

Mayor Nolan offered the following ordinance pass introduction, that a public hearing date be set for September 18, 2013 at 8:00 P.M. and authorized publication according to law:

**ORDINANCE O-13-25-**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 21 OF THE REVISED GENERAL CODE OF THE BOROUGH OF HIGHLANDS ENTITLED "ZONING" TO MODIFY THE REQUIREMENTS OF THE MH MOBILE HOME RESIDENCE DISTRICT, AND TO FURTHER ALLOW HIGH RISE MULTI-FAMILY DEVELOPMENTS IN THE MH ZONE AS A CONDITIONAL USE, AND TO ESTABLISH REGULATIONS PERTAINING THERETO.**

Carolyn Cummins 9/4/13 11:31 AM

Deleted: -

WHEREAS, on July 3, 2013, the Borough introduced Ordinance 13-16 (the "Ordinance") which, among other things, amended height and density restrictions within the MH zone; and

WHEREAS, the Ordinance was scheduled for a public hearing on August 21, 2013; and

WHEREAS, pursuant to N.J.S.A. 40A:55D-64, the Ordinance was referred to the Planning Board for review and recommendation; and

WHEREAS, N.J.S.A. 40A:55D-26 provides in pertinent part that, if the Planning Board does not comment on a referred zoning ordinance within thirty-five (35) days, the governing body may consider the ordinance for adoption without Planning Board comment; and

WHEREAS, the Planning Board requested an extension of time to consider the Ordinance, which, by Resolution adopted on July 17, 2013, the governing body granted that extension; and

WHEREAS, by Resolution adopted on August 8, 2013, the Planning Board found that the Ordinance was partially consistent with the Master Plan but also expressed concerns, inter alia, about (a) parking, (b) slope, and (c) maximum height; and

WHEREAS, the remaining Planning Board comments were otherwise supportive of the Ordinance; and

WHEREAS, at its meeting on August 21, 2013, the governing body accepted and reviewed the comments of the Planning Board and discussed those comments with the Borough Attorney during open and closed executive session on August 21, 2013; and

WHEREAS, the governing body conducted a public hearing on the Ordinance at its meeting on August 21, 2013; and

WHEREAS, after consideration of public comment on the Ordinance and the comments of the Planning Board as stated in its August 8, 2013, the governing body voted to postpone third and final reading of the Ordinance until its meeting on September 4, 2013; and

August 26, 2013

WHEREAS, the governing body values the comments of the Planning Board and of the public; and

WHEREAS, the governing body wishes to introduce this amended ordinance to address the recommendations of the Planning Board; and

WHEREAS, the first comment of the Planning Board recommends that the Ordinance address steep slope and slump block issues by considering a sliding set-back provision, based on height to protect the “ridge-line” and steep slope areas; and

WHEREAS, this amended ordinance addresses those concerns by adopting a bulk requirement that any high rise developments in the MH Zone District comply with the minimum foundation clearances from the slope requirements of the International Building Code (IBC), 2009 or later, New Jersey edition, and further requiring a minimum setback from the tract perimeter top of slope shall not be less than forty (40) feet; and

WHEREAS, this requirement is in addition to the Steep Slope and Slump Block Ordinance, § 21-84B enacted in 2009, which requires:

Any increase in impervious areas disturbance of soil or redirection of stormwater in areas of slopes from twenty to thirty-five (20% to 35%) percent must have a plot plan approved by the Borough Engineer prior to the issuance of any construction permits and the start of any construction activities. Such plan shall provide information on the extent of the disturbance, the stability of the soils, the existing topography and proposed grading, the temporary and permanent soil erosion and soil stability methods, and any other information required by the Borough Engineer to insure that proper construction techniques are used in the steep slope areas. Where slopes exceed thirty-five (35%) percent there shall be no disturbance of the steep slope areas. In addition there shall be no disturbance of the areas within fifteen (15) feet of the top of slope and no structures located within twenty-five (25) feet of the top of slope; nor there be any disturbance within ten (10) feet of the toe of the slope or any structures located within fifteen (15) feet of the toes of the slope.

In and adjacent to areas indicated as slump blocks in the Borough's Master Plan, the Board may require further study, including soils and other technical reports, on the stability of the soils and any special construction techniques or limitations to construction required to address the issues of the slump area. (Ord. #O-09-23 § 6); and

August 26, 2013

WHEREAS, the amendments provided herein and the Steep Slope and Slump Block Ordinance adequately address the concerns raised by the public and the Planning Board; and

WHEREAS, the governing body has also considered the report of the James P. Minard entitled "Slump Blocks in the Atlantic Highlands of New Jersey," prepared in 1974, ("Minard Report") which, in its conclusions and recommendations, states: "It seems evident that careful thought, planning, investigations, tests, and analyses should be undertaken before construction is begun in any areas on definite slump blocks, probable or possible slump blocks, along zones of weakness, or near the edges of the tops of any of the high, steep bluffs;" and

WHEREAS, governing body finds that the amendments to the Ordinance and the previously adopted Steep Slope and Slump Block Ordinance, § 21-84B of the Borough Code, support the concerns raised by the Minard Report; and

WHEREAS, the second and third recommendations of the Planning Board were that any reference to ten (10) stories be a "maximum," not a "minimum," including any attached parking structure and

WHEREAS, any reference to ten-story minimum was for definitional purposes only; and

WHEREAS, the governing body declares that it is the intent of the Ordinance, and the amendments including herein, to provide a maximum height of 120 feet and ten (10) stories, including any attached parking structure; no structure exceeding 120 was permitted by the Ordinance or by this Amended Ordinance; and

WHEREAS, the recommendations of the Planning Board four (4) through seven (7) and nine (9) are findings of fact and not recommendations related to the Ordinance; and

WHEREAS, recommendation eight (8) concerns a recommendation to rezone the adjacent zone containing the Eastpointe Project; and

WHEREAS, the governing body shall, in the future consider that recommendation, as well as revisions to the Master Plan; however, the governing body finds that such concerns need not be addressed in the context of this amended ordinance, which addresses the specific concerns raised by the Planning Board; and

WHEREAS, the governing body finds that this amended ordinance addresses the recommendations of the Planning Board, is consistent with the Master Plan, and permits uses which are compatible with surrounding uses and compatible with a comprehensive zoning plan; and

August 26, 2013

WHEREAS, the surrounding uses include the Eastpointe high-rise to the northwest and highway commercial along the adjacent State Highway 36;

WHEREAS, the governing body of the Borough of Highlands finds, for the aforementioned and other reasons, that it is in the best interest of the municipality to amend Section 21 of the Revised General Ordinances of the Borough as outlined below.

NOW, THEREFORE, BE IT ORDAINED that Section 21 of the revised general ordinances of the Borough of Highlands be and hereby is amended in following part only:

**SECTION ONE:** § 21-89 (MH Mobile Home Residence) is hereby amended and supplemented as follows: (Additions noted by underline. Deletions noted by strikeover)

1. Permitted Accessory Uses:

Utility Buildings incidental to residential use.

Clubhouses, swimming pools and other recreational facilities and structures for the exclusive use of the residents.

Tennis Courts.

Other accessory uses and structures incidental to the permitted principal and conditional uses, including but not limited to structured parking for multi-family residences only.

2. Conditional Uses:

Satellite Dish Antennas

High Rise Multi-family dwellings, and structured parking accessory or appurtenant thereto subject to the requirements of §21-97.M. For purposes of this zone district, high rise multifamily developments shall be defined as any building of greater than six stories and no greater than ten (10) stories .

**SECTION TWO:** §21-97 Conditional Uses is hereby supplemented to add new section M entitled High Rise Multifamily Developments as follows:

M. High Rise Multi-Family Developments in the MH Zone

High Rise Multi-family developments in the MH Zone are subject to RSIS standards, and shall not be required to meet the requirements of Schedule 1 where said requirements are inconsistent with either RSIS or the follow requirements.

1. Density shall not exceed 32 dwelling units per acre
2. Minimum lot size: 10 acres.
3. Minimum front yard setback: 100 feet to a principal building or structured parking facility
4. Minimum side yard setback: 60 feet to a principal building or structured parking facility
5. Minimum rear yard setback: 60 feet to a principal building or structured parking facility
6. Minimum Buffer area along any property line: 25 feet. Driveways and sidewalks shall be permitted to cross buffer areas to provide access to streets and adjacent properties. Pedestrian paths shall be permitted within buffer areas. Development identification signs and gatehouses shall be permitted in buffer areas within 75 feet of driveway entrances providing access to a public street
7. Maximum building coverage: 25 percent
8. Maximum lot coverage: 50 percent
9. Maximum FAR: 1.50. The floor area of structured parking facilities underneath and adjacent to residential buildings shall not be considered as floor area for purposes of the Floor Area Ratio (FAR).
10. Maximum Height:
  - a. Residential buildings: 120 feet, but not greater than ten stories . The height of residential buildings shall be measured from the floor of the building lobby or the first level that contains dwellings whichever is lower. Elevator shaft may exceed this limitation by no more than 15 feet.
  - b. Structured parking: 45 feet. Parking structures may be located underneath and/or adjacent to residential buildings.
  - c. Recreational facilities and other accessory structure: 25 feet.
11. Accessory Structures:
  - a. Recreational facilities. Recreational facilities shall be provided for the use of residents of the high rise multi-family development. Such facilities shall be setback a minimum of 50 feet from any property line.
  - b. Signs. Development identification signs shall be permitted adjacent to the main entrance of a high rise multi-family development. Such signs shall either

consist of a monument sign or be mounted on a freestanding wall. The maximum number of signs shall be two faces on a monument sign or two wall-mounted signs. The maximum area per sign face shall not exceed 100 square feet. A development identification sign shall be setback a minimum of 5 feet from any property line.

c. A gatehouse or similar structure shall be permitted within 75 feet of driveway entrances providing access to a public street.

12. Steep Slopes and Setback from Slopes.

Development of high rise developments in the MH Zone District shall comply with the minimum foundation (face of footing) clearances from the top of a steep slope, at the tract perimeter, of the International Building Code (IBC), 2009 or later, New Jersey edition, as illustrated in Figure 1808.7.1 of the 2009 IBC, NJ edition and with the Steep Slope and Slump Block Ordinance, § 21-84B of this Code. . The minimum clearance of the face of the footing and setback shall apply only to the top of a steep slope at the tract perimeter and shall be the least of the smaller of the height of the slope divided by three (3) or forty (40) feet, in accordance with the IBC, 2009 above and illustrated in Figure 1808.7.1 of the 2009 IBC. Notwithstanding the foregoing, the minimum setback from the top of a steep slope at the tract perimeter shall not be less than forty (40) feet.

This requirement shall be considered as a bulk requirement of the conditional use. Relief for the steep slope and slope setback requirement, above shall be addressed under 40:55D-970.c.

**SECTION THREE: SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

**SECTION FOUR: REPEALER.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION FIVE: EFFECTIVE DATE.** This Ordinance shall take effect after final passage as provided by law.

Seconded by Mr. Redmond and introduced on the following roll call vote:

ROLL CALL:

AYES: Ms. Ryan, Mr. Redmond, Ms. Kane, Mayor Nolan

August 26, 2013

NAYES: Mr. Francy  
ABSENT: None  
ABSTAIN: None

Date: September 4, 2013

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CAROLYN CUMMINS, BOROUGH CLERK

Introduced: September 4, 2013  
Publication:

Public Hearing;  
Adoption:  
Publication:

I hereby certify this to be a true copy of the Ordinance Introduced by the Governing Body of the Borough of Highlands on \_\_\_\_\_, 2013

\_\_\_\_\_  
BOROUGH CLERK

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