

**ORDINANCE 53-2005**

**ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 195 OF THE MADISON BOROUGH CODE ENTITLED "LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF MADISON" REGARDING DEVELOPMENT PROVISIONS FOR THE RC ZONE**

**WHEREAS**, the Madison Planning Board has recommended that the RC Single-Family Residential Cluster Zone be amended to more particularly specify standards for residential development; and,

**WHEREAS**, the Borough Council has determined to amend the provisions of the RC Zone to remedy certain deficiencies and to promote the potential creation of additional open space and active recreational facilities; and

-

**WHEREAS**, the Borough contains significant historic resources that are listed in the Historic Preservation Element of the Master Plan.

**NOW THEREFORE BE IT ORDAINED** by the Council of the Borough of Madison, in the County of Morris and the State of New Jersey, that Chapter 195, "The Land Development Ordinance of the Borough of Madison," of the Revised General Code of the Borough of Madison is hereby amended and supplemented as follows:

**SECTION 1.** Section 195-32.2.A.(4) concerning the purposes of the RC Zone shall be amended as follows:

(4) Provide for the preservation and maintenance of open land for passive recreational use and for active public recreational use.

(5) Maximize the preservation of historic resources.

-

**SECTION 2.** Section 195-32.2.B.(1) concerning permitted uses in the RC Zone shall be amended as follows:

(1) Single-family detached dwellings in a cluster development.

**SECTION 3.** Section 195-32.2.B.(3) concerning residential cluster development shall be deleted.

**SECTION 4.** Section 195-32.2.F. shall be amended as follows:

F. Supplementary requirements for cluster residential development.

**SECTION 5.** Sections 195-32.2.F.(2)(a) and (b) concerning supplemental open space and historic preservation requirements for residential clusters in the RC Zone shall be amended as follows:

(a) Amount. Except as provided for in Section 195-32.2.F(5)(c) below, at least 50% of any residential development tract shall be set aside as permanently deed-restricted open space (as defined in § 195-5 of this chapter) for the benefit of the residents of the development and/or general public. The open space calculation shall not include any areas in individual residential lots and areas devoted to public streets or rights-of-way.

(b) Location and suitability. The developer's open space proposal shall be designed to preserve environmentally sensitive lands, scenic features and existing outdoor recreational facilities and shall further the purposes of this subsection. All open spaces shall be located and sized in accordance with sound planning and design principles. The Planning Board shall determine the suitability of the open space proposal and in doing so shall consider, among other factors, the relationship of the proposed open space to its surroundings both within and outside of the proposed development.

(c) The layout of the subdivision shall avoid and preserve historic resources listed in the historic preservation element of the Master Plan. The development shall incorporate creative development techniques to conserve historic sites and resources. The visual pattern of the historic resources on the property and on adjoining properties shall be harmonized. New construction shall strengthen the historic design features of the property by, for example, framing views, enclosing open space or continuing design features or statements. Historic structures and resources shall be maintained within the development and shall be designed with adequate buffers and transition areas to preserve the integrity of the historic structures.

**SECTION 6.** Sections 195-32.2.F.(2)(f), (g) and (h) concerning supplemental open space and historic preservation requirements for residential clustering in the RC Zone shall be amended as follows:

(f) Dedication of open space and historic resources. The developer may dedicate any open space and historic resources as required by this section to the Borough of Madison and the Borough Council may accept such a dedication in its discretion.

(g) Restrictive covenant. The developer shall prepare a restrictive covenant, which shall embody the open space and historic preservation restrictions where such open space and historic resources are not dedicated to the Borough of Madison. The restrictive covenant shall be recorded simultaneously with the subdivision plat and shall be referred to therein. The form and substance of the restrictive covenant shall be appropriate to accomplish the purposes of this section and shall be satisfactory to the Planning Board and Borough Attorney.

(h) Homeowners' association. If the proposed open space and/or historic resources are not dedicated to and accepted by the Borough, the developer shall establish a homeowners' association for the purpose of owning and maintaining the common open space and/or the historic resources within the development for the benefit of its residents. Membership in the homeowners' association shall be mandatory for the owners of all lots within the development. The homeowners' association shall not be dissolved and shall not dispose of any open space or historic resources without first offering to dedicate such open space or historic resources to the Borough. In the event that any homeowners' association organized pursuant to this subsection fails to maintain its open space or historic resources in reasonable order and condition, the Borough shall have all rights and remedies provided by the Municipal Land Use Law (N.J.S.A. 40:55D-43). The certification of incorporation or other document creating the homeowners' association shall be prepared by the developer and submitted to the Borough Attorney for review and approval of form and substance.

**SECTION 7.** Sections 195-32.2.F. concerning development standards for residential clustering in the RC Zone shall be supplemented by a new subsection (5) with three subsections as follows:

(5) Development standards for residential clustering.

(a) The maximum number of residential lots in a cluster development shall be determined by Planning Board approval of a conceptual subdivision plan for conventional development of the tract under the standards applicable to the R-1 Zone.

(b) Residential lots produced by clustering shall comply with the standards of the R-2 Zone except that a minimum lot size of 12,700 square feet shall be required.

(c) Where open space suitable for active recreation at the discretion of the Planning Board and amounting to at least 40% of the tract area is dedicated to the Borough of Madison, the Planning Board may permit the maximum number of clustered residential lots determined by way of a conceptual R-1 conventional development to be increased by 15%, the required amount of open space shall be minimum of 40% including dedications to the Borough of Madison, and the dimensional standards of the R-2 Zone shall apply except that the minimum lot area shall be 12,000 square feet and the minimum lot width for interior lots shall be 80 feet.

**SECTION 8.** Sections 195-32.2.F. concerning supplemental development standards for conditionals uses in the RC Zone shall be supplemented by a new subsection (6) as follows:

(6) Supplemental development standards for conditional uses. Continuing care retirement communities shall be subject to a maximum impervious coverage limit of 15% with the following exceptions:

(a) Where at least 50% of the tract is reserved as open space, an impervious coverage for the remainder of the tract of up to 30% shall be permitted.

(b) Where at least 40% of the tract which is suitable for active recreation is dedicated to the Borough of Madison, an impervious coverage for the remainder of the tract of up to 40% shall be permitted.

**SECTION 9.** If any section or provision of this Ordinance is held invalid in any court of competent jurisdiction, the same shall not affect the other sections or provisions of this

Ordinance except so far as the section or provision so declared invalid shall be separable from the remainder or any portion thereof.

**SECTION 10.** All ordinances or parts thereof which are inconsistent or in conflict with the provisions of this ordinance or any part thereof are hereby repealed to the extent of said inconsistency or conflict.

**SECTION 11.** This ordinance shall take effect as provided by law.

ADOPTED AND APPROVED

December 12, 2005

---

ELLWOOD R. KERKESLAGER, Mayor

Attest:

---

MARILYN SCHAEFER, Borough Clerk

Introduced and adopted: Wednesday, October 12, 2005

Published in full, Madison Eagle: October 20, 2005

Hearing, amended: November 14, 2005

Published in full as amended, Madison Eagle: November 24, 2005

Hearing, amended, final adoption: December 12, 2005

Published noting PI Bd amendments, Madison Eagle December 15, 2005