

ORDINANCE NO. 2019-02

**TOWNSHIP OF HOLMDEL
COUNTY OF MONMOUTH**

**ORDINANCE APPROVING MINOR DIVERSION OF LAND
LOCATED IN BLOCK 22, LOT 20.06 (3 SOUTH PARK COURT)
IN ACCORDANCE WITH GREEN ACRES REGULATIONS**

WHEREAS, Block 22, Lot 20.06 is a parcel of land that is owned by the Township of Holmdel (“Township”) and listed upon the Township’s Recreation and Open Space Inventory, and is thus encumbered with restrictions against disposal or diversion from recreation and conservation uses by the New Jersey Department of Environmental Protection’s Green Acres Program, including but not limited to N.J.S.A. 13:8C-1 et seq. and N.J.A.C. 7:36-1 et seq.; and

WHEREAS, the owners of Block 22, Lot 20.01, commonly known as 3 South Park Court, encroached upon a portion of the Township’s open space at Block 22, Lot 20.06, located between their southerly property line and Crawfords Corner Road, by constructing a portion of their driveway onto the Township Open Space Lot; and

WHEREAS, since removing the driveway encroachment would not provide adequate access to the dwelling, it was deemed necessary to remove the Green Acres restrictions from a 0.014 acre portion (the “Disposal Area”) of the Township’s open space lot, in order to convey the Disposal Area to the neighboring property owner; and

WHEREAS, the Disposal Area is more further set forth in the metes and bounds description attached hereto as Exhibit A and incorporated by reference; and

WHEREAS, the removal of Green Acres restrictions from parkland requires the approval of the Commission of the Department of Environmental Protection and the State House Commission, pursuant to N.J.A.C. 7:36-26 et seq.; and

WHEREAS, pursuant to resolution adopted on April 14, 2015, in accordance with N.J.A.C. 7:36-26.4(d)(1), the Township submitted an application to the State House Commission on June 10, 2015 (DEP SHC File #1320001), requesting approval to release the Green Acres restrictions from the Disposal Area in order to legalize the pre-existing encroachment, in exchange for \$5,575 from the neighboring property owner to be placed in a dedicated account to be used for a Parkland Improvement Project; and

WHEREAS, on October 3, 2017, the Township held a properly noticed public hearing, with the public comment period open until October 17, 2017; and

WHEREAS, on November 28, 2017, the Township Committee adopted a resolution approving submission of a final application in support of the proposed diversion or disposal of parkland, in accordance with N.J.A.C. 7:36-26.6(f)(4); and

WHEREAS, on September 27, 2018, the State House Commission approved the application for the foregoing disposal, upon various terms contained in its resolution; and

WHEREAS, the New Jersey Department of Environmental Protection has approved execution of a “Release and Compensation Agreement,” which will be recorded in the Office of the Monmouth County Clerk, and establish that the Green Acres Restrictions are extinguished upon the Disposal Area; and

WHEREAS, pursuant to the Green Acres Regulations, N.J.A.C. 7:36-26.6(f)(5)(iv), the Township is required to comply with other applicable laws, including the Local Lands and Buildings Law (“LLBL”), N.J.S.A. 40A:12-1 et seq.; and

WHEREAS, pursuant to the LLBL, more specifically N.J.S.A. 40A:12-13(b)(5), the Township may sell the Disposal Area to the contiguous property owner for a negotiated sum, by duly adopted ordinance, provided the real property being sold is (1) less than one-eighth of the minimum size required for development under the municipal zoning ordinance; and (2) is without any capital improvements thereon; and

WHEREAS, the Township Engineer has verified that the Disposal Area meets these statutory requirements; and

WHEREAS, the Township wishes to sell its fee interest in the Disposal Area to the neighboring property owner in the amount of \$5,575, as approved by the State House Commission.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Holmdel in the County of Monmouth, State of New Jersey, as follows:

SECTION 1. Approval of Sale of Lands.

The Township Committee of the Township of Holmdel hereby approves the sale of the real property as set forth in Exhibit A, to the neighboring property owner, in exchange for the amount of \$5,575, which shall be placed in a dedicated account to be used for a Parkland Improvement Project.

SECTION 2. Authorization of Various Actions.

The Mayor, Township Administrator, Township Engineer, and Township Attorney are hereby authorized and directed to take any and all steps reasonably necessary to effectuate the foregoing, including the execution of deeds and other instruments.

SECTION 3. Severability.

If any section, subsection or paragraph of this ordinance be declared unconstitutional, invalid or inoperative, in whole or in part, by a court of competent jurisdiction, such chapter, section subchapter or paragraph shall to the extent that is not held unconstitutional, invalid or inoperative remain in full force and effect and shall not affect the remainder of this ordinance.

SECTION 4. Repealer.

All ordinances and resolutions, and parts of ordinances and resolutions which are inconsistent with provisions of this ordinance shall be, and are hereby, repealed to the extent of any such inconsistency.

SECTION 5. Effective Date.

This ordinance shall take effect after final adoption and approval pursuant to law.

LEGAL NOTICE

The foregoing ordinance was introduced and passed on the first reading at a meeting of the Township Committee of the Township of Holmdel held on January 29, 2019 and will be considered for final passage and adoption at a meeting of said Township Committee to be held on February 12, 2019 at Township Hall, 4 Crawfords Corner Road, Holmdel, NJ at 7:30 PM at which time and place all persons desiring to be heard thereon will be given full opportunity.

Eric Hinds, Mayor

Attest:
Wendy L Patrovich, RMC/CMR
Township Clerk