

ORDINANCE NO. 2021-32-OA B

AN ORDINANCE OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER XXXV OF THE REVISED GENERAL ORDINANCES OF BERKELEY TOWNSHIP, ENTITLED "LAND DEVELOPMENT", AND AN AMENDMENT TO THE TOWN CENTER REDEVELOPMENT PLAN; THIS ORDINANCE SHALL REPEAL AND REPLACE ORDINANCE 21-23-OAB

August 3, 2021

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

SECTION 1. The Redevelopment Plan, entitled "Town Center Redevelopment Plan", adopted August 24, 2009, is hereby amended in accordance with the "Amended Plan" dated July 23, 2021 and attached hereto and incorporated herein as if same were set forth at length.

SECTION 2. Chapter 35 of the Township Code of the Township of Berkeley, entitled "Land Development," is hereby amended and supplemented so as to amend §35-105, entitled "Reserved", to revise as follows:

§35-105 (RESERVED) Town Center Redevelopment Plan

Supplemental Regulations for Block 822, Lot 1; Block 824, Lots 1.01 and 1.02; Block 824, Lots 1.03 and 1.04 (formerly, Lot 1); Block 824, Lots 8 and 12 (formerly, Block 825.02, Lots 8 – 12); Block 825, Lot 1:

§ 35-105.1. Supplemental Regulations for Town Center Redevelopment Area

Certain parcels located in the Town Center Area in Need of Redevelopment, which are defined as Block 822, Lot 1; Block 824, Lots 1.01 and 1.02; Block 824, Lots 1.03 and 1.04 (formerly, Lot 1); Block 825.02, Lots 8 – 12; Block 825, Lot 1, (the "Subject Area"), are and shall be subject to the Redevelopment Plan Design Standards set forth in this Section together with the Town Center Redevelopment Plan as amended by Section 35-105 ("Redevelopment Plan").

A. Permitted Uses

In addition to the accessory uses set forth in the Redevelopment Plan, an accessory use of a Light Industrial use (which include Warehousing and Warehousing Distribution Centers) may include:

1. Walk-up parcel customer pick-up
2. Outdoor loading

B. Deviations from Provisions of the Approved Redevelopment Plan

The Planning Board may review and retain jurisdiction over applications requiring relief for deviations from the prescribed design, bulk and area standards as indicated in this Section 35-105.1 and the Redevelopment Plan. Accordingly, an amendment to the Redevelopment Plan shall not be necessary if the selected developer(s) desires to deviate from the design, bulk and area standards set forth herein or in the Berkeley Township Land Development Ordinance so long as the Redeveloper obtains the appropriate variance(s) from the Planning Board. All requests for such relief shall be made to the Planning Board accompanied by a complete application for development as required by Township ordinance. Decisions on such requests shall be made in accordance with the legal standards set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-70(c), in the case of requests for relief from zoning standards, and in accordance with the legal standards set forth in N.J.S.A. 40:55D-51 in the case of requests for relief from design standards

C. Bulk Requirements. – the following requirements shall be from the Subject Area boundary lines:

Building Type	Min. Lot Size	Lot Width	Lot Depth	Setbacks Front/Side/Rear	Height Feet
Retail Goods and Services	20,000 s.f.	200'	100'	25' min./ 20' min./ 20' min.	30'
Light Industrial	75,000 s.f.	750'	100'	25' min./ 50' min./ 20' min.	50'
Fast Food Restaurant with Drive-Thru	20,000 s.f.	200'	100'	25' min./ 20' min./ 20' min.	30'
Restaurant	20,000 s.f.	200'	100'	25' min./ 20' min./ 20' min.	30'
Accessory	N/A	N/A	N/A	0'/ 10' min./ 10' min.	

D. Buffer Requirements

1. Front yard: from Route 9
2. Side yard: Western Boulevard
3. Buffers shall be from Subject Area boundaries and provided as follows:
 - (a) Front yard: 25 feet
 - (b) Side yard (but only if adjacent to residential use or zone): 75 feet

- (c) Rear yard (but only if adjacent to residential use or zone): 75 feet

E. General Building and Site Design Requirements

The following standards are intended to supersede the Township Land Use Ordinances, including Sections 35-48 and 35-63.

1. Screening

- (a) 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, landscaping, or other approved measures.
- (b) All rooftop mechanical equipment and other appurtenances visible from 6 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 or nearby streets.

2. Refuse Area

- (a) Shared refuse facilities shall be utilized where available and practical.
- (b) Those areas adjacent to or within the parking area designated as refuse storage and pickup areas shall be properly screened to prevent the unsightly display and the scattering of debris.

3. Off-Street Parking

- (a) All parking areas shall be set back a minimum 15 feet from the legal right-of-way.
- (b) Provisions for pedestrian access to and through a parking lot may shall be required, and may include striping, enhanced pavement markings and traffic calming features. Surface parking areas and pedestrian walkways connecting to them shall have sufficient lighting in accordance with the standards herein.
- (c) In parking lots having a capacity of more than 100 cars, a main access drive shall be provided from points of ingress and egress. No parking shall be permitted on the main access drive.
- (d) **Parking Lot Landscaping.** Customer and employee parking lot layout, landscaping, buffering, and screening shall be provided to minimize direct views of parked vehicles from streets and sidewalks, avoid spillover light, glare, noise, or exhaust fumes onto adjacent properties, in particular

residential properties, and provide the parking area with a reasonable measure of shade, when trees reach maturity. The height of any required screen, hedge or wall shall decrease where driveways approach sidewalks or walkways, in order to provide adequate visibility of pedestrians from motor vehicles and shall not interfere with clear sight triangle requirements.

(e) **Loading Areas and Operations.** 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/or landscaping. Screening shall be a minimum of six (6) feet tall. Recesses in the building or depressed access ramps, may be used.

4. Landscaping

(a) **Landscaping Plan.** The placement of landscaping shall be in accordance with a landscaping plan submitted and approved as part of the final plat.

(b) **Topsoil Preservation.** No topsoil shall be removed from the site or used as spoil, except as may be provided for in a soil removal permit issued in accordance with the ordinances of the Township regulating mining operation or excess topsoil remaining after all improvements have been installed in accordance with an approved site plan or subdivision map after topsoil has been redistributed in accordance with this Subsection. All topsoil moved during the course of construction shall be redistributed on all regraded surfaces so as to provide an even cover and shall be stabilized by seeding or planting. All regraded areas and all lawn areas shall be covered by a four-inch minimum thickness of topsoil. If sufficient topsoil is not available on the site, topsoil meeting the requirements of the Ocean County Soil Conservation District shall be provided to result in a four-inch minimum thickness.

(c) **Primary Access Points.** All streets, public or private, fronted by buildings with primary access points should be planted with street trees at an average spacing of 30 to 40 feet consistent with the project's overall landscaping and open space plan.

(d) **Protection of Trees.** No material or temporary soil deposits shall be placed within six feet of any trees or shrubs designated to be retained on the preliminary and/or final plat. Tree protection areas should equate to 1 foot of protection zone per one inch of tree caliper (i.e., a 12-inch diameter tree requires a 12-ft. protection zone). This would only apply to trees to be protected during construction.

- (e) **Removal of Debris.** All tree stumps and other tree parts or other debris shall be removed from the site and disposed of in accordance with law. No tree stumps, portions of a tree trunk or limbs shall be buried anywhere in the development. All dead or dying trees, standing or fallen, shall be removed from the site. If trees and limbs are reduced to chips they may, subject to the approval of the Township Engineer, be used as mulch in landscaped areas.
- (f) **Slope Plantings.** Landscaping of the area of all cuts or fills and terraces shall be sufficient to prevent erosion and shall be approved by the Board. All roadway slopes steeper than one foot vertically to three feet horizontally shall be planted with suitable cover plants combined with grasses and/or sodding. Grasses or sodding alone shall not be acceptable.
- (g) **Selective Thinning.** Throughout the development, except in areas specifically designated to remain in their natural state, in landscaped or buffer areas, on building lots and in open space areas for public or quasi-public use, the developer shall selectively thin or remove all dead or dying vegetation, either standing or fallen, and shall remove, including grubbing out stumps, all undesirable trees and other growth. The developer shall, in accordance with overall site development and his proposed landscaping scheme, provide pathways approximately four feet wide through all public or common open space in heavily wooded areas. Such pathways should be sited to conform to the existing natural conditions and should remain unobstructed. They are not intended to provide improved walkways but only to provide easy access through open space areas.
- (h) **Additional Landscaping.** In conjunction with all uses, all areas of the site not occupied by buildings, pavement, sidewalks, required screening, required parking area landscaping, required safety islands or other required improvements shall be landscaped by the planting of grass or other appropriate ground cover.
- (i) **Tree Diameter.** Trees shall be planted with a minimum diameter of 2 1/2 inches measured six inches from the base.
- (j) **Specifications.** All planting, clearing, selective thinning, topsoiling, seeding and other landscaping work shall conform to the applicable requirements of the Standard Specifications.
- (k) **Relocated Plantings.** Existing plants may be salvaged and/or relocated from clearing areas within the development and utilized to meet planting requirements, provided that:

- (1) Each three items of salvaged and/or relocated plant material shall be considered equivalent to two items of new plant material.
- (2) All such salvaged and/or relocated plant material shall be of a type, size and quality acceptable to the Township Engineer.
- (3) All such salvaged and/or relocated plant material shall be dug, transported and replanted at a season of the year and using a schedule and equipment, methods and materials conforming to the requirements of the Standard Specifications.
- (4) The developer has received the approval of the Township Engineer of the items to be relocated and the schedule and methods of relocation prior to any work of salvaging and/or relocation taking place.

(l) **Waiver.** The Board, after favorable recommendation by the Board Engineer, and after examination and review, may waive, fully or partially, provisions of this section in heavily wooded areas, in areas unsuitable for plantings or because of other exceptional conditions.

5. **Buffers**

- (a) The buffer areas discussed in this section shall pertain to the perimeter of the Subject Area as defined and dimensioned in Section D above. Individual developments that are within the subject area but located outside the buffer areas do not need to meet the buffer planting requirements discussed below.
- (b) All areas of a lot not occupied by buildings pavement, or other surfacing and other required improvements shall be landscaped by the planting of grass and/or ground cover, shrubs, and trees, and incorporating native vegetation where appropriate. Buffer areas shall either contain existing vegetation approved by the Board and/or be planted with trees and shrubs in accordance with a landscaping plan to be approved by the Board. The placement of the plant material shall be appropriate to the enhancement of the property and in accordance with a landscape plan approved by the Planning Board.
- (c) Buffer areas shall be maintained and kept free of all debris, weeds, and tall grass.
- (d) No structure, activity, storage of materials or parking of vehicles shall be permitted within the buffer area, except where approved by the Planning Board. The buffer area may be broken for vehicular or pedestrian access and appropriate directional safety signs provided.

- (e) Buffer areas where deemed appropriate by the engineer shall be utilized for stormwater management by disconnecting impervious surfaces, incorporating low-impact design and green stormwater facility concepts. Basins are permitted within the buffer provided they are heavily screened with landscaping.
- (f) A shrub mass of deciduous and/or evergreen species shall be planted within the required buffer area to provide for a visual and physical screen along the entire frontage, primarily including evergreen species, although deciduous plants may be used.
- (g) Selection of plants species shall provide for a variety and mixture of landscaping. Varieties shall consider susceptibility to disease, shapes, seasonal display, textures, flowers, and foliage.
- (h) The plant quantities constituting the buffer shall include a double-staggered row of evergreen trees 15 ft. on centers
- (i) Required plantings in the buffer area shall meet the minimum size requirements as follows:
 - (1) Shrubs: planted size is to be a minimum of 24 inches to 36 inches in height.
 - (2) Ornamental trees: planted size is to be a minimum of five feet to six feet in height.
 - (3) Evergreen trees: planted size is to be a minimum of five feet to six feet in height.

6. **Awnings and Canopies.** 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.

- (a) **Commercial.** All ground-level awnings and canopies for commercial uses shall have a minimum height from the ground level to the lowermost portion of the awning or canopy of eight (8) feet.
- (b) **Light Industrial.** All ground-level awnings and canopies will comply with the following standards:

- (1) A painted or unpainted canopy structure shall be permitted for the entire length of the building and not to exceed the height of the building.
- (2) The maximum height from the ground level to the uppermost portion of the awning or canopy will not exceed the height of the roof.
- (3) The minimum height from the ground level to the lowermost portion of the awning or canopy will be eight (8) feet

F. Exterior and Street Lighting

1. All exterior lighting shall be designed to prevent glare onto adjacent properties. Pedestrian pathways need to be clearly marked and well lit. Lighting should be sufficient for overall site safety, security and identification, and comply with tenant standards and minimum requirements. Use of pulse start metal halide, color-corrected sodium light sources, LED lighting and solar powered lighting are encouraged where appropriate and wherever fixtures are commercially available. Non-color corrected low-pressure sodium are prohibited.
2. The height of fixtures for Commercial Uses shall be a maximum of 25 feet for parking lots, and 16 feet for pedestrian walkways.
3. The height of fixtures for Light Industrial Uses shall be a maximum of 40 feet for parking lots and 16 feet for pedestrian walkways.

G. Signage

1. Commercial Signage:

a. Monument/Ground Sign. One monument or ground sign shall conform to the following standards:

- (1) The sign panel shall not exceed 200 square feet in area.
- (2) The total sign height shall not exceed 25 feet.
- (3) The sign panel shall be located no more than one (1) foot above finished grade and shall include ground landscaping at the base of the sign.
- (4) The sign shall be setback a minimum 10 feet from the right-of-way

b. Wall-Mounted Signs. Wall-mounted signs shall conform to the following standards:

- (1) The sign shall be affixed to the front facade of the building.

- (2) The area of the signboards shall not exceed 10% of the ground floor front facade area.
- (3) Uses are limited to one (1) sign per business but one additional wall-mounted sign shall be permitted on any side or rear entrance which is open to the public.
- (4) Wall-mounted building directory signs identifying the occupants of a commercial building, including upper story business uses shall not extend above the parapet, eave or building facade.
- (5) Applied letters with backlighting may substitute for wall-mounted signs, if constructed of painted wood, painted cast metal, bronze, brass or black anodized aluminum. Applied plastic letters shall not be permitted.

c. **Painted Window or Door Signs.** Fully painted windows or doors with and/or without signs shall be permitted as necessary in accordance with tenants' standards, security requirements, or safety purposes, except that painted signs on windows or doors shall be limited to no more than $\frac{1}{2}$ of the area of each such window and/or door

d. **Awnings and Canopies.** Buildings may have awnings or canopies with signs where appropriate in accordance with the awning and canopies architectural feature requirements of this Ordinance.

2. Light Industrial Signage:

a. **Monument/Ground Signs.** Monument or ground signs shall conform to the following standards:

- (1) The sign panel shall not exceed 200 square feet in area.
- (2) The total sign height shall not exceed 25 feet.
- (3) The sign shall be setback a minimum 5 feet from the property line.
- (4) One sign per driveway entrance shall be permitted, but shall not apply to pylon / monument signs along any public roadway.

b. **Wall-Mounted Signs.** Wall-mounted signs shall conform to the following standards:

- (1) The sign may be affixed to each facade of the building up to a maximum of six (6) signs.
- (2) The area of the signboards shall not exceed 400 square feet for each sign and no part of the sign shall extend above any roof line.

c. **Painted Window or Door Signs.** Fully painted windows or doors, with or without signs, shall be permitted as necessary per tenants' standards, security requirements, or safety purposes, except that painted signs on windows or doors shall be limited to no more than $\frac{3}{4}$ of the area of each such windows and/or door.

- d. **Directional Signs.** In order to facilitate the free flow of traffic through the development, an unspecified number of directional signs shall be permitted. Said directional signs shall not exceed 10 feet in height and 60 square feet in area and should not contain logos.
- e. **Awnings and Canopies.** Buildings may have awnings or canopies with signs where appropriate in accordance with the awning and canopies architectural feature requirements of this Ordinance.

SECTION 3. This ordinance shall be subject to review and recommendation by the Berkeley Township Planning Board in accordance with N.J.S.A. 40:55D-26 and notice requirement of N.J.S.A. 40:55D-62.1 and N.J.S.A. 40A:12A-7.

SECTION 4. All ordinances or parts thereof that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of their inconsistencies.

SECTION 5. 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, district, and independent provisions and such holding shall not affect the validity of the remaining portions hereof.

SECTION 6. This Ordinance shall take effect immediately upon its final passage and publication as required by law.

CARMEN F. AMATO, JR., Mayor


ANGELO GUADAGNO, Council President
JAMES J. BYRNES, 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 **August 3rd, 2021** and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the **23th** day of August, 2021 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.


BEVERLY M. CARLE, RMC
Township Clerk, Township of Berkeley

