply with §22-6.4.
 5. Within surface parking lots one (1) landscape island shall be provided for every twenty (20) parking spaces. Said landscape island shall contain a minimum of one hundred sixty (160) square feet. At least half of the landscape islands shall contain a shade tree and other landscaping; the remainder shall contain shrubs. Said shade tree shall be three (3") inches in caliper at installation.
- g. Building Design.
1. Building wall offsets, including both projections and recesses, shall be provided along any street-facing building wall measuring greater than forty (40') feet in length in order to provide architectural interest and variety to the massing of a building and relieve the negative visual effect of a single, long wall.
 2. The maximum spacing between such offsets shall be thirty-five (35') feet. The minimum projection or depth of any individual vertical offset shall not be less than one (1') foot.
 3. Vertical offsets can include, but are not limited to, pilasters, projecting bays, changes in facade materials and balconies.
 4. The architectural treatment of a facade shall be completely continued around all street-facing facades of a building. All sides of a building shall be architecturally designed to be consistent regarding style, materials, colors and details.
 5. If the building has a flat roof, a parapet shall project vertically to hide any roof-mounted mechanical equipment.
 6. Roofline offsets shall be provided along any gable roof measuring more than forty (40') feet in length.
 7. Building facades visible from any street shall consist of durable, long-lasting materials such as brick, stone, cast stone, Hardie plank or other high-quality material.

8. Heating, ventilating and air-conditioning systems, utility meters and regulators, exhaust pipes and stacks, satellite dishes and other telecommunications receiving devices shall be screened or otherwise specially treated to be, as much as possible, inconspicuous as viewed from the public right-of-way and adjacent properties.
9. No dwelling unit shall contain more than three (3) bedrooms.

h. Landscaping.

1. Areas of the property not used for buildings, parking or other impervious surfaces shall be landscaped.
2. Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, define entranceways, screen parking areas, mitigate adverse visual impacts, provide windbreaks for winter winds and summer cooling for buildings, and enhance buffer areas. Plants and other landscaping materials shall be selected in terms of aesthetic and functional considerations. The landscape design shall create visual diversity and contrast through variation in size, shape, texture and color. The selection of plants in terms of susceptibility to disease and insect damage, wind and ice damage, habitat, soil conditions, growth rate, longevity, root pattern, maintenance requirements, etc., shall be considered.
3. There shall be a minimum ten- (10') foot-wide landscaped buffer adjacent to any existing single-family properties. The only improvements that are permitted to encroach on this buffer are utilities and driveways.
4. Buffer plantings shall consist of a combination of shade trees, evergreen trees, ornamental trees and shrubs. Existing shade and evergreen trees within the buffer area may be counted in fulfilling the required buffer planting.
5. Buffer plants shall include, at a minimum, the following:
 - (a) One shade tree for every seventy-five (75') linear feet of buffer;
 - (b) One evergreen tree for every forty (40') linear feet of buffer;
 - (c) Ten (10) shrubs for every fifty (50') linear feet of buffer.
6. Buffer plants shall be the following size at the time of planting:
 - (a) Shade trees shall be planted at a minimum three (3") inch caliper and shall be a minimum of twelve (12) to fourteen (14) feet in height, balled and burlapped.
 - (b) Evergreen trees shall be planted at a minimum height of seven (7') feet, balled and burlapped.
 - (c) Shrubs shall be planted at a minimum of three (3') feet in height. All shrubs shall be evergreen.

7. Foundation plantings shall be provided around all buildings. These plantings shall include species that provide seasonal interest at varying heights to complement and provide pedestrian scale to the proposed architectural design of the buildings. The foundation planting shall incorporate evergreen shrubs and groupings of small trees in order to provide human scale to building facades and winter interest.
8. If an outdoor dumpster is utilized for the storage of trash and recycling, it shall be screened and fully enclosed with a solid enclosure a minimum six (6') feet in height. Alternatively, refuse and recycling may be stored inside of the building(s).
9. The above standard shall supplement the requirements of §22-6.5, paragraph a and supersede said design standards when there is a conflict.

Section 4. Whereas, upon adoption of this Ordinance, the Township Planner is directed to amend the official Zoning Map of the Township of Mahwah to illustrate Block 21, Lots 21, 22, and 23 as the location of the Multi-Family-1 (MF-1) District.

Section 5. If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

Section 6. Any ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 7. This Ordinance shall take effect twenty (20) days after final passage, adoption and publication according to law.

ZONING

24 Attachment 5

Township of Mahwah

Area, Bulk, and Yard Requirements

Zone	District	Minimum Area Requirements				Maximum Bulk Requirements				Minimum Yard Requirements**			
		Lot Area (Sq. Ft.)	Lot Width (Ft.)	Lot Depth (Ft.)	Improved Lot Coverage (%)	Lot Coverage (%)	Feet	Bigg. Hgt. Principal*	Story	Front Yard (Ft.)	One (Ft.)	Both (Ft.)	Side Yard
C200	Conservation	200,000	300	400	15	5	35	2 1/2	75	50	100	75	75
POS	Public Open Space	200,000	300	400	15	5	35	2 1/2	75	50	100	75	75
R80	One-Family	200,000	300	400	15	5	35	2 1/2	75	50	100	75	75
R40	One-Family	80,000	200	300	20	10	35	2 1/2	60	40	80	40	50
R20	One-Family	40,000	150	175	30	15	35	2 1/2	40	30	60	30	40
R15	One-Family	20,000	100	150	40	20	35	2 1/2	35	20	40	35	35
R10	One-Family	15,000	90	125	40	20	35	2 1/2	30	10	25	30	30
R5	One-Family	10,000	75	100	40	25	35	2 1/2	30	10	25	30	30
R11	One-Family	5,000	50	100	40	30	35	2 1/2	25	6	18	25	25
R11	Two-Family	5,000	50	100	40	30	35	2 1/2	25	6	18	25	25
GA200	One-Family	11,000	80	100	50	30	35	2 1/2	25	10	25	25	25
GA200	One-Family	10,000	75	100	50	30	35	2 1/2	30	10	25	30	30
GA200	Garden Apt.	200,000	300	400	40	30	35	2 1/2	30	30	60	30	30
PRD4	One-Family	20,000	100	150	70	30	35	2 1/2	30	30	60	30	75
PRD4	Other Uses (PRD)	See §24-3.8 k. and Attachment 6 (Schedule of Area, Yard, and Bulk Requirements for Planned Residential Developments)			40	20	35	2 1/2	35	20	40	35	35
PRD6	One-Family	20,000	100	150	40	20	35	2 1/2	35	20	40	35	35
PRD6	Other Uses (PRD)	See §24-3.8 k. and Attachment 6 (Schedule of Area, Yard, and Bulk Requirements for Planned Residential Developments)			40	20	35	2 1/2	35	20	40	35	35
RM6	One-Family	20,000	100	150	40	20	35	2 1/2	35	20	40	35	35
CB360	Manufactured Homes	400,000	400	500	50	30	35	2 1/2	35	20	40	35	35
B200	Community Business	90,000	360	400	70	25	40	3	75	40	80	75	75
B40	Shopping Center	200,000	300	400	80	40	40	3	40	40	75	40	75
B40	Highway Business	200,000	300	400	80	40	40	3	40	40	75	40	75
B12	General Business	40,000	150	200	80	40	40	3	40	20	40	40	40
B10	Neighborhood Business	12,000	80	100	80	40	40	3	40	15	30	40	40
OP200	Office Park	10,000	50	100	80	50	40	3	10	10	20	40	40
ORP200	Office Research Park	200,000	300	400	60	30	300	25	75	See §24-4.32 c2	See §24-4.32 c2	40	80
IP120	Industrial Park	200,000	300	350	60	30	40	3	75	40	75	60	65
G180	Industrial Park	120,000	300	400	70	35	40	3	60	40	75	40	65
GEM	General Industry	80,000	200	300	80	40	40	3	50	25	50	25	65
FP	Cemetery	200,000	300	400	-	35	35	-	50	See §24-4.23	See §24-4.23	50	65
BZ	Flood Plain												
BZ	Buffer Zone												
PRD4S	Adult/Patio Housing												
*LOD	Limited Office District	80,000	200	200	30	5	35	2	60	30	60	30	40
ED	Education District	200,000	150	300	65	30	35	2	45	25	50	35	35
ML1	Mount Laurel												
ML2	Mount Laurel												
MF-1	Multi Family 1	4.5 Acres			60	30	38	3	25	15	30	25	25
MF-2	Multi Family 2	21,780	75	100	70	35	35	3	25	10	20	20	25
MUD-1	Mixed-Use Development												
MUD-2	Mixed-Use Development												

* See §24-4.32 c5 concerning height limits in the OP200 Zone.

** See §24-4.32 c concerning yard requirements in the OP200 Zone