

## ORDINANCE SUMMARY

### **Ordinance #8-13**

#### AN ORDINANCE OF THE BOROUGH OF SOUTH TOMS RIVER AMENDING AND SUPPLEMENTING CHAPTER 26 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF SOUTH TOMS RIVER, ENTITLED "LAND DEVELOPMENT", CONSISTENT WITH THE 2012 MASTER PLAN

The Borough of Toms River Land Use Board adopted a new comprehensive Master Plan in 2012, which recommend specific zoning recommendations and changes. This Ordinance enacts the zone changes recommended by the 2012 Master Plan by replacing the B-1 Neighborhood Business and Professional Zone with the C-N Neighborhood Commercial Zone and modifying the Official Zoning Map to change the designation of the former B-1 and H-D (Highway Development) Zones to C-N, as well as to modify boundaries per the Land Use Plan Map of the adopted Master Plan.

The Ordinance and Proposed Zoning Map also replace the BD Business Development Zone with the SED Special Economic Development Zone and the Zoning Map replaces the R-10, H-D and BD zoning of the two largest vacant or industrial tracts in the Borough with the SED Zoning designation, as recommended in the adopted Master Plan. The Special Economic Development Zone regulations in the proposed Ordinance replace the regulations of the BD Business Development Zone with new regulations that require any new development be presented as a "Planned Development" on a minimum tract of five acres. Uses encourages near Dover Road include hospitality uses (hotels, restaurants, conference services, etc.), while uses such as self-storage, flex office-warehouse; or age-restricted residential development would be permitted with Conditional Use Approval on a portion of a SED Zone that is 1,000 feet or more from Dover Road.

The proposed Ordinance also introduces a MU Mixed Use Zone and the Proposed Zoning Map replaces the B-1 designation of the commercial area near the intersection of Flint Road with Dover Road with the new MU Zone.

**ORDINANCE #8-13**

AN ORDINANCE OF THE BOROUGH OF SOUTH TOMS RIVER AMENDING AND SUPPLEMENTING CHAPTER 26 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF SOUTH TOMS RIVER, ENTITLED "LAND DEVELOPMENT", CONSISTENT WITH THE 2012 MASTER PLAN.

Adopted July 15, 2013

WHEREAS, various sections of Chapter 26, entitled Land Development are in need of revision and/or clarification; and

WHEREAS, the Borough of Toms River Land Use Board adopted a new comprehensive Master Plan in 2012, which recommend specific zoning recommendations and changes; and

WHEREAS, the Borough Council desires to enact the zone changes recommended by the 2012 Master Plan,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF SOUTH TOMS RIVER, COUNTY OF OCEAN AND STATE OF NEW JERSEY, to amend Chapter 26 of the Revised General Ordinances of the Borough of South Toms River entitled "Land Development" as follows:

**Section 1.0**

Recommendation: UPDATE Zoning Districts consistent with the Land Use Plan Element of the 2012 Master Plan as follows:

**26-19 ESTABLISHMENT OF ZONES OR DISTRICTS.**

**26-19.1 List of Zones.**

DELETE:

- |     |   |
|-----|---|
| B-1 | Neighborhood Business and Professional Zone |
| BD  | Business Development Zone                   |
| H-D | Highway Development Zone                    |

ADD:

CR	Conservation Residential
T	Townhouse Transition
M-U	Mixed-Use
SED	Special Economic Development
C-N	Neighborhood Commercial

**Section 2.0**

Recommendation: ADOPT new Zoning Map consistent with the Land Use Plan Element of the 2012 Master Plan as follows:

**26-19.2 Zoning Map.**

The aforesaid zones are hereby established as shown on a map entitled "Zoning Map, Borough of South Toms River, Ocean County, New Jersey, revised by Maser Consulting, PA, May 2013" which accompanies and is hereby made a part of the chapter.

**Section 3.0**

Recommendation: AMEND Section 26-20.1, entitled, "Primary Intended Use", of Section 26-20, entitled "R-7 and R-10 Residence Zones" to read as follows:

**26-20 R-7 AND R-10 RESIDENCE ZONES.**

**26-20.1 Primary Intended Use.**

The Borough of South Toms River is an established suburban residential community. It is the desire of the community to preserve and protect the established character of neighborhoods in the Borough and to encourage a compatible relationship between new or expanded houses and traditional neighboring structures that reflects the best of the local character, particularly in terms of scale, siting, design features, and orientation on the site.

These zones are designed for and permit single-family residential use but also permit:

- a. Signs conforming to section 26-13.
- b. Accessory uses customarily incident to individual residences provided that any accessory structure may not exceed one story in height.
- c. Private garages conforming to definition of "garage, private," carports, sheds and accessory buildings are not to exceed six hundred (600) square feet in floor area.
- d. Parking and parking facilities conforming to this chapter.

- e. Not more than one (1) permanent roomer or boarder per family.
- f. Private swimming pools provided a permit is issued by the Construction Official and signed by the Borough Engineer and further provided all of the following regulations are complied with:
  - 1. The area of the private swimming pool shall not exceed twenty (20%) percent of the rear yard area.
  - 2. The pool shall be equipped with a filtration, circulation, clarification and chlorination system adequate to maintain the water in a clean and healthful condition in accordance with the health requirements of the Borough and State.
  - 3. The discharge pipe or conductor leading from any private swimming pool shall not exceed two (2) inches in diameter, and shall be composed of galvanized iron, or such other standard and durable material as may be approved by the Borough Engineer. No private swimming pool shall be wholly or partially emptied in any manner that will cause water to flow upon the premises of another and no private swimming pool shall be wholly or partially emptied upon any land if a storm water drain is readily accessible to the premises on which the pool is located. No private swimming pool shall be wholly or partially emptied into any sanitary sewer system, cesspool or septic tank.
  - 4. No public water shall be used in connection with the operation of any private swimming pool during any time when restrictions are imposed on the use of public water.
  - 5. Every private swimming pool shall be completely enclosed with a permanent substantial fence at least four (4) feet from the edge of the pool, and no less than five (5) feet in height above the ground level. Any opening or gate in such fence shall be so designed, constructed and maintained so as to prevent access to the pool at any time except when the pool is in use under the supervision of the possessor of the pool or by his permission.
  - 6. The swimming pool shall not be closer than five (5) feet to any side or rear lot lines of the premises, provided on corner lots, no part of any pool shall be constructed within the front yard area on either street.
  - 7. All lighting in connection with a swimming pool shall be so arranged and shielded as to reflect the light downward away from all adjoining and nearby residences or streets.

*(1975 Code § 13-14.1; Ord. No. 11-02)*

- g. Home Occupations
- h. Family day-care homes

#### **Section 4.0**

Recommendation: Supplement Section 26-20.2, entitled, “Required Area, Yard, Height and Bulk Requirements”, of Section 26-20, entitled “R-7 and R-10 Residence Zones” to add Subsection “g” as follows:

##### **26-20.2 Required Area, Yard, Height and Bulk Requirements.**

Add:

g. Minimum unoccupied open space. 15 percent.

#### **Section 5.0**

Recommendation: Supplement Section 26-21.3, entitled, “Required Area, Yard, Height and Bulk Requirements”, of Section 26-21, entitled “R-15 Residence Zones” to add Subsection “g” as follows:

##### **26-21.3 Required Area, Yard, Height and Bulk Requirements.**

Add:

g. Minimum unoccupied open space. 15 percent.

#### **Section 6.0**

Recommendation: ADD new Section 26-22, entitled, “Conservation Residence Zone” as follows:

##### **26-22 CR CONSERVATION RESIDENCE ZONE.**

The Borough of South Toms River is an established suburban residential community. It is the desire of the community to preserve and protect the established character of neighborhoods in the Borough and to encourage a compatible relationship between new or expanded houses and traditional neighboring structures that reflects the best of the local character, particularly in terms of scale, siting, design features, and orientation on the site.

##### **26-22.1 Permitted Principal Uses and Buildings**

This zone is designed for and permits single-family residential use and all uses permitted in the R-15 Zone.

##### **26-22.2 Permitted Accessory Uses and Buildings**

Any accessory building or use allowed in the R-15 Zone is permitted in the CR Zone.

### **26-22.3 Area, Yard, Height and Bulk Requirements**

The following area, yard and building requirements shall apply to the Conservation Residential Zone:

- a. Minimum lot area. 3 acres.
- b. Minimum lot width. 150 feet.
- c. Minimum lot frontage: 150 feet.
- d. Minimum lot depth. 100 feet.
- e. Minimum front setback. 50 feet.
- f. Minimum rear setback:
  1. Principal buildings: 50 feet.
  2. Accessory buildings: 25 feet.
  3. Private swimming pools: 25 feet.
- g. Minimum side yard setbacks:
  1. Principal buildings: 25 feet.
  2. Accessory buildings: 15 feet.
  3. Private swimming pools: 15 feet.
- h. Maximum lot coverage by buildings: 3 percent.
- i. Minimum unoccupied open space. 75 percent.
- j. Maximum building height. 35 feet.

### **26-22.4 Off-Street Parking.**

As set forth in this Section 26-14.

### **26-22.5 Front Yard Paving or Hardtopping.**

No portion of the front yard area shall be paved or hardtopped in any manner except a driveway area not to exceed thirty (30) feet in width.

## **Section 7.0**

Recommendation: DELETE Section 26-30.8, entitled “Townhouse Condominiums” and 26-30.9, entitled “General Controls”; and ADD new Section 26-23, entitled, “T Townhouse Transition Zone” as follows:

## **26-23 T TOWNHOUSE TRANSITION ZONE.**

### **26-23.1 Permitted Principal Uses and Buildings.**

This zone is designed for and permits residential townhouses.

### **26-23.2 Area, Yard and Building Requirements.**

- a. Minimum area utilized for townhouse condominium development. Two (2) acres.
- b. Maximum units per acre. Eight (8) units.
- c. Maximum building height. Thirty-five (35) feet.
- d. Minimum building setback from all property lines. Fifty (50) feet.
- e. No more than eight (8) dwelling units nor less than four (4) dwelling units shall be contained in any one (1) structure.
- f. There shall be a maximum of twenty-five (25%) percent lot coverage.
- g. Each structure shall have ingress from the front and rear to either common hallways or to each dwelling unit.
- h. The minimum distance between buildings shall be fifty (50) feet but in no event shall a townhouse condominium building be located within fifty (50) feet of single-family dwelling.
- i. A minimum of fifteen (15%) percent of the total land area shall be set aside for usable recreation space.
- j. All buildings shall provide not less than two (2) exterior exposures for each dwelling unit, properly placed by windows or other openings so as to provide through ventilation or cross-ventilation for the unit.
- k. The structures or buildings shall be authentic traditional colonial design or of a contemporary design and other details such as entrance, columns, windows, shutters, cornices, chimneys and porches shall be designed and executed in strict conformity with those general types. All buildings shall be constructed with an exterior of brick or stone or concrete.
- l. Within townhouse condominium developments, all garages and outbuildings, and enclosures of any sort, must conform in general type to the architecture of the main structure.
- m. All townhouse type buildings shall have not more than two (2) floors devoted to dwelling living units. No portion of the basement area shall be used for dwelling purposes.

- n. All streets, both external and internal (including street grading and paving), driveways, parking areas, sidewalks, curbs, gutters, street lighting, shade trees, water mains and water systems, culverts, storm sewers, and such other improvements as may be found necessary in the public interest shall be installed in accordance with the standards adopted for subdivisions of land, and the building permit therein shall not be issued unless and until an adequate performance guarantee for the purpose of insuring proper installation of the improvements is posted with the Borough Clerk in a form approved by the Borough Attorney and in an amount determined by the Borough Engineer to be sufficient to insure the completion of all required improvements.
- o. No townhouse condominium development shall be approved until approval of plans for disposal of sewerage in accordance with the standards set forth by the County Sewerage Authority are met. The performance guarantee outlined in this section is also applicable to sewerage disposal.
- p. A recreation site shall be developed with facilities suitable to serve the residents of the development. It shall be located in an area which will not be detrimental to adjacent property owners by virtue of noise, light, glare and any other objectionable feature emanating from such facility. No recreation area shall be located in front of a building. A recreation area may be provided for to the side or rear of the buildings provided it is not located within twenty-five (25) feet of any building.
- q. No outside area or equipment shall be provided for the hanging of laundry or the outside airing of laundry in any manner. Sufficient area and equipment shall be made available within each building for the laundering and artificial drying of laundry of occupants of each building.
- r. Where a townhouse condominium development district abuts a residential district or a commercial use, an evergreen planting screen having a minimum width of five (5) feet shall be provided. The screen shall consist primarily of evergreen trees so as to provide visual obstruction. The planting material shall be at least six (6) feet high at the time of planting. It shall be the responsibility of the owner or developer to carry out this planting and to promote such maintenance and care as is required to obtain the effect intended by the original plan.
- s. All parking lots in townhouse condominium developments shall be adequately lighted, either with wall mounted or post-mounted ornamental fixtures. Lights shall be adequately shielded from adjacent properties. If garages are provided, they shall have a floor area of not less than two hundred forty (240) square feet. They may be built into the townhouse structure or separately constructed as herein provided. No garage or other accessory building shall be placed nearer to a side or rear property line than fifty (50) feet when abutting a residential district; in all other cases, twenty-five (25) feet. In no case shall a garage or accessory building be permitted between a street frontage and building. Each group of attached garages shall have a joint capacity of no more than ten (10) vehicles arranged in a row and there shall be a minimum distance of twelve (12) feet between such structures. Garages and other accessory buildings shall be not more than one (1) story in height. The architectural design and materials used in the construction thereof shall conform to the design and building materials used in the



construction of the townhouse condominium structures. No part of any garage or other accessory building shall be used for living purposes. Garages and parking areas shall be used as automobile parking units only, with no sales, dead storage, dismantling or servicing of any kind permitted.

- t. Pools included as part of the overall development of a townhouse condominium development shall be located within an area not less than four thousand (4,000) square feet that is devoted to the use of the pool and constructed according to the standards set forth in this chapter.

### **26-23.3 General Controls.**

The following additional general controls shall apply to townhouse condominium developments:

- a. **Off-Street Parking.** Marked off-street parking shall be required as follows:
  - 1. All drives, turning areas and parking spaces shall be hard surfaced.
  - 2. A parking space shall be as defined in subsection 26-10.3.
- b. **Walks.** Walks shall be required as follows:
  - 1. Entry walks or service walks shall be masonry construction.
  - 2. Entry walks or service walks shall be in addition to and not part of any driveway.
  - 3. Primary entry walks shall be a minimum of four (4) feet in width.
  - 4. Secondary walks (service walks or individual unit walks) shall be a minimum of three (3) feet in width.
  - 5. Walks may encroach five (5) feet into any required side yard and twenty-five (25) feet into any required rear yard. Primary or secondary entry walks shall cross the front yard between the limit lines of the required side yards if extended to the front property line.
  - 6. Any walk forming a part of the parking or turning area or crossing a driveway may be of the same material as the parking or turning area or driveway.
  - 7. Paths forming a part of any garden or recreation area are not considered walks for the purpose of this chapter.
- c. **Recreational Facilities.** Recreational facilities shall be permitted subject to the conditions contained in this chapter and the following additional restrictions:
  - 1. Recreational facilities including marinas and swimming or wading pools shall be permitted as an accessory use for the unit.
  - 2. Recreational facilities are for the use of occupants of the development and their guests and friends or relations of guests. No public use or offering of use shall be permitted except as otherwise provided herein.
- d. **Patio or Sunbathing Areas.**
  - 1. Patio or sunbathing areas including barbecue or outdoor eating facilities may be permitted as an accessory use.

2. These facilities shall be for the use of occupants of the development and their guests and friends or relations of guests. No public use or offering of use shall be permitted.
  3. These facilities may encroach into any required yard (except for buildings pertaining thereto) as is permitted under the subsection limiting and controlling walks.
- e. **Trash and Garbage Collection; Storage and Removal.**
1. An adequate enclosed and covered area shall be provided for the collection and storage of trash and garbage.
  2. At least one (1) such area shall be provided for each building.
- f. *Television and/or Radio Antenna.* Only one (1) master antenna shall be permitted for television and/or radio reception for each building.
- g. *Soundproofing.* All buildings shall conform to the minimum standard of forty-five (45) decibel reduction value for all property walls and floors, except where another ordinance or law shall provide a higher minimum standard in which case it shall apply.
- h. **Screening.**
1. All trash and garbage collection locations and parking and turning area shall be screened by natural or artificial means as to reduce to a minimum their effect on the desired harmoniously pleasing aesthetics of the site within the Borough.
  2. Perimeter screening shall be required for natural or artificial means to maintain a harmoniously pleasing aesthetic value and effectively obstruct the view from adjacent premises to a height not to exceed six (6) feet.
  3. The Construction Official and/or Zoning Officer of the Borough shall make an annual inspection and report to the Borough Council as a maintenance of required screening.
- i. **Exterior Lighting.**
1. All parking and turning areas, drives, entries, and walkways shall be lighted for safety from dusk to dawn with lighting shielded from adjoining properties.
  2. All recreational and/or patio or similar areas may be lighted with lighting shielded from adjoining properties.
  3. All general project or building lighting shall be permitted provided lighting is soft white light shielded from adjoining and opposite properties.
- j. *Exterior Sound.* Exterior sound facilities shall be permitted for any recreational, patio or similar area until 12:00 midnight providing the facility does not violate any provision of any other ordinance concerning the peace and general welfare of the Borough.
- k. *Storage areas.* Each building may provide general storage area for service for the building and project.
- l. **Mail receptacles.** Each dwelling unit shall be required to have mail receptacles in accordance with the specifications of the Post Office Department.

m. Required Heating and Utilities.

1. No dwelling unit shall be constructed without a central heating system or systems sufficient to permit each dwelling unit to be maintained at a temperature of seventy-two (72°) degrees when the outside temperature is at zero (0°) degrees. The temperature for each dwelling unit shall be regulated by a control located therein.
2. Central or individual air conditioning units shall be provided so as to permit each dwelling unit to maintain a temperature of seventy-two (72°) degrees when the outside temperature is ninety (90°) degrees. Where central air conditioning systems are installed, the temperature for each dwelling unit shall be controlled by a control located therein.
3. Any plans submitted for the construction of any townhouse condominium type building or buildings set forth herein shall provide for adequate water service and shall in addition provide the storm sewer facilities. The plans shall also provide for sewerage disposal service in accordance with the standards and requirements set forth by the county sewerage authority.

**Section 8.0**

Recommendation: REPLACE Section 26-25, entitled, “B-1 NEIGHBORHOOD BUSINESS AND PROFESSIONAL ZONE” with Section 26-25, entitled “C-N NEIGHBORHOOD COMMERCIAL ZONE” as follows:

**26-25 C-N NEIGHBORHOOD COMMERCIAL ZONE**

**26-25.1 Permitted Principal Uses and Buildings.**

This zone is designed to permit the following principal uses:

- a. Retail stores, shops and markets, provided that:
  1. All goods and products fabricated or processed on the premises incidental to such use shall be sold at retail on the premises.
  2. No goods, supplies or materials shall be stored out-of-doors, nor shall any fabricating be done out-of-doors.
- b. Service establishments such as barber shops, beauty shops, tailoring and dressmaking shops, shoe repair shops, dry cleaning and laundry collection shops provided that no processing requiring the use of flammable materials is done on the premises.
- c. Public garages and motor vehicle service stations pursuant to Section 26-16.
- d. Business and professional offices, banks and other fiduciary institutions.
- e. Public utility offices and exchanges.
- f. Restaurants, lunchrooms and other eating establishments excluding roadside stands, diners and lunchwagons, drive-ins and self-service restaurants.

- g. Music, art and dancing studios.
- h. Undertaking and funeral services.
- i. Restaurants, lunchrooms and other eating establishments excluding roadside stands and lunchwagons.
- j. Clubs, lodges, association buildings, meeting rooms and halls.

### **26-25.2 Permitted Accessory Uses and Buildings**

- a. Off-street parking and loading spaces provided and required by Section 26-14.
- b. Outside storage uses normally associated with a permitted use provided that the storage area shall be screened from adjacent uses by a buffer strip consisting of a dense planting at least five (5) feet in width and otherwise complies with the provisions of this chapter. No storage shall be permitted in any required front yard.

### **26-25.3 Area, Yard, Height and Bulk Requirements**

- a. Minimum Size of Lot. Forty thousand (40,000) square feet and a street frontage of at least two hundred (200) feet.
- b. Minimum Setback Requirements for Principal Building.
- c. Front yard. Sixty (60) feet in depth.
- d. Side yards (each). Twenty (20) feet in width.
- e. Rear yard. Forty (40) feet in depth.
- f. Minimum Setback Requirements for Accessory Building.
- g. Side yards (each). Five (5) feet in width.
- h. Rear yard. Ten (10) feet in depth.
- i. Maximum Building Area. The total combined building area of all permitted buildings shall not exceed thirty-five (35%) percent of the area of the lot.
- j. Maximum Building Height. Thirty-five (35) feet or two and one-half (2 1/2) stories.
- k. Minimum Floor Area. Three thousand (3,000) square feet for one (1) story and five thousand (5,000) square feet for two and one-half (2 1/2) stories.

### **26-26.4 Additional Requirements in the Pinelands Area**

When a variance or other approval for a residential use in that portion of the C-N Zone located in the Pinelands Area is granted by the Borough, Pinelands Development Credits

shall be used for 50% of the authorized units for parcels under 10 acres in size; for 75% of the authorized units for parcels between 10 and 20 acres in size and for 100% of the authorized units for parcels over 20 acres in size.

## **Section 9.0**

Recommendation: AMEND Section 26-16.1 to amend last sentence to replace reference to “B-1 Zone” with “C-N Zone” as follows:

### **26-16.1 Where Permitted.**

A public garage or motor vehicle service station, while necessary, may be inimical to the public safety and welfare if located without due consideration of conditions and surroundings. No permit for such use shall be issued for any zone other than the C-N Zone and only then after a permit authorizing such use is first obtained as hereinafter provided, as a conditional use approved by the Land Use Board.

## **Section 10.0**

Recommendation: REPLACE Section 26-26, entitled H-D Highway Development Zone, with new Section 26-26, entitled, “MU MIXED USE ZONE” as follows:

### **26-26 MU MIXED USE ZONE**

#### **26-26.1 Permitted Principal Uses**

This zone is designed for the following principal uses:

- a. Retail stores, shops and markets, provided that:
  1. All goods and products fabricated or processed on the premises incidental to such use shall be sold at retail on the premises.
  2. No goods, supplies or materials shall be stored out-of-doors, nor shall any fabricating be done out-of-doors.
- b. Service establishments such as barber shops, beauty shops, tailoring and dressmaking shops, shoe repair shops, dry cleaning and laundry collection shops provided that no processing requiring the use of flammable materials is done on the premises.
- c. Business and professional offices, banks and other fiduciary institutions.
- d. Public utility offices and exchanges.
- e. Restaurants, lunchrooms and other eating establishments excluding roadside stands, diners and lunchwagons, drive-ins and self-service restaurants.
- f. Music, art and dancing studios.

- g. Undertaking and funeral services.
- h. Apartments over retail and live-work dwelling units.

### **26-26.2 Permitted Accessory Uses and Buildings.**

- a. Off-street parking and loading spaces as provided and required by Section 26-14.
- b. Outside storage uses normally associated with a permitted use provided that said storage area shall be screened from adjacent uses by a buffer strip consisting of a dense planting at least five (5) feet in width and otherwise comply with the provisions of this chapter. No storage shall be permitted in any required front yard.

### **26-26.3 Area, Yard, Height and Bulk Requirements.**

- a. *Minimum Size of Lot.* Shall contain twenty thousand (20,000) square feet and have street frontage of one hundred fifty (150) feet and on corner lots have street frontage of one hundred (100) feet on each frontage on each of the intersecting streets.
- b. *Minimum Setback Requirements for Principal Building.*
  - 1. Front yard. Fifty (50) feet except on corner lots which will have a minimum of sixty (60) feet on each frontage on each of the intersecting streets.
  - 2. Side yards (each). Fifteen (15) feet in width at all points of the building proper.
  - 3. Rear yard. Twenty-five (25) feet in depth.
- c. *Minimum Setback Requirements for Accessory Building.*
  - 1. Side yards (each). Five (5) feet in width.
  - 2. Rear yard. Five (5) feet in depth.
- d. *Maximum Building Area.* The total combined building area of all permitted buildings shall not exceed thirty-five (35%) percent of the area of the lot.
- e. *Maximum Building Height.* Thirty-five (35) feet or two and one-half (2 1/2) stories.
- f. *Minimum Floor Area.* One thousand five hundred (1,500) feet in one (1) story buildings and two thousand five hundred (2,500) feet in two and one-half (2 1/2) stories.

### **Section 11.0**

Recommendation: REPLACE Section 26-28, entitled, “BD BUSINESS DEVELOPMENT ZONE” with Section 26-28, entitled “SED SPECTIAL ECONOMIC DEVELOPMENT ZONE” as follows:

## **26-28 SED SPECIAL ECONOMIC DEVELOPMENT ZONE**

### **26-28.1 Permitted Principal Uses**

This zone is designed for the following principal uses:

- a. Planned Development, which may include:
  1. Hotels and motels
  2. Eating and drinking establishments, including full service restaurants and cocktail lounges, but excluding drive-thru and curbside service establishments
  3. Entertainment and outdoor recreation facilities
  4. Stores and shops for the conduct of any retail business, excluding drive-thru establishments
  5. Business service establishments, such as banks (with or without drive-thrus), conference services, telecommunication services, office services, etc.
  6. Personal service establishments (e.g., a tailor, barbershop or beauty salon)
  7. Pharmacies (with or without drive-thrus)
  8. Offices for professional services (e.g., physicians, lawyers or architects); commercial offices (e.g., realtors or travel agencies); and offices incidental to permitted uses.

### **26-28.2 Conditional Uses**

- a. The following principal uses are permitted in a Planned Development through issuance of a Conditional Use Permit by the Land Use Board subject to the following Conditions:
  1. No portion of a Planned Development containing the uses listed herein shall be closer than 1,000 feet to County Route 530 (Dover Road).
  2. Uses shall be limited to:
    - (a) Self-storage
    - (b) Flex warehouse
    - (c) Contractor unit
- b. Planned Retirement/Senior Citizen/Active Adult Development, at a maximum density of Eight (8) units per acre, consisting of one or more of the following housing types:
  - (1) Townhouses (Single family unit where each unit shares a common wall with one or two units) or Quadraplexes (four unit building where each unit shares a common wall with two other units), pursuant to the requirements of Section 26-23.
  - (2) Multifamily apartment building for Senior Citizen occupancy, limited to 50 units in any one building and 3.5 stories and 50 feet in height.

### **26-28.3 Area, Yard, Height and Bulk Requirements.**

- c. *Minimum Size of Tract for Planned Development.* 5 acres.

- d. *Minimum Building and Parking Setback Requirements.* 75 feet from public right-of-way or zone boundary.
- e. *Maximum Building Area.* The total combined building area of all permitted buildings shall not exceed thirty-five (35%) percent of the area of the tract of the Planned Development.
- f. *Maximum Building Height.* Thirty-five (35) feet, unless otherwise specified herein. Building height may be increased to fifty (50) feet if the building is setback a minimum of 150 feet from right-of-way or zone boundary.
- g. *Minimum Floor Area Ratio.* 0.5.

#### **26-28.4 Additional Requirements in the Pinelands Area**

In that portion of the SED Zone located in the Pinelands Area, Pinelands Development Credits shall be used for 25% of all units approved as part of any residential development, including a Planned Retirement/Senior Citizen/Active Adult Development in accordance with Section 26-28.2.a.2(d). One-quarter of a Pinelands Development Credit (i.e., one right) shall be purchased and redeemed for every four approved residential units.

#### **Section 12.0**

Recommendation: AMEND the title and preamble to Section 26-13.3, entitled “Signs, Marquees, Awnings, Canopies, Fences and Hedges in B-1, BD, HD and MR Zones” to reflect the changes in Zone districts (C-N, SED and MU) as follows:

#### **26-13.3 Signs, Marquees, Awnings, Canopies, Fences and Hedges in C-N, SED, MU and MR Zones.**

- a. The following signs shall be permitted in the C-N, SED, MU and MR Zones subject to the regulations set forth herein:

#### **Section 13.0**

Recommendation: AMEND Section 26-14, entitled “OFF-STREET PARKING AND LOADING” to reflect the changes in Zone districts (C-N, SED and MU) and change “B-1” to “C-N”; “H-D” to “MU”; and “BD” to “SED” as necessary:

#### **Section 14.0**

Recommendation: ADD Section 26-29, entitled, “Design Guidelines for C-N, MU and SED Zones” as follows:



## **26-29 Design Guidelines for C-N, MU and SED Zones**

The following Design Guidelines create standards for yards, open space, landscaping, signage, setbacks, connectivity, and screening. These standards are the basis for development design for commercial development unless more restrictive requirements exist elsewhere in this Ordinance.

These standards apply to all new non-residential development, expansions, or redevelopment, except for smaller additions or modification to an existing use. This exception would permit any existing lot in the commercial zone on which a building or structure is located to have additions to the principal building and /or construction of any accessory building or structures without a need for a variance or design waiver from these standards and requirements. The intent is not to overwhelm existing businesses with new regulations and standards, but to encourage reinvestment and improvements to properties overtime. Examples of exceptions to ordinance standards include properties where:

- a. There is no change in the use of the lot or principal building.
- b. The building additions do not cumulatively exceed one thousand (1,000) square feet of gross floor area.
- c. The development does not disturb more than five thousand (5,000) square feet of ground area.

### **26-29.1 Specific Standards**

The following standards are required unless a Design Exception is granted by the Land Use Board:

- a. Off-street parking and loading areas are prohibited in the required front yard setback area.
- b. Detention basins are prohibited in the required front yard setback area, except that rain gardens or bioswales are permitted when incorporated into the proposed landscape plan as approved by the Land Use Board.
- d. A grass/landscape area shall be provided along the roadway frontage pursuant to a landscape plan approved by the Land Use Board inclusive of shade trees, shrubs and ground cover.
- e. Lighting standards that require lighting levels not to exceed 0.1 footcandles on residential property lines.
- g. Connectivity between sites is required sufficient to facilitate convenient movements for pedestrians and vehicles. Where feasible, cross access drives for vehicles between adjoining sites and parking areas to reduce turning movements onto Dover Road and Route 166 are required, subject to site plan approval by the Land Use Board.

**Section 15.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**Section 16.** All ordinances or resolutions or parts of ordinances or resolutions inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section 17.** Pursuant to the provisions of law, this Ordinance shall take effect twenty (20) days after its passage by the Borough Council and approval by the Mayor, where such approval is required by law.

**Section 18.** A certified copy of the within Ordinance be forwarded by the Borough Clerk to the following:

1. Mayor and Council Members
4. Borough Engineer
5. Borough Attorney
7. Zoning Officer
8. Land Use Board

AN ORDINANCE OF THE BOROUGH OF SOUTH TOMS RIVER AMENDING CHAPTER 26 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF SOUTH TOMS RIVER ENTITLED "LAND DEVELOPMENT" OF THE CODE OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF SOUTH TOMS RIVER.

Approval and adoption of the amendment to Chapter 26 entitled "LAND DEVELOPMENT" of the revised General Ordinances of the Borough of South Toms River based on the recommendations of the 2012 Master Plan. The foregoing Ordinance was introduced June 17, 2013. Public Comments and Final Hearing were heard at Second Reading and the Ordinance was adopted by the Borough Council on July 15, 2013.

ELIZABETH SILVESTRI, BOROUGH CLERK