

**Borough of Highlands  
Planning Board  
Regular Meeting  
September 8, 2011**

Mr. Stockton called the meeting to order at 7:38 P.M.

Mr. Stockton asked all to stand for the Pledge of Allegiance.

Mr. Stockton made the following statement: As per requirements of P.L. 1975, Chapter 231. Notice is hereby given that this is a Regular Meeting of the Borough of Highlands Planning Board and all requirements have been met. Notice has been transmitted to the Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board.

**ROLL CALL:**

**Present:** Mr. Mullen, Mr. Schoellner, Mr. Stockton, Ms. Peterson,  
Ms. Ruby, Mr. Gallagher

**Absent:** Mr. O'Neil, Mr. Parla, Mr. Roberts, Mayor Nolan

**Also Present:** Debby Dailey, Deputy Borough Clerk  
Jack Serpico, Esq., Board Attorney  
Martin Truscott, P.P., Board Professional Planner  
Robert Keady, P.E., Board Engineer

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**PB#2011-1 C. Scaturro Irrevocable Trust  
Portland Road, Block 1 Lots 14-18, Block 3 Lots 9-11  
Application Review & Schedule Public Hearing Date**

**Present:** Martin McGann, Esq., Applicants Attorney  
Walter Hopkins, P.E., Applicants Engineer

Mr. McGann stated that this is a three lot subdivision and adjustment of some of the property lines. There was previously a two lot subdivision it was situated on lots 7.01 and 7.02 and this application is in the same area and does not affect those two lots. We have already received a CAFRA permit for a proposed new home which will be known as lot 9.01. They are creating one undersized lot and it's not the intention to construct a home on it but the intent is to provide water access to a home that is located above.

Walter Hopkins stated that this is a very complicated parcel and if you look at the plans they are a little confusing because there were several parcels that were previously consolidated probably by the merger law. He tried to color coordinate this and stated that they are not creating any net new lots. There will actually be less lots after this reconfiguration of the lots. There are actually six lots that are involved in the reconfiguration. Lot 8 will remain and there is no reconfiguration being proposed. Three lots will be consolidated into one lot which will give an existing home lot waterfront access down below. Two lots will be combined and a portion lot 16 will be the new lot 9.01. Lot 11, they are going to carve a small sliver off to give waterfront access to lot 8. They will be two separate lots but will be deeded together.

Mr. McGann – we would agree to a deed restriction on that one. We may want the ability to put a shed on it.

Mr. Hopkins stated that the variances required are existing variances that exists today due to the existing size of the lots with the exception to the sliver below and obviously we are not proposing to build a home on the sliver lot. We are creating less lots in the end of this applications from six lots down to four lots and one of the four is the sliver lot. Proposed lot 14.01 is actually

**Borough of Highlands  
Planning Board  
Regular Meeting  
September 8, 2011**

30,000 square feet where only 14,000 is required. Proposed lot 9.01 will be oversized at 17,000 square feet versus required 14,000. Again the undersized lot is for waterfront access.

Mr. McGann explained that the DEP requires land for a dock for lot 8.

The board continued to review application with Mr. McGann. Discussions continued about the application between the board and Mr. McGann and Mr. Hopkins.

Mr. Keady asked if that sheet that Mr. Hopkins has can be submitted to the board to assist in the review process.

Mr. Hopkins will provide the board with copies of the colored rendering for the public hearing.

Mr. Mullen offered a motion to schedule a public hearing for this application for October 13, 2011, seconded by Ms. Ruby and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Mullen, Mr. Schoellner, Ms. Peterson, Ms. Ruby, Mr. Gallagher,  
Mr. Stockton

**NAYES:** None

**ABSTAIN:** None

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**Review of Subcommittee Report RE: HBP Zoning Recommendations**

**Adoption of Resolution Adopting Report on the HBP Zoning Recommendations**

The following documents were marked into evidence this evening:

- B-1: Draft Report of Subcommittee dated September 8, 2011 Draft;
- P-1: Email from Frank & Sharon Keenan dated 9/8/11;  
Letter from Ida & Barry Fisher dated 7/14/2011;  
Letter from Christian Lee dated July 5, 2011;  
Email from Councilman Francy dated September 8, 2011.

Martin Truscott, P.P. of T & M Associates was sworn in.

Mr. Stockton stated that the report is a result of two subcommittee meetings.

Mr. Truscott spoke about the subcommittee meetings and his draft report. We are here to discuss the report and see if there are any changes, then approve it. He then reviewed and read through his report. In terms of general comments the subcommittee understood the HBP's recommendations but they felt there was a tilt toward density. There was a thought that maybe density is not the answer so there was a little push back on that. The subcommittee also thought that the HBP should focus on the down town. Page 2 the subcommittee strongly is in disagreement with HBP's recommendation for owner occupied two family dwellings being added as a permitted use. Under single family attached there was a recommendation that attached townhouse residential units should be permitted through all residential zones in the borough. The subcommittee was adverse to this recommendation. Business Zones, B-1 and B-2, the HBP's recommendation was to consolidate the two zones but the subcommittee disagrees, which he further explained.. Page 3, the subcommittee did not agree with the HBP's recommendation to allow single-family attached homes in the combined business zones. He continued to read through the report for the board. He then stated that in terms of the process there were two

**Borough of Highlands  
Planning Board  
Regular Meeting  
September 8, 2011**

subcommittee meetings and both were opened to the public and there was one board meeting where the HBP discussed this with the Planning Board

Mr. Stockton asked if there were any questions from the public.

Rosemary Ryan of 117 Highland Avenue stated that she has a letter from her neighbor and wanted to confirm that the Board was not recommending multifamily houses being zoned for uptown.

Mr. Stockton – right

Rosemary Ryan questioned the process.

Mr. Serpico explained that the Planning Board reviews and makes recommendations from a planning perspective. We can't tell the Governing Body what to do, we submit a report and it's up to them make the decision. He then stated that the board has received emails and letters from the public on this matter and he has allowed the board to review the letters.

David Mintzer of 1 Scenic Drive asked what the Shadow Lawn property is currently zoned for today.

Mr. Truscott – Mobile Homes are currently permitted at Shadow Lawn. He then explained that the Planning Boards approval for the townhomes was overturned. He then explained that the Board adopted a Resolution adopting a report on the mobile park zoning.

Lori Dibble of 32 Paradise Park stated that she was at the second subcommittee meeting and wanted to clarify that it seemed that the changes that they were looking for were not appropriate for rezoning and this can only be accomplished through rezoning.

Mr. Stockton stated that he was present at the July subcommittee meeting and remembers that it was talked about briefly and he agrees with the paragraph in the report.

Mr. Mullen – he would agree with Ms. Dibble's characterization of the board's intent to encourage redevelopment. It was an act brought up by the Board Attorney to use as method instead of changing zoning.

Mr. Serpico commented on the process of zone changes verses redevelopment process.

Ms. Peterson stated that she would agree that we did not make a recommendation for any direction.

Joe \_\_\_\_\_ of 1 Scenic Drive wanted to know what happened with the uses that were discussed for Shadow Lawn.

Mr. Serpico explained that the board first reviewed the recommendation for the proposed ordinance changes for ordinance O-07-07 which the board has already reviewed and submitted a report to the Council on that matter. This HBP zoning recommendation is a separate item.

Mr. Truscott further commented on the Shadow Lawn zoning. It is currently zoned a mobile home park.

Mr. Mullen – are we going to change the wording in the report with regard to the suggestion by Ms. Dibble.

**Borough of Highlands  
Planning Board  
Regular Meeting  
September 8, 2011**

Mr. Truscott stated that he will add wording that the Planning Board is not taking a stance in terms of encouraging redevelopment it was just another tool .

The board was okay with the change in language in the report.

Michelle Pezzulo of 115 Highland Avenue wanted clarification of the July 14<sup>th</sup> meeting minutes. Carla Braswell stated that the HBP focused on where the disposable income comes from and she wanted to know if they did conclude that that would come from residential apartments.

Mr. Serpico – we couldn't answer that.

Michelle Pezzullo then wanted to know, Mr. Colby stated that there were pieces of property on the hill that may be of poor use and to give its highest use. What defines poor use and whose idea of the best use of that plan would be?

Mr. Serpico again stated that we can 't answer because we are not the ones who made the comments. She should ask Mr. Colby what he meant by his testimony.

Michelle Pezzullo – did Mr. Colby mean that people from uptown don't come down town to shop and that's why we need disposable income.

Mr. Mullen- feels in general that the HBP felt that the highest and best use of the land was to get the best tax revenue for the town with disposable income as a benefit to the business district.

Michelle Pezzullo then questioned who defines the use of the land on the hill.

Unidentified Woman then commented on code enforcement.

Mr. Serpico stated that the report comments on code enforcement.

Unidentified Woman stated that the Board did a fine job.

There were no further questions or comments from the public; therefore Mr. Stockton closed the public portion on this matter.

Mr. Serpico then marked the following documents as Exhibit P-1 which consisted of the following:

Email from Frank & Sharon Keenan dated 9/8/11;  
Letter from Ida & Barry Fisher dated 7/14/2011;  
Letter from Christian Lee dated July 5, 2011;  
Email from Councilman Francy dated September 8, 2011.

Mr. Truscott will make the one change to the report.

Sherry Ruby stated that she listened to the June Planning Board meeting and will sign an affidavit so she is eligible to vote on this.

Mr. Schoellner offered the following Resolution and moved on its adoption:

**Borough of Highlands  
Planning Board  
Regular Meeting  
September 8, 2011**

**RESOLUTION**

**BOROUGH OF HIGHLANDS PLANNING BOARD**

WHEREAS, the Mayor and Council of the Borough of Highlands authorized the Planning Board to undertake a review of potential zoning ordinance changes recommended by the Highlands Business Partnership, Inc., which recommendations are set forth in said report under cover letter to the Mayor and Council dated June 9, 2011; and

WHEREAS, the Municipal Land Use Act, NJSA 40:55D-26 & 64, set forth the issues to be considered by the Board and requires that the Planning Board prepare and transmit a report back to the Governing Body; and

WHEREAS, the Board conducted a review of the proposed amendments on July 14, August 11, and September 8, 2011. A subcommittee appointed by the Board met in session to consider the proposed recommendations on July 28 and August 24, 2011; and

WHEREAS, the Board received comments on the proposed amendments from members of the public; the Board Planner, Martin P. Truscott, P.P. and the Planning Board subcommittee which issued a report to the Board at the meeting held on September 8, 2011; and

WHEREAS, the Board discussed the proposed recommendations at the aforementioned hearings pursuant to the requirements of the aforementioned statutes; and

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Highlands that it hereby adopts the findings and recommendations of the Board set forth in the annexed report and does further recommend that said report be clarified or supplemented by the specific recommendations set forth below and further recommends that the Mayor and Council be guided accordingly when considering the recommendations of HBP, Inc. The specific recommendations are as follows:

\_\_\_\_\_

NONE

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

BE IT FURTHER RESOLVED that the Board hereby directs its Secretary to transmit said findings to the Clerk of the Borough of Highlands pursuant to the Statute first mentioned above forthwith for consideration by the Mayor and Council of the Borough of Highlands.

**Borough of Highlands  
Planning Board  
Regular Meeting  
September 8, 2011**

Seconded by Ms. Ruby and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Mullen, Mr. Schoellner, Ms. Peterson, Mr. Gallagher,  
Ms. Ruby, Mr. Stockton

**NAYES:** None

**ABSTAIN:** None

**Report of the Highlands Planning Board**

**September 8, 2011**

This report is a response to the Zoning Recommendation Report of the Highlands Business Partnership (HBP) Economic Development Committee dated June 9, 2011, addressed to the Highlands Borough Council. The Council has requested the Planning Board's input and comments on the recommendations. The report is based upon the deliberations of a subcommittee of the Planning Board and the Planning Board during meetings held in July, August and September 2011.

The subcommittee appointed by the Planning Board consisted of the following members: Andrew Stockton, Peter Mullen, Rod Schoellner and Janet Peterson. Jack Serpico, Board Attorney, and Martin Truscott, Consulting Planner, also attended all meetings.

The subcommittee was appointed by the Planning Board on July 14, 2011 to review and report back to the Board concerning the recommendations of the HBP concerning possible changes to the Highlands Borough zoning ordinance. Ms. Carla Braswell, Mr. Jim Philips and Mr. Larry Colby (all representing the HBP) presented the findings at the regular July 2011 Planning Board meeting. On July 28, 2011, two representatives of the HBP (Mr. Colby and Ms. Braswell) were present at the subcommittee meeting and discussed the recommendations and the reasoning for many of the HBP's suggestions. A second subcommittee meeting was held on August 24, 2011; no representatives of the HBP were present on August 24<sup>th</sup>. The report was finalized at the September 8<sup>th</sup> Board meeting

Both subcommittee meetings were open to the public.

The Board's report is as follows:

**General Comments**

1. The Planning Board was very impressed by the comprehensiveness of the Highlands Business Partnership report and the huge level of effort by the HBP Economic Development Committee to prepare the historical overview and the numerous zoning recommendations. The Planning Board welcomes the input from the business community on planning matters.
2. The Planning Board appreciates the desire of the HBP to attract more affluent customers, clientele and residents to the Borough. However, several of the HBP proposals involve increasing the permitted residential density, a change, in the opinion of the Planning Board, that may not necessarily have the effect of attracting the more prosperous residents or customers. Zoning cannot control the type of ownership and some or many of the new multifamily units may be non-owner occupied and more transient than single family owners.
3. The Planning Board believes that the HBP's recommendations should be focused more on the downtown and other business areas and less on the residential areas of the Borough.

**Borough of Highlands  
Planning Board  
Regular Meeting  
September 8, 2011**

**Planning Board Response**

The recommendations of the HBP are provided below with the Planning Board's comments and/or response:

**1. R-1 Zone. "Owner-occupied two-family dwellings should be added as a permitted use."**

The Planning Board strongly disagrees with this proposal based on increased density and intensity of use, the impact on the school system, and parking considerations. Other important issues are the controls and feasibility of enforcement of any Borough's requirements of permitting two family dwellings.

Multi-family uses are permitted in the multi-family zone district and above the ground floor level in the B-1 and B-2 Business Overlay Zone Districts.

**2. Single Family Attached. "Attached townhouse residential units should be permitted."**

The Planning Board is adverse to this recommendation. As a building type, attached housing is not in character with the Borough's single-family residence districts and would be inappropriate to allow multi-family housing in a scattered manner in the single-family residence districts. In addition, ownership of attached and multi-family dwellings cannot be controlled while most single-family homes are owner occupied. The Planning Board also expressed concerns about density compatibility, the visual impact of the number of units attached ("the wall effect"), and proper design guidelines.

**3. Business Districts B-1, B-2:**

**HBP Recommendations (in bold) and Planning Board Response:**

**a. Consolidate the B-1 and B-2 Zone Districts.**

Downtown. Regarding the suggestion to consolidate the B-1 and B-2 zone districts, the Planning Board thought it important to retain the B-1 (Neighborhood business district) and the B-2 (Central business district) separate in terms of their intensity of development. The Planning Board is in agreement that the permitted uses in the business zones should be enhanced, supplemented and broadened as appropriate. The Planning Board is open for suggestions of supplementing the permitted uses in the B-1 and B-2 Zones. We ask the Highlands Business Partnership to submit specific suggestions to the Borough in this regard. Recurring zoning issues are sometimes identified in the annual report of the Zoning Board of Adjustment (ZBA) and can be a source of useful recommendations for zoning amendments. The Highlands ZBA typically submits an annual report to the Borough Council with such recommendations.

**b. Allow single-family attached homes in the combined business zone.**

The Planning Board does not agree with the recommendation to allow attached residences in the business zones. The Planning Board has concerns about permitting residences in the downtown areas because the residential uses within the business zone on the first floor would be in direct competition with the development of the commercial business district. The concerns include buffers for the residences; driveway access to the garages under the residential structures will require curb cuts which will reduce on-street parking for downtown businesses, and the loss of commercial lots in the business area to non-business uses.

**c. Allow wholesale, as well as retail use.**

We look to the HBP to make specific recommendations for Borough consideration.

**Borough of Highlands  
Planning Board  
Regular Meeting  
September 8, 2011**

**d. Remove “assembly” uses.**

Quasi-public uses that involve “assembly”, such as a place of worship, may only be restricted under certain circumstances. Other non-profit assembly uses are, or can be, part of the fabric of the community and an important activity center for the business area. Therefore, assembly uses should be reviewed in further detail.

**e. Allow craft and art-based businesses.**

We look to the HBP to make specific recommendations for Borough consideration.

**f. Mixed-Use buildings should be permitted.**

Regarding mixed-use buildings, the Borough revised the Zoning Ordinance two years ago to provide an overlay zone to allow commercial buildings to be constructed with an additional story. The purpose of the overlay zoning amendment was to aid in the revitalization of the business district by increasing the economic viability through mixed-use zoning.

**g. Hotels should be allowed.**

Hotels are already permitted in the overlay zones.

**h. Allow recreational businesses; such as day spa, fitness centers, gyms, and businesses related to water sports and outdoor recreation.**

Fitness clubs and gyms were added to the Highway Oriented Business zone district several years, but not in the downtown area due to parking concerns.

**i. Allow: convenience stores, florists, etc.**

Many of the uses listed in the report should be permitted based on the Ordinance provisions. However, if there have been problems, the Planning Board welcomes HBP input in “tweaking” the ordinance.

**j. Prohibit or restrict: go-go bars, pawn shops, tattoo parlors, “head “ shops, check-cashing shops, taxi/livery companies on Bay Avenue, automotive, transmission, auto body, heavy duty machine shops auto sales on Bay Avenue.**

Certain uses may be prohibited in a municipality provided there is a proper legal basis for such restriction. Prohibition of any particular land uses should be discussed on a specific basis with the Planning Board and/or the Borough Attorney.

One zoning mechanism that is available to the Borough is to provide certain uses as conditionally permitted and legislate specific standards under which the use would be allowed.

**Planning Board Recommendations/Comments:**

- a. The Planning Board does not support the extension of either the B-1 or B-2 Zones along the full length of Bay Avenue.
- b. Uses proposed in the downtown should establish whether the use will be first floor or upper story use.

**4. Waterfront Commercial (WTC and WC): “Consolidate the WTC zones into one waterfront zone and add other marine -related uses.”**

The Planning Board supports the concept of reviewing the waterfront zone districts with a viewpoint of consolidation, if the uses do not conflict with the direct access to the waterfront required by “true” marine uses.

**5. WT-R – Waterfront Transitional Zone District: No Change**



**Borough of Highlands  
Planning Board  
Regular Meeting  
September 8, 2011**

No comment required.

**6. Highway Oriented Business Zone District/PB Zone**

**HBP Recommendation for the Highway Zone: "Add service-oriented uses, recreational uses, multi-use professional building (e.g. medical and legal establishments.)"**

Professional, administrative and business office are already permitted in the Highway Oriented zone. More information is needed from the HBP regarding the specific "recreational "uses recommended. Health and Fitness establishments were added in the highway business zone in 2006.

**HBP Recommendation for the PB Zone: "Allow all uses in the MXD zone in the PB zone."**

Uses currently permitted in the PB zone are uses permitted in the R-1.01 zone.

Use that are permitted in the MXD zone: Townhouses, multifamily dwellings, commercial uses in conjunction with a planned mixed use development including marinas, except retail boat sales, ferry services, professional offices, and restaurants. The MXD zone requires a minimum tract area of 6 acres which is not appropriate elsewhere in the Borough.

Background: The MXD zone requirements were prepared for a specific area and would have to be modified for use elsewhere in the Borough.

**7. MXD Mixed Use Development Zone**

**HBP recommendations:**

- a. **"We recommend extending the MXD Zone to include all properties from Shore Drive to the Bay, not from Shore Drive to the hill."**
- b. **"We recommend including Popamora Park to Seastreak (formerly Connors) with the exception of Bayview Condos."**
- c. **"We recommend allowing residential uses in the MXD zone to include all uses permitted in the Waterfront Commercial Zone, R1, R2, and MF."**
- d. **"We also recommend permitting mid-rise construction in the MXD zone; however a minimum square footage needs to be established to ensure that the units will encourage owner occupancy."**

Planning Board comment: The Planning Board does not support these recommendations. The HBP recommendations will create a large number of non-conforming uses. The MXD zone requires a minimum tract area of six acres and was established in accordance with the Master Plan.

Excerpt from the 2004 Master Plan:

*Mixed Use District (MX)*

*This Plan recommends creating a new mixed use district at the westernmost section of the Borough adjacent to the waterfront. The proposed mixed use district (MX) (see Future Land Use Map) is located adjacent to a proposed county park in Atlantic Highlands. It is the intention of the MX district to encourage the creation of a mixed use community that contains a combination of townhouses, waterfront commercial and professional office space*

**Borough of Highlands  
Planning Board  
Regular Meeting  
September 8, 2011**

**8. Mobile Home (MH) Zone**

**HBP Recommendation:**

**“Remove the MH Zone designation and rezone as MXD Mixed Use Development.”**

Planning Board Comment: The Planning Board has already made a recommendation on the MH Zone District at Shadow Lawn, the only MH Zone District in the Borough at this time. The Paradise Park Mobile Home Park was rezoned several years ago and is in the MXD Zone. Mobile homes are not permitted in the MXD Zone.

The homeowners association has submitted a request to the Planning Board to allow mobile homes as a permitted use in the MH Zone.

**9. Redevelopment.**

There was a discussion at the July subcommittee meeting concerning the use of redevelopment for purposes of zoning. The Planning Board is not recommending the use of eminent domain, only the consideration of the adoption of one or more redevelopment plans in specific areas to achieve zoning goals. The Planning Board is not encouraging the use of redevelopment plans nor taking a position on the matter. The discussion was in the context of zoning and planning tools or mechanisms to achieve public objectives. The benefits of redevelopment plans include customizing the zoning to address the specific development issue and greater control over design standards. As a starting point for discussion, the 2004 Master Plan contains figure LU-5 recommending certain Redevelopment Areas.

**10. Code Enforcement.**

Although not mentioned in the report, there was agreement of all parties that many of the issues and concerns of the HBP could be addressed by thorough and vigorous code enforcement by the Borough. Code enforcement is an important issue to improve the quality of life in the Borough and will upgrade the perception of the residents and business community of their commercial district.

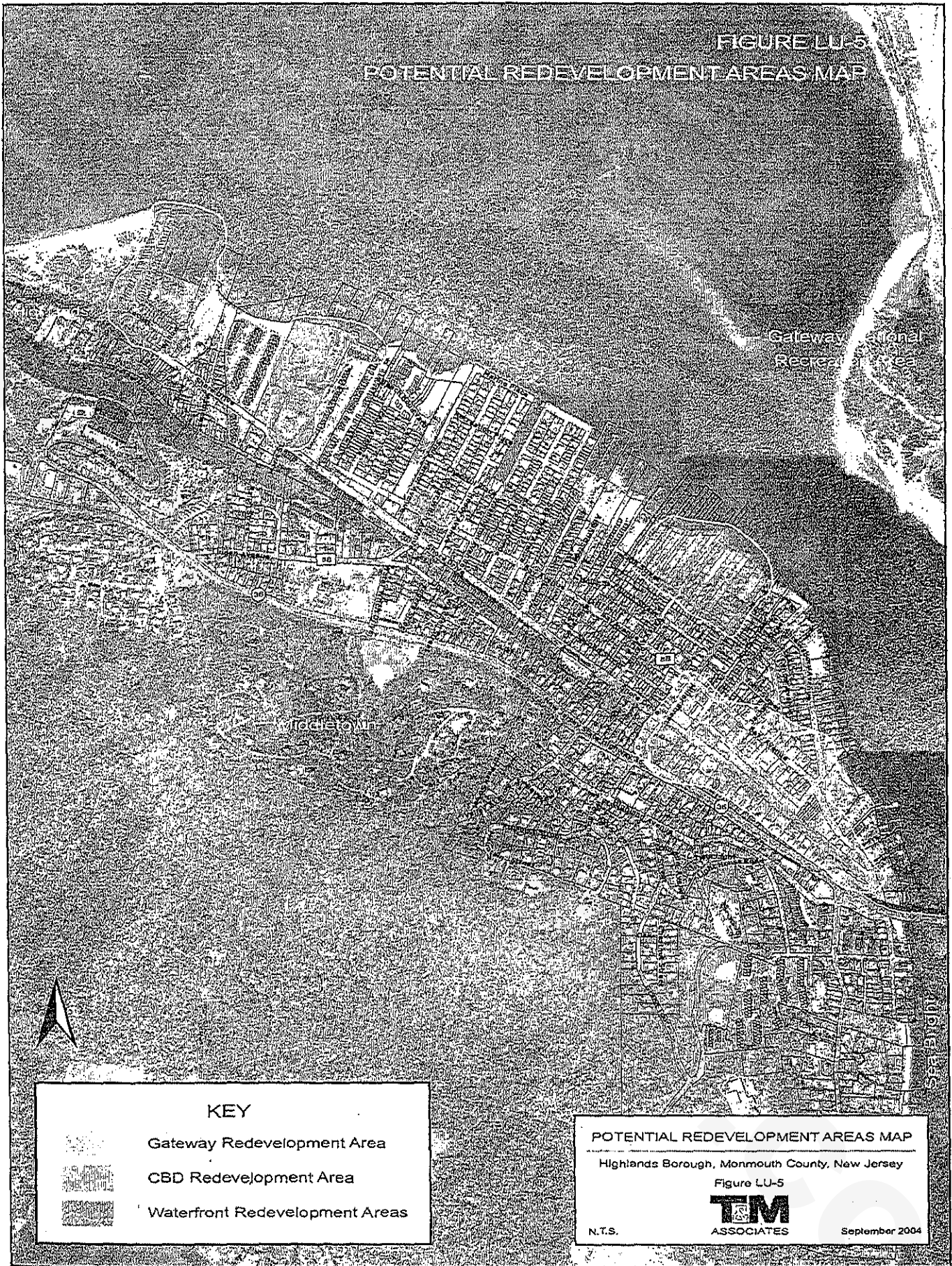
Many of the supporting photographs in the Zoning Recommendation Report of the Highlands Business Partnership were evidence that enhanced code enforcement would be beneficial to the Borough. The Planning Board feels strongly that the HBP should take a more active role in the documentation and enforcement of infractions of the Property Maintenance and Building Codes.

**In conclusion**, the Planning Board encourages a continuing dialogue with the HBP on zoning and planning matters.

Attachment: Figure LU-5 from the 2004 Master Plan

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FIGURE LU-5  
POTENTIAL REDEVELOPMENT AREAS MAP



Gateway and  
Recreation  
Areas

Highlands

Highlands  
Borough

KEY



- Gateway Redevelopment Area
- CBD Redevelopment Area
- Waterfront Redevelopment Areas

POTENTIAL REDEVELOPMENT AREAS MAP

Highlands Borough, Monmouth County, New Jersey

Figure LU-5



N.T.S.

September 2004

**Borough of Highlands  
Planning Board  
Regular Meeting  
September 8, 2011**

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**Approval of Minutes:**

Mr. Mullen offered the approval of the August 11, 2011 Planning Board Minutes, seconded by Ms. Peterson and all eligible members were in favor with two abstention from Mr. Schoellner and Mr. Stockton.

Mr. Gallagher offered a motion to adjourn the meeting, seconded by Mr. Stockton and all were in favor.

The meeting adjourned at 8:38 P.M.



Carolyn Cummins, Board Secretary