

ORDINANCE NO. 2024-42-OA

**AN ORDINANCE OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE
OF NEW JERSEY, AMENDING AND SUPPLEMENTING ARTICLE XI, ENTITLED
“ZONING DISTRICT REGULATIONS”, SO AS TO AMEND SECTION 35-106.7
ENTITLED “CORRIDOR-NODE (CN) OVERLAY ZONE REGULATIONS”**

July 15, 2024

WHEREAS, the Township of Berkeley has sought to eliminate the previously established Transfer of Development Rights (TDR) program due to changing land conditions within and around receiving zones, and

WHEREAS, the TDR program has not resulted in the sale of a single “development credit” nor has the program successfully preserved any land, and

WHEREAS, the CN-C overlay district area serves as one of the receiving areas of the TDR program, and

WHEREAS, the CN-C overlay district area provides supporting standards for the TDR program that no longer supports the goal of the Township for this area, and

WHEREAS, the Township desire to seek alternative methods of land preservation and conservation of the areas currently in the CN-C overlay district, and

WHEREAS, changing conditions of land adjacent to the Cedar Creek Campground have resulted in a valuable opportunity for the Township to provide a greenway of connected passive and active open space areas, and

BE IT ORDAINED by the Mayor and Township Council of the Township of Berkeley, County of Ocean, and State of New Jersey, as follows:

SECTION 1. Chapter 35 of the Township Code of the Township of Berkeley, entitled “Land Development,” is hereby revised so as to amend §35-106.7, entitled “Corridor Node (CN) Overlay Zone Regulations”, which shall read as follows:

§35-106.7 Corridor Node (CN) Overlay Zone Regulations.

- a. Permitted Uses.
 1. Permitted uses in Highway Business Zoned portion of CN-A and CN-B Overlay:
 - (a) All uses permitted in TC-2 (35-106.1(a)).
 - (b) Townhomes.
 - (c) Multifamily Residential Buildings.
 - (d) Multifamily Units Above Ground-level Retail (Mixed-Use).
 2. ~~Permitted uses in the CN-C Corridor Node Overlay:~~
 - (a) ~~Planned Unit Development (PUD) on tracts of 10 acres or greater.~~
 - (b) ~~Planned Unit Development shall include a combination of residential and nonresidential development.~~

(c) ~~Uses permitted in a Planned Unit Development include single family detached dwellings and all uses permitted in Subsection 35-106.7a1 Subsections (a) through (d).~~

b. Permitted Accessory Uses. Accessory uses and structures are permitted that are customarily incidental and subordinate to, and located on the same lot as a principal permitted use.

c. Development Standards.

1. Development in the CN Overlay shall conform to the following schedule of regulations.

Table 1: Schedule of Height and Bulk	
Regulation	Proposed CN Overlays
Minimum lot area (square feet)	1 acre; 3 acres multi bldgs;
Minimum lot frontage (feet) Property must front on Route 9	200; 400 multi bldg.
Minimum front setback (feet)	40; 50 from Route 9
Minimum rear setback (feet)	30; not less than adjacent residential requirement
Minimum side setback (feet)	20
Minimum both sides (feet)	40
Minimum accessory building setbacks	10
Minimum floor area (square feet)	7,500; 35,000 multi bldgs.
Maximum lot coverage by buildings (%)	—
Maximum impervious coverage (%)	30% Subject to the purchase of Development Credits for any development beyond 30% impervious surface coverage of the project site
Maximum Floor Area Ratio	0.3 < 3 acres; 0.25 ≥ 3 acres
Maximum Residential Density**	8 du/net acre* — Townhouse & Mixed Use (CN-A & B) 12 du/net acre* — Townhouse & Mixed Use in CN-C with purchase of TDR Credits 20 du/net acre* - Multifamily (CN-A & B) 25 du/net acre* — Multifamily in CN-C with purchase of TDR Credits 4 du/acre* — Single family detached dwellings in CN-C 5 du/acre* — Single family detached dwellings in CN-C with purchase of TDR credits
Maximum structure height (feet)	35

*NET ACRE – Shall mean gross acreage minus streets, driveways and land devoted exclusively to nonresidential uses on the same site.

**Maximum residential density for multifamily residential developments that provide all required affordable housing units onsite may be subject to a density bonus in accordance with Chapter 35, Article XII of the Berkeley Township Code.

2. Multifamily and townhouse residential development shall conform to the following standards.
 - (a) No multi-family residential structure shall contain neither fewer than four nor more than 12 dwelling units, except that any building containing deed-restricted affordable units may contain up to 24 dwelling units.
 - (b) All development approvals for multifamily residential development shall provide an affordable set-aside of: 15% of the residential units in the development when rental units are developed; and, 20% of the residential units in the development when for-sale units are developed. Specific details on the set-aside requirements for multifamily residential development are provided in Chapter 35, Article XII of the Berkeley Township Code.
 - (c) Driveways for ingress and egress shall connect with other than minor streets wherever possible and shall have a pavement width of at least 40 feet except where they are within a parking area, in which case they shall be not less than 25 feet in width. There shall be not less than two exit-entrance roads to each garden apartment project. All driveways and street construction shall be in accordance with Article X. All projects for which a Major Site Plan approval is required must demonstrate that cross-access easements to connect interior roads and parking to adjacent previously developed sites are not feasible when proposing a new driveway cut directly on Route 9.
 - (d) The minimum yard requirements of the Schedule apply to the entire tract, and no buildings shall be located within such yard areas. The minimum distance between buildings shall be 25 feet, except that no wall containing an entrance to a dwelling unit shall be closer than 50 feet to another wall of another structure or accessory building, measured perpendicular to the wall containing the entrance.
 - (e) Parking areas may be located in any yard other than the required front yard, but not closer than 25 feet to any property line, and shall comply with all other requirements of the parking regulations applicable to all zones as provided in this chapter.
 - (f) Courtyards bounded on three or more sides by the wings of the same building or by the walls of separate buildings shall have a minimum court width of two feet for each one foot of height of the tallest building.
 - (g) Every building shall have a minimum setback of 10 feet from all interior roads, driveways and parking areas.
 - (h) Every development shall be provided with garbage and refuse storage and collection areas suitable for containerized collection, screened from view by a solid fence or block wall on three sides and located away from the fronts of buildings. Collection shall be the responsibility of the owner.

- (i) In addition to any storage area within individual dwelling units, 200 cubic feet of storage area for each dwelling unit shall be provided in a convenient, centrally located area in the building, where personal belongings and effects may be stored under lock and separate from the belongings and effects of other occupants.
- (j) Walls of a structure or parallel walls of adjacent structures shall not continue in the same plane for a length of more than 75 feet without an offset of at least four feet.
- (k) Each development shall provide a recreation area or areas at a standard of 1,000 square feet for each 12 dwelling units. Outdoor recreation equipment shall be installed in each recreation area in sufficient amount and variety to service the occupants of the development.
 - (1) Laundry facilities may be located within structures for the use and convenience of residents of the project. Such facilities shall be appropriately controlled to preclude their use by nonresidents of the project.
- (l) Every dwelling unit shall have a minimum gross area in accordance with the following:
 - (1) One-bedroom unit, 700 square feet.
 - (2) Two-bedroom unit, 800 square feet.
 - (3) Three-bedroom unit, 1,000 square feet.
- (m) Entrances to residential buildings shall be clearly accentuated by architectural features and provide direct access to plazas or courtyards as opposed to parking areas.
- (n) Individual units shall be accessed through common internal lobbies or vestibules.
- (o) A pedestrian circulation plan shall be submitted as part of the site plan review process that demonstrates a safe and workable pedestrian system throughout the site with direct pedestrian access to Route 9.
- (p) Parking shall be no closer than 20 feet to a wall of a residential building. The twenty-foot setback area shall contain a sidewalk and be suitably landscaped.

d. Supplementary Standards - Nonresidential Uses. In addition to the area and bulk requirements in Subsection c above, the following requirements shall also be applied:

1. There shall be no parking or outside display or storage of materials or merchandise in a required front yard area.
2. When a written agreement is provided by adjoining property owners, no side yard is required between properties of separate ownership where two or more commercial uses abut side to side. A series of abutting structures paralleling a public right-of-way shall provide an unobstructed passage of at least 30 feet in width at intervals of not more than 200 feet.
3. More than one principal structure is permitted on lots of three acres or more with a minimum frontage on Route 9 of 400 feet; and where access to Route 9 is controlled by a signalized intersection. The minimum distance between freestanding principal buildings on the same site is 40 feet.
4. As viewed from the street, buildings shall have at least 50% of the front facade located as close to the street line as is allowed in the schedule of area requirements.
5. A required rear yard that is adjacent to a residential zone shall be no less than the rear yard requirements in the adjacent residential zone.

6. Landscaped areas and sidewalks shall be provided along the highway edge in accordance with § 35-48m.
7. Whenever feasible, mass transit opportunities shall be enhanced through the incorporation of design features that accommodate bus and shuttle service such as shelters, street furniture, and pull-off lanes within reasonable proximity to major uses and destinations.
- e. Supplementary Parking Requirements. In addition to the requirements in § 35-63, the following standards shall also be applied in the CN Overlay Zones:
 1. Off-street parking spaces shall be provided on the same lot as the use which they are intended to serve or on an adjacent lot in common ownership.
 2. Shared parking arrangements among adjacent properties not under common ownership may be permitted if the owners demonstrate to the satisfaction of the Planning Board that the supply of parking spaces will be adequate to service the aggregate demand of the uses sharing the parking based on such factors as alternating peak hours; and that the shared arrangement will allow a reduction in impervious coverage of the site below the maximum permitted in the zone and will provide a more efficient circulation pattern including a reduction in curb cuts and access points on Route 9.
 3. No parking space shall be closer than 10 feet to any building to allow for pedestrian circulation to and between stores.
 4. In no case shall the number of parking spaces exceed the minimum requirements by more than 5%.
- f. ~~Planned Unit Development (PUD) Standards. Planned Unit Developments in the CN-C Overlay District shall be developed in accordance with the following standards:~~
 1. ~~Design Standards for PUD. The following standards will be applied to all development in a PUD within CN-C. Any elements not covered by these standards will be subject to other appropriate provisions of the Berkeley Land Development Ordinance.~~
 - (a) ~~General.~~
 - (1) ~~Number of Principal Structures. More than one principal structure is permitted in the PUD as part of a comprehensive development plan.~~
 - (2) ~~Minimum Tract Size. Ten acres.~~
 - (3) ~~Subdivisions. Individual lots may be subdivided within a PUD tract to satisfy certain financing, ownership or management requirements provided that the PUD continues to function as one comprehensive unit including cross access and maintenance agreements.~~
 - (4) ~~Setbacks. All principal and accessory structures in the PUD will conform to the setbacks listed in Table 2. No parking or loading facilities are permitted in these setback areas. All setback areas are to be suitably landscaped consistent with the project's overall landscaping and open space plan. That portion of any required setback that is located along Route 9 shall be subject to the requirements of § 35-48m.~~

Table 2

Required Setbacks for All Buildings Planned Unit Development (PUD) in CN-C	Minimum setback from:
Adjoining residential property lines outside of the PUD	300 feet (commercial buildings) 100 feet (residential & mixed use buildings)

Adjoining commercial property lines outside of the PUD	20 feet
Route 9	50 feet

(5) Where there are no specific yard requirements, all structures will be arranged to provide adequate light and air, a safe and efficient pedestrian and vehicular circulation system, the maximum amount of open space, appropriate access for the maintenance of all structures, and a visually pleasing environment. The final layout of all structures in the PUD will be subject to the approval of the Township Planning Board during the site plan review process.

(6) Building Height. The maximum height of all buildings in the PUD is three stories and 35 feet. The Planning Board may allow certain minimal exceptions for architectural ornamentation and rooftop mechanical equipment during the site plan review process if it can be demonstrated that the exception will contribute to the architectural theme of the development or is necessary for the safe and efficient operation of the building; and will not create a visual detriment to surrounding properties. All rooftop mechanical equipment must be screened from view.

(7) The maximum building height is 35 feet with the exception of ornamentation such as skylights, clock towers, spires, cupolas and flagpoles, which may exceed the height of the building by up to 20%. Mechanical equipment required to operate and maintain the building, e.g. HVAC equipment, may also exceed the thirty five foot maximum but must be screened from view to the greatest extent practicable.

(8) The proportion and distribution of building heights may be varied by the Planning Board upon presentation of more detailed architectural plans for the various sections of the PUD that evidences a preferable design alternative such as articulating corners as illustrated below. An overall ratio of one foot of building height per three feet of street width on both sides of a street (or 1.5 feet of distance between building and street centerline on one side of a street) shall be maintained for 15% of all new building frontage (see Figure 1 below).

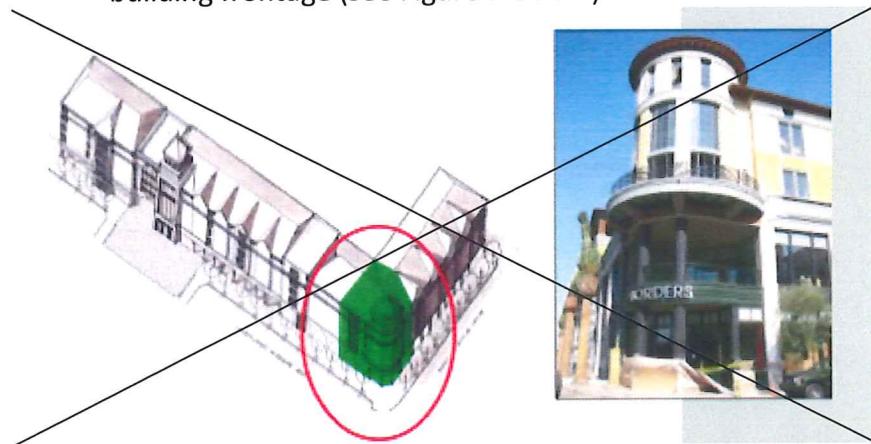
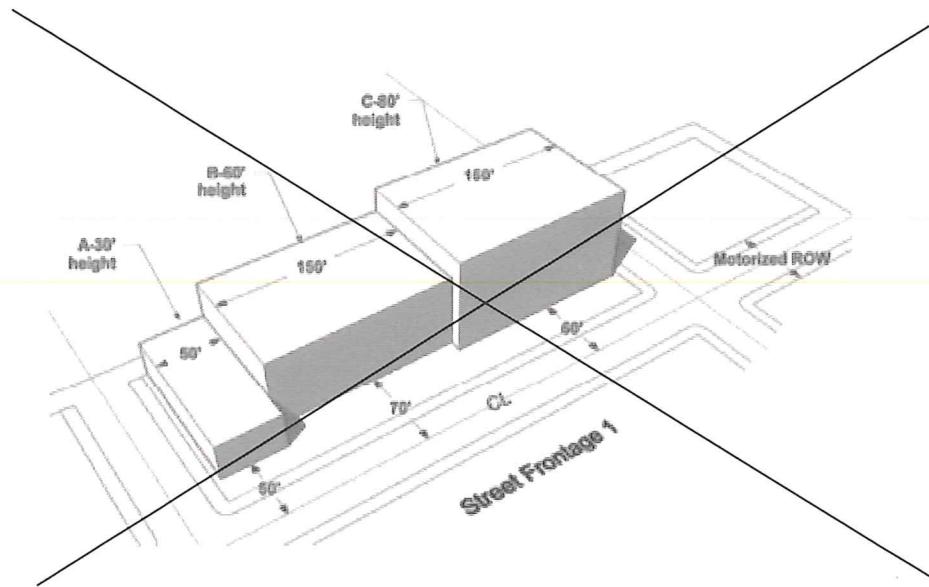


Figure 1: The ratio of building height to street width is the average taken along a block front. In the illustration below the average ratio is greater than 1:1.5 for 1 side of the block.



(9) Land Coverage. Total impervious coverage within a PUD should be kept to a minimum but in no case shall it exceed 30% of the total tract. The impervious surface coverage may be increased beyond 30% in one or more sections of the PUD, identified in the comprehensive development plan, with the purchase of development credits through the Berkeley Township Transfer of Development Rights Program per Article XX of the Land Development Ordinance. The amount of additional impervious surface coverage permitted beyond 30% for such sections of the PUD shall be the minimum required for the buildings and associated parking for that section based upon the total number of development credits used in that section. The developer must show compliance with all applicable wetland, stream encroachment and storm water requirements and the requisite purchase of development credits or recorded easements documenting the transfer of development credits to the project site.

(10) Maximum Residential Units. The maximum density per net acre of lot area minus street and driveway area shall comply with Table 1 in Subsection 35-106.7.C.1. No multifamily residential or mixed use structure shall contain either fewer than four nor more than 12 dwelling units, except that any building containing deed restricted affordable units may contain up to 24 dwelling units. The maximum density per net acre in the portion of the PUD tract devoted to single family detached residential development shall be four dwelling units per acre or five dwelling units per acre with the purchase of TDR credits. Driveways located on single family residential lots and areas devoted to open space pursuant to Subsection 35-106.7f1(b)(10) shall be included in the calculation of net acreage.

(11) Commercial Floor Area Total commercial space in the PUD shall not exceed the lesser of 200,000 square feet or 80% of the gross floor area, excluding any structured parking. No single store shall exceed 80,000 square feet of gross floor area.

(b) Residential:

(1) Residential buildings will be designed to provide architectural interest and residential character and avoid a monolithic box-like appearance. Pitched roofs are required and architectural embellishments such as dormers are encouraged. Windows should be provided in all building facades to avoid monotonous blank walls. The front of each building will be oriented toward a street or courtyard. Accessory buildings will be designed to complement the principal structures.

(2) Town home blocks may vary from a minimum of three to a maximum of eight units. Front wall setbacks should vary to provide visual interest.

(3) Active and passive recreational areas and other public and/or semi-public open space, such as courtyards, plazas, and pedestrian walkways shall be designed and located to promote their use and enjoyment by residents of the development.

(4) All townhouse units will be arranged to face a public street. Roofs should be either gable or hip; dormers are encouraged. Flat roofs are not permitted.

Table 3
Townhouse Bulk Standards

Regulation	Standard
Minimum lot depth	100 feet
Minimum lot width	20 feet; 30 feet on corner lots
Minimum lot area	2,000 square feet
Minimum front yard	15 to 17 feet
Minimum rear yard	45 feet
Minimum side yard	0 interior; 5 feet on corners
Maximum building height	3 stories or 35 feet
Maximum townhouse lot coverage by impervious surfaces	60%

(5) Each townhouse will have a covered front porch defining the entry, which may be located within the required front yard. The entry porch should be at least four feet deep and about five feet wide. The porch roof must complement the roof style of the main structure.

(6) Each townhouse will have a detached single car garage at the rear of the property. Garages will be accessed from a rear alley and be set back four feet from the alley. Under no circumstances are driveways, curb cuts or parking spaces permitted in the front yard. Garages are to be designed to complement the scale and style of the residential unit including elements such as siding, roof, windows and color.

(7) The townhouse development will include a rear alley that will provide access to the garages and additional parking as well as for deliveries and garbage pickup. The alley and parking areas are to be restricted to townhouse residents and guests. The alley and parking areas are to be designed to discourage through traffic, accommodate safe pedestrian circulation and to minimize paved areas. All portions of the area not absolutely required for the alley or parking shall be landscaped.

(8) The residential parking area must be separated from the adjoining commercial properties by a landscaped buffer area at least 10 feet wide.

(9) Front yard fences and fences at corners will be no higher than three feet and be of an open type design such as vertical rails or pickets. Front porch railings and front yard fences should be of complementary materials and design details and painted to be compatible with the house. Fences separating properties will be no higher than five feet and may be solid in design. Fences along the alley cart way shall be no taller than three feet high if solid or five feet if open to maintain a pleasant pedestrian environment along the alley. Chain link fences are prohibited in all cases. Hedges are to be maintained at the same height as fences.

(10) Single family detached development standards:

- [a] Minimum lot size: 8,000 square feet.
- [b] Minimum lot frontage: 75 feet.
- [c] Minimum lot depth: 100 feet.
- [d] Minimum front yard (with porch): 15 feet.
- [e] Minimum front yard (without porch): 20 feet.
- [f] Minimum side yard (One): five feet.
- [g] Minimum side yard (Two): 15 feet.
- [h] Minimum rear yard: 20 feet.
- [i] Maximum dwelling units per net acre: four du/acre or five du/acre with use of TDR credits.
- [j] Maximum impervious coverage: 30%.
- [k] Total overall development in areas devoted to single family residential uses shall have a minimum open space area of 25%, which shall include multi purpose trails that connect to other open space/recreation areas in the PUD or adjoining public parks and recreation areas. For the purpose of this section, open space calculations shall not include any required front, side or rear yard of a lot; detention or retention basins; roads or public rights-of-way; or landscaped, grass, or sodded areas within parking lots or between parking lots and primary structures.
- [l] Maximum building height: 2 1/2 stories or 35 feet.
- [m] Parking requirements shall conform with the Residential Site Improvement Standards (RSIS)
- [n] Accessory structure side yard setback: three feet.
- [o] Accessory structure rear yard setback: five feet.

(c) Commercial.

- (1) Stand alone retail buildings shall be designed so that front facades have architectural breaks resembling individual storefronts. Building heights will range from one to two stories. Street level facades must contain storefront windows covering at least 50% of the surface area.
- (2) All buildings are required to have entrances accessed directly from a sidewalk or plaza. Upper floors are to be provided with separate exterior entrances unless a large common lobby or atrium is provided. Sidewalks should extend from the building facade to the curb (with appropriate accommodations for street trees) for the purpose of

facilitating pedestrian movement and creating opportunities for outdoor eating and shopping areas, and street furniture.

- (3) First floor facades in commercial buildings shall have large, clear storefront glass areas 50% to 70% to display the nature of the business and produce an interesting streetscape. Storefront windows may be either typical large, single pane or multiple smaller panes separated by mullions. All facades shall provide an appropriately sized glass area coupled with interesting architectural details to avoid long blank walls, which are discouraged.
- (4) In a multi-tenant building, each shop will have its own shop front. The shop fronts may either have identical designs to reinforce the building design or varied designs to express the different businesses. A shop front shall be separated from the roofline or a second floor by a horizontal architectural element such as a sash, cornice, frieze, molding, etc.
- (5) Buildings may have awnings or canopies, where appropriate, to complement the architectural style of a building. The design of awnings and canopies will be architecturally compatible with the style, materials, colors and details of such buildings and should not conceal significant architectural features, such as cornices, columns, pilasters or other trim details. Internally illuminated or backlit awnings and canopies are prohibited.
- (6) All ground-level awnings and canopies shall comply with the following standards:
 - [a] The maximum height from ground level to uppermost portion of an awning or canopy will not exceed the height of the sill or bottom of any second-story window or 15 feet whichever is less. In the case of single-story buildings, the maximum height will not exceed 12 feet or the top of the wall whichever is less.
 - [b] The minimum height from ground level to lowermost portion of awning or canopy will be eight feet.
 - [c] The maximum horizontal projection dimension of an awning from the building wall, including any appurtenances, will not exceed six feet from the building face. Awnings may project over a public sidewalk but will not be closer than two feet of the vertical plane of the curb edge or the edge of any other public right-of-way.
 - [d] The maximum total vertical dimension of an awning will not exceed the total horizontal projection dimension.
 - [e] An awning's surfacing material will be constructed of canvas, cloth or vinyl.
 - [f] No awning will contain more than two colors plus white. The color of any sign messages or other graphic features will be included in the number of colors. The colors must be compatible with the architectural color scheme of the entire building.
 - [g] On buildings with multiple storefronts, compatible awning and canopy frame styles will be used as a means of unifying the structure.

[h] A business at street level may include identification signage on a canopy or awning subject to the following restrictions:

- [1] The sign will only be located on the front portion of the awning commonly known as the "valance." If a valance is not provided, the sign graphics will be restricted to the lowest 14 inches of the awning parallel to the building wall face.
- [2] An awning sign will be professionally sewn or painted.
- [3] The maximum height of letters, individual numbers or other characters or images on the awning will not exceed 12 inches.
- [4] No single awning will contain sign messages for more than two business establishments.

(d) Public Plazas and Green Space:

1. Any portion of the PUD that is not absolutely required for buildings or parking shall be devoted to public plazas and green space and 90% of the building frontages with public entrances shall front on streets (not parking lots) or plaza/green spaces with such plazas/green spaces being at least 50 feet in width perpendicular to the building entrances (per LEED-ND-NPD prereq. 1). These areas shall be designed to provide:
 - [a] Amenities to the residents of the PUD (which may include low intensity open air recreation activities);
 - [b] A lively human scale street environment for shoppers;
 - [c] Protection for environmentally sensitive features;
 - [d] Mitigation of "heat island" effects (shading of 50% paved areas or use of highly reflective materials per LEED-NC rating system);
 - [e] A workable pedestrian and bicycle circulation system;
 - [f] Appropriate visual and noise buffers; and
 - [g] A soft transition between the PUD and neighboring residential uses.
- b. To ensure that the overall plan for the PUD promotes and encourages a suitable environment devoted to civic spaces and open space, not less than 25% of the entire PUD shall be either restored open space or usable small public parks or plazas situated in accordance with an approved concept plan. To that end, landscaped areas such as parking islands, roadway medians, and planting strips shall not be counted towards the open space requirement. However, stormwater management features, such as retention ponds, stormwater detention areas, rain gardens (bio-retention basins) and the equivalent that are designed to create or supplement landscaped buffers, open space areas or wildlife habitat and are reasonably accessible to the public may be counted toward the minimum open space requirements. Rain gardens of 2,500 square feet or greater that are incorporated into parking lots as a component of stormwater management and which are designed into the pedestrian circulation system with a sitting area adjacent to the rain garden/bio-retention basin and accessible from the walkway may be included in the open space counted towards the 25% requirement.



Figure 3: Concept Design for Rain Garden eligible for inclusion in required open space

(e) Additional Sustainable Design Requirements.

(1) Appropriate design features will be incorporated to accommodate potential bus or shuttle service at appropriate locations within each Planned Development. Features may include such elements as shelters, street furniture, information kiosks and pull-off lanes located within reasonable proximity to major uses, not to exceed 1,250 feet walking distance. For purposes of establishing a consistent design vocabulary for Town Center 2 and the PCD, as well as the Town Center and Corridor Nodes, all new bus shelters and kiosks should be equivalent in design and appearance as is shown below:



Figure 4: Bus Shelter (Duo-gard™)

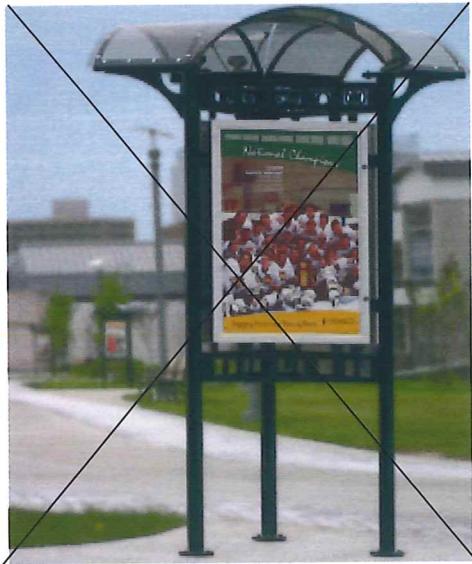


Figure 5: Kiosk (Maglin MLK103 w/ accessory roof)

- (1) ~~Public rights of way will be designed to meet all local, State and Federal standards. Final determination as to the acceptance of streets within the Planned Development by the Township as public streets shall be made by the Township Council. All pedestrian crossings will utilize materials and colors to readily distinguish vehicular from pedestrian travel ways. All streets, public or private, fronted by buildings with primary access points should be planted with street trees at an average spacing of 30 feet to 40 feet consistent with the project's overall landscaping and open space plan. Light foliaged trees (Ginko, Honey Locust, Ash, etc.) are encouraged in front of commercial uses to increase visibility of signage.~~
- (2) ~~All rooftop mechanical equipment and other appurtenances visible from six feet above grade within 100 feet of the building shall be concealed by or integrated within the roof form and screened from the view of all adjoining properties and building floors or nearby streets. The following, when above the roofline, requires screening: stairwells, elevator shafts, air conditioning units, large vents, heat pumps, and mechanical equipment.~~
- (3) ~~All wall-mounted mechanical, electrical, communication, and service equipment, including satellite dishes and vent pipes, shall be screened from public view by parapets, walls, fences, architectural grills, landscaping, or other approved measures.~~
- (4) ~~Solid security gates or solid roll-down metal windows shall not be permitted. Link or grill type security devices shall be permitted only if installed from the inside, within the window or door frame. Security grills shall be recessed or concealed during normal business hours.~~
- (5) ~~Front yard fences shall be permitted at a height not to exceed three feet and shall be less than 60% solid.~~
- (6) ~~The developer will prepare a landscaping and open space plan for review by the Planning Board. The plan will be prepared by a licensed landscape architect and specifically address and demonstrate how each~~

of the above objectives is achieved. These performance standards take the place of any landscaping or buffer requirements currently in the Berkeley ordinances.

(f) ~~Parking, Loading and Bicycle Storage Facilities.~~

- (1) ~~Parking for residential uses will be provided in conformance with the New Jersey Residential Site Improvement Standards.~~
- (2) ~~Whenever possible, surface parking should be located to the side or rear of the building. Parking areas are prohibited between the street right of way and the front facade of a building, provided that a regional retail use (department store, supermarket, wholesale club, warehouse retail) may have parking located adjacent to the main public entrance and exit provided that such parking is designed so as not to discourage pedestrian access to the use from other areas of the PUD.~~
- (3) ~~Where individual garages are provided for townhouse units they will be accessed from the rear of the unit. Front loaded garages are prohibited to prevent cars from being the dominant feature of the development and from interrupting the pedestrian way. Where common garages are provided for either townhouses or multifamily buildings, they will be located and designed to be minimally visible from the street. Guest parking for townhouse and multifamily buildings may be provided on-street and in parking areas for nonresidential uses that are not active in the evenings or on weekends.~~
- (4) ~~Surface lots shall be extensively landscaped or designed with a combination of interior and perimeter landscape treatments that mitigate against the adverse visual impact, heat island effect and the generation of stormwater runoff. Tree islands are recommended at the ends of each aisle and interspersed within aisles to provide visual relief from long expanses of parking and to guide circulation. All commercial parking areas shall be broken up into sections separated by landscaped islands wide enough to incorporate a pedestrian walkway flanked by five foot minimum planting strips to support medium-sized shade trees or ornamental trees. The pedestrian walkways shall be designed into the overall pedestrian and bicycle circulation system within the Town Center.~~
- (5) ~~To connect parking lots to destination points, internal pedestrian pathways will be included to protect pedestrians from vehicles and to connect the parking lot to adjoining streets and commercial and residential properties. Pathways will contain consistent design and landscaping elements, which relate to the overall design of the project. The materials and colors used for the pedestrian paths will distinguish vehicular travel ways from pathways designed for pedestrian use.~~
- (6) ~~Loading and service areas will be designed, located and arranged to be of appropriate size for the intended use; so as not to interfere with vehicular or pedestrian circulation; and to be screened from public view.~~
- (7) ~~Service and loading areas must be located to the side or rear of buildings unless a more appropriate location is approved by the Planning Board. Loading docks shall not be located along primary street~~

~~frontages. Screening and landscaping shall be provided to minimize direct views of the loading areas and their driveways from adjacent properties or from the public right of way. Screening and buffering shall be achieved through walls, fences, and landscaping. Screening shall be a minimum of six feet high and shall be visually impervious. Recesses in the building, or depressed access ramps, may be used.~~

- ~~(8) Shared refuse storage facilities shall be utilized where available and practical. The storage of refuse shall be provided inside building(s) or within an outdoor area in the rear of the property, screened around the perimeter by a roofed wood enclosure; or by brick walls with a minimum height of seven feet with a gate or door. Such a wall shall be capped on the top.~~
- ~~(9) No delivery, loading, trash removal or compaction, or other such operations shall be permitted in areas of the site located within 500 feet of an off tract residential use between the hours of 9:00 p.m. and 6:00 a.m. unless the applicant submits evidence that sound barriers between all areas for such operations effectively reduce noise emissions to a level compliant with Township noise ordinances, as measured at the lot line of any adjoining property.~~
- ~~(10) Provide at least one secured, enclosed bicycle storage space for 30% of planned residential occupancy of multifamily residential units (excluding townhouses with garages), but not less than one space per multifamily residential unit.~~
- ~~(11) Bike racks shall be provided at a rate of one multi-loop bike rack per every 20 parking spaces for nonresidential uses within the PCD, but not less than the greater of one bicycle space per business or four bicycle spaces per project site for retail or four bicycle spaces per building for nonretail, nonresidential uses.~~
- ~~(12) Provide at least one secured enclosed bicycle storage space per worker for 10% of the worker planned occupancy for nonresidential uses with a changing room and shower for 100 or more workers of planned occupancy and an additional changing room and shower for each additional 150 workers of planned occupancy thereafter.~~

~~(g) Pedestrian Crossings.~~

- ~~(1) Safe provisions for pedestrian access to and through a parking lot shall be required, including striping, enhanced pavement markings, traffic calming features and sufficient lighting in accordance with Township standards.~~
- ~~(2) All pedestrian crossings will utilize materials and colors to readily distinguish vehicular from pedestrian travel ways. In keeping with the Master Plan policies for the Route 9 corridor, the highway edge will focus on landscaping and quality architecture as opposed to parking lots and blank walls. Appropriate landscaped areas should be provided along the highway edge that include provisions for walkways, bike paths, plantings, and shade trees in accordance with § 35-48m.~~

SECTION 2. In accordance with N.J.S.A. 40:55D-32, the Township Council hereby adopts the amended and updated Zoning Map, which is attached hereto as Exhibit "A," as prepared by

Remington and Vernick Engineers and dated August 19, 2024, to represent the Official Zoning Map of the Township of Berkeley.

SECTION 3. Chapter 35 of the Township Code of the Township of Berkeley, entitled "Land Development," is hereby revised so as to amend §35-87, entitled "Zoning Map, Township of Berkeley, Ocean County, New Jersey", which shall read as follows:

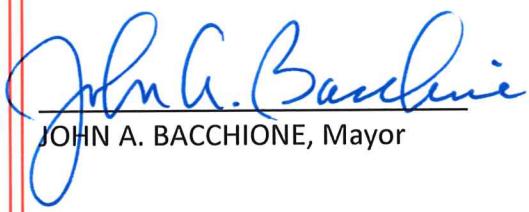
- a. The boundaries of all zoning districts set forth in this chapter are shown on a map entitled, "Zoning Map, Township of Berkeley, Ocean County, New Jersey," amended ~~October 26, 2020, last amended November 30, 2020, August 19, 2024~~, which map is hereby made part of this chapter and incorporated in full by reference. The Zoning Map is on file in the Office of the Township Clerk.

SECTION 4. After introduction of this ordinance, the Township Clerk shall send a copy of this ordinance to the Township Planning Board for its review and comment. The Township Clerk shall also send a copy of the ordinance to the Ocean County Planning Board pursuant to N.J.S.A. 40:55D-16.

SECTION 5. This ordinance shall take effect after second reading and publication as required by law and the filing of the adopted ordinance with the Ocean County Planning Board.

SECTION 6. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 7. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court 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.



JOHN A. BACCHIONE, Mayor



Keith Buscio, Council President

Angelo Duadagno, Council Vice President

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Township Council of the Township of Berkeley, in the County of Ocean, State of New Jersey, held on July 15, 2024 and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the 19th day of August, 2024 at 6:00 p.m., or as soon thereafter as this matter can be reached, at the meeting room of the Municipal Building located at 627 Pinewald-Keswick Road, Bayville, New Jersey, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance.



KAREN STALLINGS, RMC
Township Clerk, Township of Berkeley



DASTI, McGUCKIN, McNICHOLS, CONNORS, ANTHONY & BUCKLEY

Jerry J. Dasti †
Gregory P. McGuckin
Timothy J. McNichols ‡
Martin J. Buckley
Kelsey A. McGuckin-Anthony
Christopher J. Connors
Thomas E. Monahan π
Patrick F. Varga
Joseph F. Mackolin, Jr.

πCertified Civil Trial Attorney
†NJLGA Municipal Law Diplomate
ΩMember of NJ and FLA Bar
‡Member of NJ and PA Bar

A Professional Corporation
Tax ID 22-3450668
www.dmmlawfirm.com
620 West Lacey Road
Forked River, NJ 08731
P 609-971-1010
F 609-971-7093

Email Address: pvarga@dmmlawfirm.com

July 25, 2024

Of Counsel
Charles E. Schlager, Jr. ‡
George F. Murphy, Jr. π Ω
Elizabeth Mackolin Dasti ‡
Robert E. Ulaky

Toms River Office:
506 Hooper Avenue
Toms River, NJ 08753
P 732-349-2446
F 732-349-1590

Sea Girt Office:
2150 Highway 35, Suite 250
Sea Girt, NJ 08750
P 732-295-3000
F 732-349-1590

Karen Stallings, Municipal Clerk
Township of Berkeley
627 Pinewald-Keswick Road
Bayville, NJ 08721

Re: Ordinance #24-36-0A: An Ordinance of the Township of Berkeley, County of Ocean, State of New Jersey, Amending Chapter 35, Development Standards to Create a New Subsection, Entitled “Privately-Owned Salt Storage”

Ordinance #24-38-OA: An Ordinance Amended Chapter 35, Section 23-2, Tree Removal/Replacement of the Code of the Township of Berkeley, County of Ocean, State of New Jersey

Ordinance #24-42-OA: An Ordinance of the Township of Berkeley, County of Ocean, State of New Jersey, Amending and Supplementing Article XI, Entitled “Zoning District Regulations”, so as to Amend Section 35-106.7 Entitled “Corridor-Node (CN) Overlay Zone Regulations”

Dear Ms. Stallings:

At the July 18, 2024 meeting, the Planning Board in accordance with N.J.S.A. 40:55D-26, undertook a review of the above referenced Ordinances. Please accept this response and report to the Mayor and Counsel pursuant to the statutory formulation as discussed hereinabove.

Conclusion: In accordance with its responsibilities, under N.J.S.A. 40:55D-26, the Planning Board concluded that the amendments were not inconsistent with the Township’s Development Regulations and Master Plan. I trust this information is of assistance to the Mayor and Counsel.

Should you have any questions, please do not hesitate to contact me.

As always, we thank you for your time and attention to our matter.

Very truly yours,

Patrick F. Varga

PATRICK F. VARGA

For the Firm

PFV:aae

cc: Gabrielle Napolitano, Board Secretary

AFFIDAVIT OF PUBLICATION

State of New Jersey, County of Hudson, ss:

Hayden Lipsky, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of The Press of Atlantic City, a newspaper printed and published in the City of Linwood, distributed in the following counties: Atlantic, Camden, Cape May, Cumberland, Gloucester, and Ocean and mailed to various parts of the State of New Jersey, the United States, and foreign countries, does hereby certify that the Notice was published in The Press of Atlantic City on:

PUBLICATION DATES:

Jul. 23, 2024

NOTICE ID: uSMhtxbxhe3Kz8J0r9fT

PUBLISHER ID: COL6521

NOTICE NAME: 07-15-24 Notice of Pending Zoning Change

Publication Fee: 76.06

All interested parties may rely upon the representations contained herein limited solely to the authenticity of the Notice accompanying this Certification to be an accurate reproduction of the same and the date upon which it was published.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

(Signed) Hayden Lipsky

VERIFICATION

State of New Jersey
County of Hudson

SHANNEA H HOLMES
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires August 1, 2026

Subscribed in my presence and sworn to before me on this: 07/26/2024

Shannea H. Holmes

Notary Public
Notarized remotely online using communication technology via Proof.

07-15-24 Berkeley Township Notice of Pending Zoning Change

Ordinance #24-42-OA

07-15-24 Berkeley Township Notice of Pending Zoning Change Ordinance #24-42-OA

AN ORDINANCE OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING ARTICLE XI, ENTITLED "ZONING DISTRICT REGULATIONS", SO AS TO AMEND SECTION 35-106.7 ENTITLED "CORRIDOR-NODE (CN) OVERLAY ZONE REGULATIONS"

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Township Council of the Township of Berkeley, in the County of Ocean, State of New Jersey, held on July 15, 2024, and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the 19th day of August, 2024, at 6:00 p.m., or as soon thereafter as this matter can be reached, at the meeting room of the Municipal Building located at 627 Pinewald-Keswick Road, Bayville, New Jersey, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance.

The Ordinance proposes to eliminate the CN-C Corridor Node Overlay District from the zoning ordinance and zoning map. The existing underlying zones (R-400 Residential and Rural Highway Business) for properties currently in the CN-C overlay, such as the following block and lots, will solely govern the land use regulations and development standards for the area:

Block	Lot(s)
1007	9, 15, 16, 18, 20, 21, 22, 23,
1008	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 19, 20, 21, 22
1012	1, 2, 3, 4, 5.01, 6, 7, 8, 9, 10, 11, 12, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29
1014	2, 2.01, 2.04, 3, 4, 6, 7, 8, 9, 10, 11, 12, 14, 15, 15.01, 16, 17, 17.01, 19, 21, 22, 23, 24, 26.01, 27, 28, 29
1014.03	1
1490.01	1
1572	1

PLEASE BE ADVISED that any interested party may attend such public hearing. At the time of the public hearing any interested persons may appear to ask questions and present comments in the proposed Ordinance. A full copy of the Ordinance will be provided upon request from the Clerk's office at the address above, during regular business hours and can be found online at www.berkeleytownship.org Karen Stallings - Township Clerk, Township of Berkeley

Printer Fee: \$76.06

Pub Date: July 23rd, 2024

Order #: COL6521



DASTI, McGUCKIN, McNICHOLS, CONNORS, ANTHONY & BUCKLEY

Jerry J. Dasti †
Gregory P. McGuckin
Timothy J. McNichols ‡
Martin J. Buckley
Kelsey A. McGuckin-Anthony
Christopher J. Connors
Thomas E. Monahan π
Patrick F. Varga
Joseph F. Mackolin, Jr.

πCertified Civil Trial Attorney
†NJLCA Municipal Law Diplomate
ΩMember of NJ and FLA Bar
‡Member of NJ and P.A. Bar

A Professional Corporation
Tax ID 22-3450668
www.dmmlawfirm.com
620 West Lacey Road
Forked River, NJ 08731
P 609-971-1010
F 609-971-7093

Email Address: pvarga@dmmlawfirm.com

July 25, 2024

Of Counsel
Charles E. Schlager, Jr. ‡
George F. Murphy, Jr. π Ω
Elizabeth Mackolin Dasti ‡
Robert E. Ulaky

Toms River Office:
506 Hooper Avenue
Toms River, NJ 08753
P 732-349-2446
F 732-349-1590

Sea Girt Office:
2150 Highway 35, Suite 250
Sea Girt, NJ 08750
P 732-295-3000
F 732-349-1590

Karen Stallings, Municipal Clerk
Township of Berkeley
627 Pinewald-Keswick Road
Bayville, NJ 08721

Re: Ordinance #24-36-0A: An Ordinance of the Township of Berkeley, County of Ocean, State of New Jersey, Amending Chapter 35, Development Standards to Create a New Subsection, Entitled “Privately-Owned Salt Storage”

Ordinance #24-38-OA: An Ordinance Amended Chapter 35, Section 23-2, Tree Removal/Replacement of the Code of the Township of Berkeley, County of Ocean, State of New Jersey

Ordinance #24-42-OA: An Ordinance of the Township of Berkeley, County of Ocean, State of New Jersey, Amending and Supplementing Article XI, Entitled “Zoning District Regulations”, so as to Amend Section 35-106.7 Entitled “Corridor-Node (CN) Overlay Zone Regulations”

Dear Ms. Stallings:

At the July 18, 2024 meeting, the Planning Board in accordance with N.J.S.A. 40:55D-26, undertook a review of the above referenced Ordinances. Please accept this response and report to the Mayor and Counsel pursuant to the statutory formulation as discussed hereinabove.

Conclusion: In accordance with its responsibilities, under N.J.S.A. 40:55D-26, the Planning Board concluded that the amendments were not inconsistent with the Township’s Development Regulations and Master Plan. I trust this information is of assistance to the Mayor and Counsel.

Should you have any questions, please do not hesitate to contact me.

As always, we thank you for your time and attention to our matter.

Very truly yours,

Patrick F. Varga

PATRICK F. VARGA

For the Firm

PFV:aae

cc: Gabrielle Napolitano, Board Secretary



DASTI, McGUCKIN, McNICHOLS, CONNORS, ANTHONY & BUCKLEY

Jerry J. Dasti †
Gregory P. McGuckin
Timothy J. McNichols ‡
Martin J. Buckley
Kelsey A. McGuckin-Anthony
Christopher J. Connors
Thomas E. Monahan π
Patrick F. Varga
Joseph F. Mackolin, Jr.

πCertified Civil Trial Attorney
†NJLGA Municipal Law Diplomate
ΩMember of NJ and FLA Bar
‡Member of NJ and PA Bar

A Professional Corporation
Tax ID 22-3450668
www.dmmlawfirm.com
620 West Lacey Road
Forked River, NJ 08731
P 609-971-1010
F 609-971-7093

Email Address: pvarga@dmmlawfirm.com

Of Counsel
Charles E. Schlager, Jr. ‡
George F. Murphy, Jr. π Ω
Elizabeth Mackolin Dasti ‡
Robert E. Ulaky

Toms River Office:
506 Hooper Avenue
Toms River, NJ 08753
P 732-349-2446
F 732-349-1590

Sea Girt Office:
2150 Highway 35, Suite 250
Sea Girt, NJ 08750
P 732-295-3000
F 732-349-1590

Karen Stallings, Municipal Clerk
Township of Berkeley
627 Pinewald-Keswick Road
Bayville, NJ 08721

August 16, 2024

Re: Ordinance #24-37-0A: An Ordinance Amending in its entirety Chapter 35-75 “Stormwater Control – Non-Pinelands Area”, of the Code of the Township of Berkeley, County of Ocean and State of New Jersey entitled Land Development

Dear Ms. Stallings:

At the August 15, 2024 meeting, the Planning Board in accordance with N.J.S.A. 40:55D-26, undertook a review of the above referenced Ordinance. Please accept this response and report to the Mayor and Counsel pursuant to the statutory formulation as discussed hereinabove.

Conclusion: In accordance with its responsibilities, under N.J.S.A. 40:55D-26, the Planning Board concluded that the amendments were not inconsistent with the Township’s Development Regulations and Master Plan. I trust this information is of assistance to the Mayor and Counsel.

Should you have any questions, please do not hesitate to contact me.

As always, we thank you for your time and attention to our matter.

Very truly yours,

/s/ Patrick F. Varga
PATRICK F. VARGA
For the Firm

PFV:aae

cc: Gabrielle Napolitano, Board Secretary