

**BOROUGH OF EMERSON
COUNTY OF BERGEN
NOTICE OF ADOPTION**

ORDINANCE NO. 1516-16

Introduced: January 19, 2016

Adopted: February 2, 2016

NOTICE IS HEREBY GIVEN that the following ordinance was adopted on the second reading after a Public Hearing at the Regular Meeting of the Borough Council of the Borough of Emerson on the 2nd day of February, 2016. A copy of Ordinance 1514-16 is on file in the Borough Clerk's Office in the Municipal Building, 1 Municipal Pl., Emerson, NJ 07630.

**AN ORDINANCE AMENDING CHAPTER 290, ZONING, OF THE CODE OF THE
BOROUGH OF EMERSON, IN ORDER TO ELIMINATE THE PCD (PLANNED
COMMERCIAL DEVELOPMENT) ZONE**

WHEREAS, Chapter 290 of the Borough code outlines various zoning districts, specifically including Section 290-62 which details the PCD Planned Commercial Development (hereafter "PCD") Zone and its uses; and

WHEREAS, the PCD zone was created in 1998 on Block 1301 Lot 3 and Block 316 Lots 1 through 4 on a parcel known as "Emerson Woods"; and

WHEREAS, because this parcel is now in public ownership and held for open space purposes, the PCD zoning has become obsolete; and

WHEREAS, the appropriate zoning for this parcel would be Open Space Conservation (OSC) in order to ensure that the existing open space remains as such; and

WHEREAS, the municipal planner has determined that these amendments further the purposes of the Borough of Emerson Master Plan documents and is consistent with the recommendations of the 2015 Amendment;

NOW, BE IT ORDAINED by the Borough Council of the Borough of Emerson in the County of Bergen and State of New Jersey that Chapter 290 of the Code of the Borough of Emerson be and is hereby amended as follows:

SECTION ONE:

SECTION 290-62 be amended as follows:

The entire section shall be deleted.

A. Purpose

(1) The purpose of the Planned Commercial Development (PCD) Zone is to establish rules, regulations, standards and procedures designed to promote the integrated and logical development of the area designated as Block 1301, Lot 3, and Block 316, Lot 1, on the Borough's Official Tax Map in order to implement the Borough Master Plan goals and objectives, as follows:

- (a) To encourage municipal action to guide the appropriate use or development of all lands in this state, in a manner which will promote the public health, safety, morals and general welfare.
 - (b) To promote a desirable visual environment through creative development techniques and good civic design and arrangements.
 - (c) To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development of the particular site.
 - (d) To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land.
 - (e) To expand and enhance the Borough's economic potential, including increases in the Borough's employment and tax bases.
 - (f) To provide a more widely varied and well-balanced supply of housing units in the Borough to meet documented and increasing needs of small households, including senior citizens, young couples and single householders.
 - (g) To provide housing affordable to low- and moderate-income households, so as to meet a significant portion of the Borough's fair-share obligation.
 - (h) To preserve existing natural resources, including open space and areas of environmental sensitivity.
 - (i) To improve vehicular circulation in and around the area.
 - (j) To provide on-site and off-tract recreational facilities.
- (2) This development is taking place pursuant to N.J.S.A. 40:55D-65, Subdivision c, and any rights not reserved to the State of New Jersey are reserved to the Borough of Emerson under the doctrine of home rule, and if there is any confusion as to whether the State of New Jersey or the Borough of Emerson can decide as to how this development should proceed, the presumption should be that the Borough of Emerson has the authority.
- B. Definitions. Any term not defined in this chapter shall be given its common usage. As used in this article, the following terms shall have the meanings indicated:

Any term not defined in this chapter shall be given its common usage. As used in this article, the following terms shall have the meanings indicated:

CONDOMINIUM

A building, or group of buildings, in which units are owned individually and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

DWELLING, MULTIFAMILY

A dwelling containing more than two dwelling units.

DWELLING, TOWNHOUSE

A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more fire-resistant walls.

DWELLING UNIT

One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

FLOOR AREA, GROSS

The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls or from the center line of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles or any space where the floor-to-ceiling height is less than six feet.

FLOOR AREA, NET

The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

HEIGHT, BUILDING

As defined by the Uniform Construction Code.

HOUSING UNIT

A room or group of rooms used by one or more individuals living separately from others in the structure, with direct access to the outside or to a public hall and containing separate toilet and kitchen facilities. See "dwelling unit."

OFFICE

A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government.

OFFICE BUILDING

A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand.

OPEN SPACE

Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

~~OPEN SPACE, COMMON~~

~~Land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate.~~

~~OPEN SPACE, GREEN~~

~~An open space area not occupied by any structures or impervious surfaces.~~

~~OPEN SPACE, PRIVATE~~

~~Common open space held in private ownership, the use of which is normally limited to the occupants of a single dwelling or building.~~

~~OPEN SPACE, PUBLIC~~

~~Open space owned by a public agency and maintained by it for the use and enjoyment of the general public.~~

~~PLANNED COMMERCIAL DEVELOPMENT~~

~~A minimum area of 100 acres to be developed according to a plan as a single entity containing one or more structures with appurtenant common areas to accommodate office uses, any residential uses and other uses incidental to the predominant use as may be permitted herein.~~

~~C. Uses:~~

~~(1) Principal permitted uses:~~

~~(a) Business, administrative, professional and governmental offices.~~

~~(b) Multifamily residential sales housing, including townhouses, condominium apartments and affordable housing units.~~

~~(2) Permitted accessory uses: uses customarily incidental to the principal permitted uses, including:~~

~~(a) Required off-street parking, parking structures and loading and unloading facilities.~~

~~(b) Common and public open space, including both passive and active recreational uses, such as tennis courts, parks, running and jogging tracks and bicycling and hiking trails.~~

~~(c) Retail and commercial uses, primarily for the convenience and use of on-site employees and businesses, provided that not more than 5% of the gross floor area of the building in which they are located shall be used for such purposes.~~

~~(3) Conditional uses: none.~~

~~D. Development standards:~~

~~(1) Minimum tract size: 100 acres.~~

~~(2) Maximum impervious surface coverage: 40% of the entire site.~~

~~(3) Minimum open space: At least 50% of the total PCD area shall be preserved as open space. Open space shall include landscaped areas, active and passive recreation facilities, buffer and setback areas and, where appropriate, reserved as wildlife habitat.~~

~~(4) Bulk requirements:~~

~~(a) Boundary line setbacks and buffer zone:~~

~~[1] Boundary line setback requirements. The following minimum setbacks shall be maintained:~~

~~[a] Commercial office building to single-family residential zone: 400 feet.~~

[b] Commercial and residential buildings and parking structures from reservoir waterline: 250 feet. [NOTE: Two hundred fifty feet from waterline is one hundred year flood elevation and elevation 25.]

[c] Commercial buildings or structures from Old Hook Road: 400 feet.

[d] Residential structures from Main Street: 60 feet, except that parking may be permitted in the buffer area but not closer than 30 feet to Main Street.

[e] Commercial and residential structures from all other property lines: 50 feet.

[2] Buffer zone requirement. The applicant shall be required to maintain the following minimum buffer zones:

[a] One hundred feet between commercial buildings, off-street parking or loading areas from multifamily residential buildings.

[b] Restrictions on buffer zones.

[i] No principal or accessory structure nor any off-street parking or loading areas or other use shall be permitted within the buffer zone, except as otherwise permitted.

[ii] No access or driveways, other than as may be permitted by the Planning Board, shall be permitted within the buffer zone.

[iii] Buffer zones shall be maintained in their natural state when wooded, and, when natural vegetation is sparse, plant material, berming or fencing may be required, as determined by the Planning Board.

[iv] "Underground utility" easements and other facilities shall be permitted in the buffer area when deemed necessary or desirable by the Planning Board.

[v] The area encompassed in the buffer zone may be utilized for the purpose of computing lot coverage and yard setbacks.

[c] Reduction in buffer zone requirements. Up to 50% of the buffer zone requirements may be reduced by the Planning Board where existing or proposed vegetation and topographic features accomplish the primary objective of preserving the transition between uses and providing a visual shield between uses. The buffer around the reservoir may not be reduced without an affirmative recommendation from the Environmental Commission.

(b) Minimum lot width: none.

(c) Maximum height.

[1] Office structures: 60 feet, exclusive of parapet walls, which shall not exceed five feet.

[2] Residential structures: 35 feet

[3] Accessory structures: 25 feet.

(d) Maximum amount of floor area permitted in office buildings, including retail and commercial floor area, as follows:

[1] Phase 1: 300,000 square feet.

[2] Phase 2: minimum 250,000 square feet; maximum 300,000 square feet.

[3] Phase 3: minimum 250,000 square feet; maximum 300,000 square feet.

[4] The Planning Board shall have the sole discretion as part of site plan approval for Phases 2 and 3 to increase the amount of floor area up to 300,000 square feet, provided that the applicant conclusively demonstrates that infrastructure capacities are capable of accommodating the additional floor area.

(c) Maximum number of residential units. The maximum number of permitted residential units shall be 200, and the maximum permitted net density shall be nine units per acre. The applicant will submit as part of Phase 1 a site plan designating an area of the tract for residential use.

E. Design.

(1) General design requirements. The applicant shall be required to submit a development plan for the entire tract as a prerequisite for site plan approval for Phase 1. In reviewing any development plan, the Planning Board shall consider:

(a) Circulation. Pedestrian and vehicular traffic movement within and adjacent to the site with particular emphasis on the provision and layout of parking areas; off-street loading and unloading; movement of people, goods and vehicles from access roads, within the site, between buildings and between buildings and vehicles. Particular emphasis shall be given to access for emergency services. The Planning Board shall ensure that all parking spaces are usable and safely and conveniently arranged. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the site. The site plan shall be designed to preclude any through traffic through the residential areas.

(b) Design and building layout. A primary goal of the design and building layout is the preservation of views of the reservoir from the adjacent roads. The design and layout of buildings and parking areas shall provide an aesthetically pleasing design and efficient arrangement. Particular attention shall be given to safety and fire protection, impact on and from surrounding development and contiguous and adjacent buildings and lands.

(c) Lighting. Adequate lighting shall be provided to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be a type approved by the Planning Board. Lights shall be arranged so as to minimize glare and reflection on adjacent properties.

(d) Buffering and landscaping.

[1] Buffering. Buffering shall be located to minimize headlights of vehicles, noise, light from structures and the movement of people and vehicles and to shield activities from adjacent properties and uses, when necessary. Buffering may consist of fencing, berms, evergreens, shrubs, bushes, deciduous trees, physical barriers or combinations thereof to achieve the stated objectives.

[2] Landscaping.

[a] Landscaping shall be provided as part of the overall plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping shall include trees, bushes, shrubs, ground cover, perennials, annuals, plants, sculpture, art and the use of building and paving materials in an imaginative manner.

[b] The existing sense and appearance of the semirural natural scenic qualities of the tract shall be retained. Such techniques as clustering, angle setbacks from the main road, retention of existing vegetation and narrow road widths will be employed where appropriate and practical.

(e) Signs. Signs shall be designed so as to be aesthetically pleasing, harmonious with other signs on the site, located so as to achieve their purpose without constituting hazards to

vehicles and pedestrians and shall comply with all applicable provisions of this chapter. There should be a consistent sign design theme throughout the project. The design theme should include style of lettering, construction, material, type of pole or standard, size and lighting. Color of letters and background should be carefully considered in relation to the color or material of buildings where signs are proposed to be located. All tenants and owners shall be bound by the approved sign plan.

(f) Utilities. Storm drainage, including water retention and detention, sanitary waste disposal, water supply and solid waste collection and disposal shall be reviewed and considered as part of site plan approval. Particular emphasis shall be given to the adequacy of existing systems and the need for improvements, both on-site and off-site, to adequately carry runoff and sewage, and to maintain an adequate supply of water at sufficient pressure and to maintain the quality of water.

(g) Street furniture. The site plan shall provide for street and outdoor furniture appropriate to the particular design. These may include phone booths, benches, bike racks, trash receptacles, bus shelters, kiosks, and similar uses.

(h) Environmental considerations. The site plan shall include measures to prevent soil erosion, protect significant vistas or views, preserve trees, watercourses, resources, topography, soil and animal life. The design of the plan shall minimize any adverse impacts on the above elements. The Planning Board shall require the applicant to submit an environmental impact statement (EIS) which shall address sewerage, air quality, water quality, water supply, stormwater control and management, soil erosion, geology, soils, topography, vegetation, circulation, noise, land use (on-site as well as surrounding areas), aesthetics and community impact. The EIS shall assess the environmental impact of the project and list those steps which will be taken to minimize adverse environmental impact during construction and after completion.

(i) Water quality. The applicant shall specify what measures will be implemented to ensure that water quality is maintained in the reservoir and not adversely affected by development in the PCD Zone. Such measures shall include sweeping of parking lots, avoiding the use of fertilizers on site and installation of oil and grease traps.

(2) Specific design regulations:

(a) Off-street parking:

[1] Required parking:

Use	Minimum Off-Street Spaces Required
Office, retail and commercial uses	3.5 per 1,000 square feet of gross floor area

Residential:

Efficiency and 1-bedroom units	2.0 per unit
--------------------------------	--------------

2-bedroom units	2.0 per unit
-----------------	--------------

3-bedroom units	2.5 per unit
-----------------	--------------

[2] Waiver of parking. The Planning Board may grant a waiver of up to 10% of all required parking if the applicant submits proof to the Planning Board that such parking is not needed for the anticipated building occupancy.

[3] Parking space dimension shall be nine feet by 20 feet inclusive of any overhang area.

(b) Open space.

[1] Uses permitted. Open space may include landscaping and buffering areas, as well as land occupied by parks, running and jogging tracks, bicycling and hiking trails, tennis courts, athletic fields, fountains, atriums, reflecting pools and landscaped areas, usable as common open space. Undeveloped open space shall have as a prime objective the preservation of the tract's natural amenities. Wetlands, ponds, rock outcroppings, wooded areas, vistas, steep slopes, ravines and stream beds are prime lands recommended for undeveloped open space.

[2] Establishment of open space organization. Pursuant to N.J.S.A. 40:55D-43, the applicant shall provide for an organization for the ownership and maintenance of any open space for the benefit of owners or residents of the development, if said open space is not dedicated to the municipality or other governmental agency. Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise, except to an organization conceived and established to own and maintain the open space for the benefit of such development, and thereafter such organization shall not be dissolved or dispose of any of its open space without first offering to dedicate the same to the Borough. The Planning Board shall be the agency to administer the provisions of N.J.S.A. 40:55D-43 under which the open space organization is established.

[3] The charter and rules of the open space organization shall be approved by the Planning Board attorney.

F. Subsidized housing. A maximum of 25% of all housing units in the PCD Zone shall be low- and moderate income housing as defined by the State Council on Affordable Housing (COAH). The applicant shall agree to all requirements to be established by the Borough for lower income housing in accordance with the rules and regulations of the State Council on Affordable Housing. The Borough may contract out for the administration of the lower income housing to a public, private or nonprofit organization. All costs of administration shall be paid by the applicant.

G. Phasing. In order to allow the orderly assimilation of the proposed development and to accurately the actual traffic impact of the office development on the intersections of Old Hook Road and Schraalenberg Road, and Old Hook Road and Kinderkamack Road, the PCD Zone shall be developed in three phases over not fewer than five years from the date of the initial formal application, according to the following schedule:

(1) Phase 1: up to 300,000 square feet of permitted office-commercial floor space and all of the 200 permitted residential units.

(2) Phase 2: up to 2/3 of permitted office-commercial floor area.

(3) Phase 3: remaining permitted development.

(4) Along with the requirements of Chapter 236, Site Plan Review, the applicant shall submit, as part of each phase application, a report on the impact of the previous phase on existing traffic generation and flow, air quality and water quality. No such report shall be required for Phase 1.

H. Improvements.

(1) Before final approval of applications in the PCD Zone, the Borough shall require the installation of or the furnishing of a performance guaranty of all or any of the following on-site, off-site or off-tract improvements it may deem necessary or appropriate: street

grading, parking, pavement, curbs, sidewalks, fire hydrants, street signs, streetlighting, shade trees, surveyor's monuments, water mains, culverts, bridges, storm sewers, sanitary sewers or other means of sewage disposal, drainage facilities or structures, erosion control and sedimentation control devices, public improvements of open space, landscaping and other improvements as the Planning Board may require or deem necessary in the public interest. With respect to off-tract improvements, the developer shall only be required to pay for his fair and reasonable pro rata share of the cost of such improvements as determined by the Borough, with assistance from the Borough Engineer and other experts as may be needed.

(2) The following off-tract improvements are specifically required:

(a) An applicant shall be required to contribute its fair share of the cost of improving the intersection of Schraalenberg Road and Old Hook Road as a condition of site plan approval for Phase 1. All lands owned by the applicant needed to accomplish the improvement of this intersection shall be donated to the County of Bergen and shall not be considered in computing the applicant's fair share. The applicant shall have met this requirement with the posting of a bond, letter of credit or cash and dedication of land.

(b) An applicant shall be required to contribute its fair share of the cost of improving the intersection of Old Hook Road and Kinderkamack Road as a condition of site plan approval for Phase 2, unless the applicant implements alternative means of access to the site. The applicant shall take such action as is necessary or possible to have the county implement the improvements to these intersections. The applicant shall keep the Borough informed of such actions. The applicant shall have met this requirement with the posting of a bond, letter of credit or cash. The applicant shall also be required to supply the Planning Board with a comprehensive study of the feasibility of a new road to connect the site with Kinderkamack Road near the Oradell boundary. The study shall include a comparison of costs and feasibility of the proposed road and improving the Old Hook Road and Kinderkamack Road intersection. The applicant shall submit this study to the Planning Board prior to the site plan application for Phase 2.

(c) If the improvements to Old Hook Road and Schraalenberg Road and Old Hook Road and Kinderkamack Road intersections are not yet in place or under construction at the time of site plan application for Phase 3, then an applicant shall be required to implement alternative means of access to the development or submit proof on the reduced impact of traffic on the intersections as a condition of site plan approval for Phase 3.

(d) As part of Phase 1 and as a prerequisite to approval of Phase 1, the applicant shall submit a plan for public recreational facilities to be constructed or installed by the applicant and deeded to the Borough. The cost of construction and/or installation shall be at the applicant's expense. Such facilities shall include at least four tennis courts, walking and jogging paths, horseshoe pit, picnic tables, park benches, scenic overviews and similar mutually agreed-upon facilities. The plan shall include a phasing plan as to when the facilities will be completed. The applicant shall pay for all site surveys, design plans and deeding of all recreation access.

I. Application and finding. An application for development in the PCD Zone shall conform to all current Borough submission requirements for site plan approval. However, the applicant

is encouraged to submit conceptual plans on an informal basis to provide for maximum Planning Board and citizen input in the planning process. Before approving any site plan in the PCD Zone, the Planning Board shall make the following findings:

- (1) That the plan approved meets this chapter's requirements for the PCD Zone or that departures by the proposed development from zoning regulations otherwise applicable to the subject property conform to the intent of this chapter's standards.
- (2) That the proposals for maintenance and conservation of open space are reliable, and the amount, location and purpose of the open space are adequate.
- (3) That provision through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic and the amenities of light and air, recreation and visual enjoyment are adequate.
- (4) That the proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established.

J. Conditions of approval to be binding. All conditions of preliminary and final approval of any project shall be binding upon all present and future owners, tenants, occupants, lessors, lessees, heirs, assignees, developers, contractors and subcontractors, and the same shall be set forth in a developer's agreement in recordable form and approved by the Borough Council.

K. Jurisdiction. The Emerson Planning Board shall retain jurisdiction over the entire project until a final certificate of occupancy is issued for all structures and improvements for the purpose of ensuring compliance with this chapter and for appeal of the Construction Official's interpretation of any matter which may become a conflict between the developer and the Construction Code Official.

L. Consistency. The provisions of this section are designed to regulate the property zoned PCD. In the event of any conflict between any provisions of other Borough ordinances or other provisions of the Zoning Ordinance and this section, the provisions of this section shall apply.

SECTION TWO:

SECTION 290-12 be amended as follows:

290-12 Designation of Zones

For the purpose of this chapter, the Borough of Emerson is hereby divided into 15 zones, differentiated according to use and building regulations, and designated as follows:

R-22.5	Residential Single-Family
R-10	Residential Single-Family
R-7.5	Residential Single-Family
LB	Limited Business
RC	Retail Commercial
RB	Residential, Single-Family and Two-Family
IM	Industrial and Manufacturing
OSC	Open Space Conservation
PCD	Planned Commercial Development

ML-10	Single-Family
MS-AHO	Municipally-Sponsored Affordable Housing Overlay Zone-1
AHO	Affordable Housing Overlay Zone
R-2/ARC	Age Restricted Community Residence Zone
CBD-10	Central Business District - 10,000 sf
CBD-15	Central Business District - 15,000 sf

SECTION THREE:

All ordinances or parts of ordinances of the Borough of Emerson which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION FOUR:

The provisions of this ordinance are hereby declared to be severable. Should any section, paragraph, subparagraph, provision, sentence, or part hereof be declared invalid or unconstitutional, said finding shall not affect any other section, paragraph, subparagraph, provision, sentence, or part thereof and the remainder of this ordinance shall be deemed valid and effective.

SECTION FIVE:

This Ordinance shall take effect immediately following final passage, adoption and publication as provided by law.

APPROVED

Lou Lamatina, Mayor

ATTEST:

Jane Dietsche, RMC, Borough Clerk