

Revised
5/10/04

ORDINANCE 2004- 23

AN ORDINANCE OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 55 ENTITLED "LAND USE" OF THE CODE OF THE TOWNSHIP OF BARNEGAT

WHEREAS, there is an existing subdivision within the Pinelands Regional Growth Area of Barnegat Township known as "Ocean Acres" consisting of approximately 2,000 lots; and

WHEREAS, the Ocean Acres subdivision is located in the Township's RH (Residential High) Zone which calls for residential development on lots of at least 10,000 square feet, or smaller lots through the use of Pinelands Development Credits; and

WHEREAS, the Pinelands Commission has determined that portions of the Ocean Acres subdivision constitute habitat which is critical to the survival of one or more local populations of threatened and endangered plant and animal species; and

WHEREAS, in order to afford adequate protection to said critical habitat as required pursuant to N.J.A.C. 7:50-6, Parts II and III, of the Comprehensive Management Plan and Sections 55-295E and 55-299B of this ordinance, the current RH (Residential High) Zone designation for the Ocean Acres subdivision must be amended to provide for the establishment of a conservation area of approximately 730 lots, within which residential development would be prohibited; and

WHEREAS, residential development will continue to be permitted in those portions of the Ocean Acres subdivision located outside the conservation area in accordance with the standards for the RH (Residential High) Zone, except that existing lots of less than 10,000 square feet in size may be developed only through the use of Pinelands Development Credits or permanent protection of land within the conservation area; and

WHEREAS, there is within the conservation area an area of 135 lots, generally defined as the area between Nautilus Drive, Avalon Avenue, Mutineer Avenue and Viking Drive, in which the presence of threatened and endangered species has led the Pinelands Commission to determine that the area constitutes habitat critical to the survival of the local population of such species pursuant to N.J.A.C. 7:50-6, Part III, of the Comprehensive Management Plan; and

WHEREAS, were it not for the above-described determination by the Pinelands Commission, this 135-lot area would, given its location in a Pinelands Regional Growth Area, be available for residential development in accordance with the standards of the RH (Residential High Zone); and

WHEREAS, a current developer within the Ocean Acres subdivision contends that this area does not constitute critical habitat and has requested a period of two years to demonstrate its contention to the Pinelands Commission; and

WHEREAS, should the Pinelands Commission subsequently determine, based on the submission of new information, that this portion of the conservation area does not constitute critical habitat, its incorporation in the conservation area would no longer be appropriate or necessary; and

WHEREAS, the Township Committee of the Township of Barnegat desires to amend Chapter 55 entitled "Land Use" of the Code of the Township of Barnegat in order to implement the above-described amendments to the zoning plan for the Ocean Acres subdivision.

BE IT ORDAINED by the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey, that Chapter 55 entitled "Land Use" of the Code of the Township of Barnegat is hereby amended and supplemented as follows:

Section 1. Section 55-6.B., Designation of Zoning Districts, Pinelands: Districts West of the Parkway, is hereby amended and supplemented by adding the following to the list of zoning districts:

RC Residential Conservation

Section 2. Section 55-7.B, Zoning Map, Pinelands - West of Parkway, is hereby amended and supplemented to read as follows:

B. Pinelands - West of Parkway. The boundaries of all zoning districts set forth in this article are shown on a map entitled "Zoning Map, Barnegat Township, New Jersey" dated ____ 2004 and subsequent revisions adopted pursuant to statute, which map is hereby made part of this article.

Section 3. Section 55-47 is hereby amended and supplemented to read as follows:

55-47. RH - HIGH ZONE

The following regulations apply in the RH Zone:

A. Permitted Uses.

- (1) Detached single-family dwellings for residential purposes, together with accessory structures.
- (2) Parks and preserves.
- (3) The erection, construction, alteration or maintenance by a public utility or municipal agency of underground distribution or collection systems necessary for the furnishing of adequate service by such utility or agency to the use on the same lot and/or surrounding neighborhood or for the public health, safety or general welfare.
- (4) Pump stations.

B. Accessory and Temporary Uses.

- (1) Same as those permitted in the PF Zone, except agricultural commercial establishments.

C. Conditional Uses.

- (1) Public utility uses, such as water towers, electric substations, radio towers and transmission lines, which must be provided above ground.

D. Lot and Building Requirements. These shall be as prescribed in the Schedule of Area, Yard and Building Requirements in this chapter, except as provided in Section 55-300 for unsewered lots in the Pinelands Area.

E. Development of Lots Under 10,000 Square Feet

Within the RH Zone, detached single family dwellings may be permitted on existing lots between 9,000 and 10,000 square feet in size, provided that:

- (a) The owner of the lot proposed for development:
 - i. Purchases and redeems 0.25 Pinelands Development Credits; or
 - ii. Permanently protects two existing lots in the RC Zone by dedicating them as open space through recordation of a restriction on the deed to the lots, with no further development permitted except fish and wildlife management and low intensity recreational uses. Any such deed restriction shall be in a form to be approved by the Township Solicitor and the Pinelands Commission; or

- iii. Permanently protects two-thirds of an acre of vacant land in the RC Zone which is not defined as wetlands and is located outside of existing residentially subdivided lots through recordation of a restriction on the deed to said parcel, with no further development permitted except fish and wildlife management and low intensity recreational uses. Any such deed restriction shall be in a form to be approved by the Township Solicitor and the Pinelands Commission; or
 - iv. Permanently protects two (2.0) acres of vacant land in the RC Zone which is defined as wetlands and is located outside of existing residentially subdivided lots through recordation of a restriction on the deed to said parcel, with no further development permitted except fish and wildlife management and low intensity recreational uses. Any such deed restriction shall be in a form to be approved by the Township Solicitor and the Pinelands Commission.
- (b) The Township shall maintain and make available an inventory of vacant lots in the RC Zone. Said inventory shall include the names and mailing addresses of the owners of all vacant lots in the RC Zone.
 - (c) Any person proposing to develop a lot in the RH Zone between 9,000 and 10,000 square feet in size who, as of the effective date of this ordinance, also owns a lot or lots in the RC Zone shall be required to permanently protect said lot or lots in the RC Zone in accordance with (a)ii above, prior to purchasing and redeeming Pinelands Development Credits in accordance with (a)i above. If said lot or lots in the RC Zone were sold or transferred subsequent to the effective date of this ordinance, another lot or lots in the RC Zone must be permanently protected in accordance with (a)ii above, prior to the purchase and redemption of Pinelands Development Credits in accordance with (a)i above.
 - (d) No development in the RH Zone involving the permanent protection of lots or other lands in the RC Zone in accordance with (a)ii, iii and iv above shall be approved until the developer has provided the Pinelands Commission and the Township with evidence of his ownership of the requisite lots or other lands. A deed restriction on the requisite lots or other lands shall be duly recorded prior to the issuance of any building or construction permits.
 - (e) No development involving the use of Pinelands Development Credits in the RH Zone shall be approved until the developer has provided the Pinelands Commission and the Township with evidence of his ownership and redemption of the requisite Pinelands Development

Credits. Notification of any such approval shall be made to the Commission pursuant to Section 55-277 and to the New Jersey Pinelands Development Credit Bank in accordance with N.J.A.C. 3:42-3. Redemption of the requisite Pinelands Development Credits shall thereafter be accomplished in accordance with N.J.A.C. 3:42-3.6, prior to the issuance of any building or construction permits.

Section 4. There is hereby added to Chapter 55, Article II, Zoning District Regulations, a new Section 55-48 as follows:

55-48. RC - RESIDENTIAL CONSERVATION ZONE

The following regulations apply in the RC Zone:

- A. Purpose. The RC Residential Conservation Zone constitutes a portion of an existing subdivision within the Pinelands Regional Growth Area which contains habitat critical to the survival of one or more local populations of threatened and endangered plant and animal species. In order to afford adequate protection to said critical habitat as required pursuant to N.J.A.C. 7:50-6, Parts II and III, of the Comprehensive Management Plan and Sections 55-295E and 55-299B of this ordinance, residential development is not permitted; however, land in the RC Zone may be used to facilitate the development of detached single family dwellings on certain lots in the RH Residential High Zone in accordance with Section 55-47E.
- B. Permitted Uses.
- (1) Fish and wildlife management.
 - (2) Low intensity recreational uses.
 - (3) Maintenance by a public utility or municipal agency of those underground distribution or collection systems existing as of the effective date of this ordinance as necessary for the furnishing of adequate service by such utility or agency to the use on the same lot and/or surrounding neighborhood or for the public health, safety or general welfare.
 - (4) The installation of water lines, provided that any such line will be located under the existing paved road known as Harpoon Drive and no widening in the paved surface of said road occurs.
 - (5) Pump stations, roads and other public service infrastructure, provided same:

- (a) Was in existence as of the effective date of this ordinance; or
- (b) Received all necessary local permitting agency approvals and a letter of no further review from the Pinelands Commission issued pursuant to N.J.A.C. 7:50-4, Part III, prior to the effective date of this ordinance; or
- (c) Received approval from the Pinelands Commission pursuant to N.J.A.C. 7:50-4, Part IV, prior to the effective date of this ordinance.

Section 5. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 6. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held 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.

Section 7. This ordinance shall take effect immediately upon due passage, publication according to law, and approval by the Pinelands Commission.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced at a regular meeting of the Barnegat Township Committee held on the 17th day of May, 2004, and will be considered for second reading and final adoption at a regular meeting of the Township Committee, to be held on the 7th day of June, 2004, 900 West Bay Avenue, Barnegat, New Jersey, at 7:00 PM, at which time and place any person wishing to speak on the subject ordinance shall be given an opportunity to be so heard.


Veronica E. Jasina, RMC
Municipal Clerk

Ocean Acres

Draft Copy
For Internal Use only
February 13, 2004
Map 6 of 6



Conservation Area
2,000 Aerial Photo

