

Mayor Nolan offered the following Ordinance pass third and final reading and moved on its adoption and authorized its publication according to law:

Ordinance No. 12-10

SECOND REVISION

**AN ORDINANCE OF THE BOROUGH OF HIGHLANDS, COUNTY OF
MONMOUTH, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING
CHAPTER 21 ENTITLED "ZONING AND LAND USE REGULATIONS" TO
MODIFY USES IN THE B-1, B-2, WC-2, R-1.03 AND MXD ZONE DISTRICTS**

WHEREAS, the Economic Development Committee of the Highlands Business Partnership (HBP) submitted on June 9, 2011 a comprehensive list of recommendations to the Highlands Mayor and Council addressing proposed changes in the Borough zoning to further business revitalization of the downtown and other areas of the Borough; and,

WHEREAS, the Highlands Mayor and Council authorized the Highlands Planning Board on June 9, 2011 to undertake a review of the potential zoning changes recommended by the Highlands Business Partnership; and,

WHEREAS, the Highlands Planning Board, after several special meetings devoted to discussion of the various topics and with public comment, submitted a report to the Mayor and Council dated September 8, 2011

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough of Highlands after review of the Planning Board report, does hereby amend and supplement Chapter 21 entitled Zoning and Land Use Regulations of the Borough of Highlands as follows:

Section 1

Section 21-8 (Definitions) is hereby supplemented to add the following definition:

"ESSENTIAL SERVICES - Underground gas, electrical, telephone, telegraph, water transmission or distribution systems, including mains, drains, sewers, pipes, conduits and cables; and including normal aboveground appurtenances, such as fire alarm boxes, police call boxes, light standards, poles, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by public utilities or municipal or other governmental agencies or for the public health or safety or general welfare."

Section 2

§ 21- 74 (Prohibited Uses) is hereby amended and supplemented to add the following (additions are noted by underline; deletions are noted with a strikeover):

21-74 Prohibited Uses.

Those uses not specifically permitted in a zone district are prohibited. Additionally, the following uses are specifically prohibited: adult entertainment, arcades, pool halls, any accessory use within an establishment with a liquor license designed for use by minors, auctions or sales conducted outside a structure except when a private home is being cleaned or vacated or for the raising of

funds for charitable institutions and done not more than twice a year nor for more than two (2) days duration, short- or long-term storage of trucks or trailers for use as storage facilities, the keeping of farm animals, such as horses, cows, pigs, fowl, or rabbits.

In addition the following uses are prohibited in the B-1 and B-2 zones: pawn shops, tattoo parlors, check-cashing shops, automotive transmission, automobile body shops, heavy duty machine shops and new or used automobile sales are also prohibited.

Section 3

§ 21-85. C. (R-1.03 Single Family Residential) is amended to add the following to subsection C.3 (Conditional Uses):

“d. Additional Permitted Uses for the R-1.03 zone district, north side of Shore Drive that encompasses the Locust Street neighborhood. (Specifically Locust Street, west of Willow Street portions of Block 101 and 102): All uses that are permitted in the MXD Mixed Use District, with the exception of Mobile Home Parks, shall be permitted in the R-1.03 zone district, limited to the parcels in the Locust Street neighborhood. (Specifically Locust Street, west of Willow Street, portions of Block 101 and 102) The bulk requirements of the Mixed Use Development MXD District shall be utilized for any development, unless the applicant requests to develop the property or tract with the R-1.03 standards.”

Section 4

§ 21-90. A .1, 2, and 3 (B-1 Neighborhood Business District; Permitted principal uses) is hereby deleted and the following is inserted in its place:

“1. Permitted principal uses:

- a. Retail sales and services, business and personal service establishments;
- b. Finance such as banks, savings institutions, credit unions, consumer lending, and securities brokerage;
- c. Insurance offices such as life, health, medical carriers, claims adjusting and all other insurance related activities;
- d. Medical and health care offices;
- e. Restaurants, bars, and taverns and other eating establishments, except drive-through restaurants;
- f. Professional, administrative and business office and services;
- g. Recreational retail sales and service businesses related to water sports and outdoor recreation, such as, but not limited to, bicycling, fishing, and surfing;
- h. Houses of worship;
- i. Bed and Breakfasts;
- j. Taxi/livery/bus companies, except on parcels with frontage on Bay Avenue;
- k. Essential services, as defined in this chapter; and,
- l. Offices and facilities for municipal, county, state and federal government.
- m. Art, Handicraft studios/workshops and galleries.

2. Permitted Accessory Uses- Off-street parking areas; uses and structures customarily subordinate and incidental to permitted principal uses and permitted conditional uses.

3. Conditional Uses: Reserved”

No changes are proposed to Paragraph 4. (Area and bulk requirements) of 21-90.A

Section 5

§ 21-91. A .1, 2 and 3 (B-2 Central Business District; Permitted principal uses) is hereby deleted and the following is inserted in its place:

- “1. Permitted principal uses:
 - a. Retail sales and services, business and personal service establishments;
 - b. Finance such as banks, savings institutions, credit unions, consumer lending, and securities brokerage;
 - c. Insurance offices such as life, health, medical carriers, claims adjusting and all other insurance related activities;
 - d. Medical and health care offices;
 - e. Restaurants, bars, and taverns and other eating establishments, except drive-through restaurants;
 - f. Professional, administrative and business office and services;
 - g. Recreational retail sales and service businesses related to water sports and outdoor recreation, such as, but not limited to bicycling, fishing, and surfing;
 - h. Houses of worship;
 - i. Bed and breakfasts;
 - j. Taxi/livery/bus companies, except on parcels with frontage on Bay Avenue;
 - k. Essential services, as defined in this chapter; and,
 - l. Offices and facilities for municipal, county, state and federal government.
 - m. Art, Handicraft studios/workshops and galleries.
2. Permitted Accessory Uses- Off-street parking areas; uses and structures customarily subordinate and incidental to permitted principal uses and permitted conditional uses.
3. Conditional Uses: Reserved”

No changes are proposed to Paragraph 4. (Area and bulk requirements) of 21-90.A

Section 6

§21-92.01 (Highway Oriented Business) A.1. (Permitted Principal Uses) is amended and supplemented as follows: (additions are noted by underline; deletions are noted with a strikeover):

1. Permitted Principal Uses
 - a. All uses permitted in the B-1 Zone, however drive-through type uses are permitted.
 - b. Health and Fitness establishments; athletic clubs, and day spas only on lots fronting on NJ Highway Route 36.

Section 7

§ 21-96 (WC-2 Waterfront commercial) is amended and supplemented to add the following new conditional use to § 21-96.A.3 (Conditional Uses):

“Additional Permitted Uses for the WC-2 zone district, north of Shore Drive, that adjoins the MXD zone in block 101: All uses that are permitted in the MXD Mixed Use District, with the exception of Mobile Home Parks, shall be permitted in the single WC-2 zone district that adjoins the Mixed Use Development MXD zone in block 101 subject to the condition that any development in the WC-2 zone using the MXD standards shall have a minimum tract of 2 acres. If the minimum tract area is met, the bulk requirements of the Mixed Use Development MXD District shall be utilized for any development, unless the applicant requests to develop the property or tract with WC-2 standards.”

Section 8

§21-96.01 (Mixed-Use Zone District) (MXD) Subsections A through and including D are amended as follows: (additions are noted by underline; deletions are noted with a strikeover):

21-96.01 Mixed-Use Zone District (MXD).

- A. Purpose. The purpose of the Mixed-Use Zone district (MXD) is to encourage the development of livable neighborhoods which contain townhouse residential dwelling units, professional work space; nonresidential uses which are supported by a multi-modal transportation node. The MXD zone district encourages uses that are compatible with and will benefit from the weekday New York City ferry service; the Sandy Hook Bay Marina and open space areas from the County Park. The MXD zone district also should incorporate a unifying seaside architectural theme that will provide attractiveness and consistency to the area.

It is the Borough’s intention, in the creation of this zone district, to provide for comprehensive mixed-use development rather than lot-by-lot development to encourage innovative and desirable design and layout of residential and nonresidential structures. A mixed-use development shall consist of both residential and nonresidential uses.

- B. Permitted Principal Uses.

1. Residential:

- a. Townhouses.
- b. Multi-family dwellings in accordance with the MF Multi-Family Residence Zone District standards, § 21-88.

2. Commercial Uses in Conjunction with a Planned Mixed-Use Development:

- a. Marinas, including retail boat sales.
- b. Ferry services.
- c. Professional offices.
- d. Restaurants, including full service and outdoor dining facility.

3. Existing Mobile Home Parks, as defined herein, as a principal permitted use, and in accordance with the requirements of Section 21-89. Existing Mobile Home Parks shall not be permitted to expand the boundaries of the park area that are existing at the time of the adoption of this amendment and any and all replacement of dwellings within an existing

park and any construction shall be in full compliance with Federal Emergency Management Agency rules and Part 7 Flood Damage Prevention flood hazard regulations of this chapter.

4. Hotels, maximum height of four stories and forty-seven feet, in accordance with the following:
 - a. The minimum floor area per unit shall be two hundred fifty (250) square feet.
 - b. All solid waste containers for storage and pickup shall be centrally located and easily accessible and within a screened enclosure on the street level.
 - c. All hotel uses shall be provided with adequate fire safety and evacuation provisions and sprinkler systems. Regardless of the number of rooms, such facilities shall be approved by the Municipal Fire Subcode Official and shall incorporate all applicable requirements of the National Fire Protection Association Code and the NJ Uniform Construction Code.
 - d. Each unit of accommodation shall contain a minimum of two (2) rooms, a bedroom, and a separate bathroom which affords privacy to a person within the room and is equipped with a toilet, a wash basin and bathtub/shower. Kitchen facilities are prohibited.
 - e. The hotel shall contain a main lobby, a central reservation/guest registration desk and a specified area for the pickup and drop off of guests and luggage.
 - f. Each hotel shall provide parking at a minimum ratio of one (1) space per unit of accommodation.
 - g. The structure shall not be a "rooming house" or "boarding house" as defined by current New Jersey statute.
 - h. Once established, a hotel use shall not be converted to a multifamily residential use such as apartments, townhouses, or condominium living arrangements.

C. Permitted Accessory Uses.

1. Boardwalks.
2. Charter and excursion boats, off-shore areas.
3. Community center, devoted exclusively to the residents of the mixed-use development.
4. Home professional offices.
5. Off and on-site parking.
6. Pools, tennis courts, exercise rooms and recreation facilities for use of residents and guests.
7. Public and private boatslip/dock for personal watercraft and as accessory to residential and commercial uses.
8. Retail services, specific to marina related services.
9. Uses accessory or incidental to the principal use.

D. Bulk and Area Requirements.

1. Minimum tract size: ~~six (6)~~two (2) acres.
2. Average setback from tract boundaries and all other right-of-way lines: Twenty (20) feet, but in no case shall the setback be less than fifteen (15) feet.
3. Maximum density: Fourteen (14) dwelling units per acre.
4. Minimum tract width: One hundred twenty-five (125) feet.
5. Minimum tract depth: One hundred (100) feet.
6. Maximum building coverage for the entire tract: Thirty-five (35%) percent.
7. Maximum floor area ratio for the entire tract: 0.45.
8. Maximum impervious coverage for the entire tract: Eighty (80%) percent.
9. Maximum units per structure: Five (5) dwelling units.
10. Maximum building length: One hundred fifty (150) feet.
11. Maximum height: Two and one-half (2.5) habitable stories over the garage at grade level; thirty-five (35) feet.
12. A structure shall not have more than two (2) connected townhouse units on one (1) facade without providing a variation in setback of at least four (4) feet.
13. The spacing of residential buildings shall adhere to the following minimums:
 - a. End wall to end wall: Twenty-four (24) feet
 - b. End wall to window wall: Thirty (30) feet
 - c. Windowed wall to windowed wall:
 - (1) Front to front: Seventy-five (75) feet
 - (2) Rear to rear: Fifty (50) feet
 - (3) End to end: Thirty (30) feet
 - d. Any building face to residential access street curb and municipal right-of-way: Twenty (20) feet.
 - e. Any building face to common parking area: Twelve (12) feet.
14. Minimum separation of nonresidential structures from all other principal structures: Thirty (30) feet.
15. Any approval for development in the MXD Zone, which results in the retirement of the Mobile Home Park or the removal of any residents of the Mobile Home Park shall contain a condition that the applicant shall provide proof, to the satisfaction of the board of original jurisdiction, that adequate private residential facilities and circumstances exist for the relocation of those mobile park residents consistent with the requirements of N.J.S.A. 46:8C-21. Although N.J.S.A. 46:8C-21 is invoked by an application for one (1) or more variance(s), the requirements of N.J.S.A. 46:8C-21 shall apply to the aforementioned circumstances regardless of whether or not the application requires one (1) or more variance(s). For purposes of this chapter, "adequate private residential facilities and circumstances" shall share the definition of "comparable housing or park site" as provided in N.J.S.A. 2A:18-61.7(a). An applicant must provide proof of compliance with this paragraph 15 to the board of original jurisdiction prior to obtaining final approval. This section is not severable from the other provisions of the chapter and the zoning of the property to the MXD Zone is conditioned upon the above relocation provision.

Section 9

22-14.REPEALER.

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

§ 22-15 SEVERABILITY.

If any section, subsection, clause or phrase of this ordinance shall, for any reason, be held to be unconstitutional or invalid, such decision shall not affect the remaining portion of this ordinance.

EFFECTIVE DATE.

This ordinance shall take effect as provided by law.

SECTION 10 *Certified Copy*

A certified copy of the within Ordinance shall be forwarded by the Borough Clerk to the clerks of all adjoining municipalities, the Monmouth County Planning Board and the following:

1. Borough Administrator
2. Borough Engineer
3. Planning Board
4. Zoning Board
5. Borough Attorney
6. Tax Assessor
7. Zoning Official

BE IT FURTHER ORDAINED that this ordinance shall take effect upon final passage and publication in accordance with law.

Seconded by Mr. Francy and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mayor Nolan

NAYES: Mr. Redmond

ABSENT: Mr. O'Neil

ABSTAIN: None

DATE: June 20, 2012

CAROLYN CUMMINS, BOROUGH CLERK

Introduction: March 7, 2012

Publication: March 16, 2012, Two River Times

Amendment#1: March 21, 2012

Publication: March 30, 2012, Two River Times

Amendmen#2: May 2, 2012

Publication: May 11, 2012 & June 13, 2012

P.H./Adoption: June 20, 2012

Publication: June 29, 2012

I HEREBY CERTIFY THE ABOVE TO BE A TRUE AND
REAL COPY OF AN ORDINANCE ADOPTED ON THE
_____ **DAY OF** _____ **2012 BY THE**
BOROUGH COUNCIL OF THE BOROUGH OF
HIGHLANDS, COUNTY OF MONMOUTH, and STATE
OF NEW JERSEY.

Carolyn Cummins, BOROUGH CLERK

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