



Memorandum

TO: Andrew Stockton, Chairman
Highlands Borough Planning Board

FROM: Martin P. Truscott, P.P., A.I.C.P.

DATE: May 5, 2006

RE: Ordinance 06-03
Amendments to Land Development Ordinance
Borough of Highlands

The Borough Council has referred the above-referenced ordinance to the Planning Board for review in accordance with NJSA 40: 55D-64. It is my understanding that the Board Secretary has forwarded a copy of the current ordinance amendment to each Board member under separate cover.

Ordinance 06-03 is essentially the same ordinance that was reviewed by the Planning Board and its subcommittee in late 2005 and early 2006 with some slight revisions. The modifications to the Ordinance are listed on the attachment to this memorandum.

The Municipal Land Use Law provides that the Planning Board prepare a “report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate.” (40:55D0-26a.)

This memorandum is intended to provide a report as required by the statute for the Board’s consideration. My findings concerning the proposed Ordinance are as follows:

1. Ordinance No. 05-23 amends various sections of Chapter 21, Zoning and Use Regulations, of the Borough of Highlands Code. The purpose of the proposed amendment is to implement the recommendations of the Highlands Borough Master Plan. The Master Plan recommended numerous changes to the zoning ordinance and the zoning map. The

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modifications include, but are not limited to, updating the zoning and land use regulations in accordance with recent amendments to the Municipal Land Use Law and incorporating references in the Borough regulations to the NJ Residential Site Improvements Standards, revisions in specific instances to permitted principal uses within certain zone districts, updating the fee schedule for land development applications, revisions to the sign regulations, clarification of sections of the regulations dealing with floodplain development, several zoning map revisions, provisions addressing compliance with affordable housing regulations and creation of a Mixed-Use zone district. The proposed amendment also includes revisions of existing regulations for purposes of addressing codification issues, adds new definitions, amends the building height definition and requires an as-built survey prior to framing of new buildings.

2. The Highlands Borough Master Plan was adopted by the Planning Board on November 10, 2004. The 2004 Master Plan was prepared and reviewed by the Planning Board over a one and one-half year time period and included numerous workshop and public meetings. The Master Plan is a comprehensive planning document addressing the elements required in the Municipal Land Use Law (40:55D-28).
3. The proposed ordinance addresses the recommendations of the Land Use Plan Element of the 2004 Master Plan with the exception of the following:
 - a. Inclusion of additional permitted uses for the Shadow Lawn Mobile Home Park;
 - b. Adding a Floor Area Ratio requirement to control residential and commercial intensity;
 - c. Standards for the bungalow colonies; and,
 - d. Creation of an ordinance and use manual for floodplain management.

Each of the above exceptions is to be addressed at a later date, since they will require further detailed investigation, prior to preparation of implementing ordinance amendments.

4. Several of the revisions listed in the attachment to this memorandum are not consistent with the 2004 Master Plan. They are as follows:
 - a. The eastern boundary of the proposed Mixed-Use District (MXD) was corrected to properly incorporate all of the Sandy Hook Bay Marina tract. The boundary of the Mixed-Use land use area as designated in the adopted Land Use Plan Map was based on aerial photographs and incorrectly identified. The proper tract limits of the MXD Zone District are reflected in the proposed Zoning Map dated February 2006.

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The Planning Board intended to include all of the marina property in the MXD land use area and therefore this change is consistent with the intent and purpose of the Master Plan.

- b. Designation of the "Locust Street" area to maintain the current zoning. The Locust Street area is currently zoned as R-1.03 Residential and was included in the MXD land use designation in the 2004 Land Use Plan Element of the Master Plan. The prior Zoning Map identified the Locust Street area as "MXD." This area contains numerous single-family residences on small lots and is not required to implement the MXD Zone.

The designation of the existing residential neighborhood in the MXD land use area would render the existing homes as nonconforming and the area does not appear likely to be redeveloped in the near future. This change does not impair the intent of the MXD land use designation and was acknowledged by the Planning Board during its deliberations on the consistency of proposed ordinance 05-23.

- c. Multifamily Use was added as a permitted use to facilitate greater variation in architectural design. The Master Plan recommendation for residential use was limited to townhouses. Multi-family dwellings are those types of units which are located in a building containing three or more units, including units that are located one over another. Townhouse dwellings are also attached units, but no unit is located above another

This modification should be deemed as a technical change, due to the similarity of townhouses with other multifamily uses.

I would recommend that the Planning Board determine that proposed Ordinance 06-03 is consistent with the 2004 Master Plan, noting that the above modifications are not substantial and are consistent with the goals and objectives of the Master Plan. In my opinion, the subject ordinance may be adopted without impairing the intent and purpose of the Master Plan.

MPT:lbw

cc: Individual Planning Board Members
C. Cummins, Board Secretary, Highlands Borough Planning Board
(Via Facsimile: 732-872-0670)
J. Serpico, Esq., Highlands Borough Planning Board Attorney
D. Manco, Esq., Borough Attorney
J. Flor, P.E., T&M Associates

ATTACHMENT ONE

1. **Map Change.** MXD Zone boundary shifted slightly to include Lot 17.02 Block 101, a long narrow parcel.
2. **Map Change.** Locust Street area changed from MXD to R-1.03.
3. **Page 6.** Added reference to “Building Height” illustration. Illustration added as Appendix B.
4. **Page 13, Section 22.** Changed date of the Zoning Map from September 2005 to February 2006.
5. **Page 16, Section 25.** Added “Single Family Residential” to the title of R-2.01 Zone.
6. **Page 17, Section 25.** Added “Single Family Residential” to the title of R-2.02 Zone.
7. **Page 18, Section 25.** Added “Single Family Residential” to the title of R-2.03 Zone.
8. **Page 22, Section 32.** Added Multi-family dwellings as a permitted use in the MXD Zone.
9. **Page 23: Section 32, D. #7:** Added phrase: “for the entire tract.”
10. **Page 26: Section 32.** Added Paragraph F, which addresses compliance with the Multi-family guidelines.
11. **Former Section 38 amending Section 21-98.A.2** (Non-Conforming Uses, Structures, and Lots) was deleted. This section was to modify the allowance of vertical additions of nonconforming buildings to be up to 100% of the original building footprint.
12. **Page 37, Section 47, (Ordin. Section 21-123).** Revision to Flood Damage Prevention Ordinance requested by Board of Adjustment Annual Report concerning board of proper jurisdiction.
13. **Page 38, Section 48.** Sets a threshold for growth share requirement for residential development at 9 or more units. (Section 21-129D.)
14. **Page 39, Section 48.** Rounding of fractions for affordable units. (Section 21-130. A)
15. **Page 39, Section 48.** Sets a threshold for growth share requirement for residential development. (Section 21-130.C)