

Mayor Nolan offered the following resolution and moved on its adoption:

**RESOLUTION  
BOROUGH OF HIGHLANDS PLANNING BOARD**

WHEREAS, the Mayor and Council of the Borough of Highlands authorized the Planning Board by resolution to undertake a review of potential zoning ordinance amendments that will replace Borough Ordinance O-07-07 (which Ordinance was invalidated by the Superior Court); 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 amendment on May 12, June 9, July 14 and August 11, 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 a Planning Board subcommittee report; and

WHEREAS, the Board discussed the proposed amendments 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 adoption of the proposed Ordinance. The specific recommendations are as follows:

1. The height limitation set forth in Borough Ordinance Section 21-96, D, 11, be applied to any townhomes constructed at the site or area.
2. That the current architectural and/or design guidelines applicable to the MXD Zone be applied to any development at the site or area.
3. That the parking area or garage structure for any proposed mid-rise be located within the foot-print of the mid-rise structure. Additionally the parking area or structure should not be included in calculating the maximum stories permitted for the residential units at the site.

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.

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

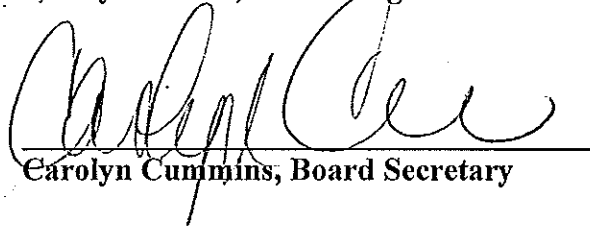
**ROLL CALL:**

**AYES:** Mr. Schoellner, Ms. Peterson, Mayor Nolan, Mr. Gallagher

**NAYES:** Mr. Mullen

**ABSTAIN:** None

**DATE:** August 11, 2011



Carolyn Cummins, Board Secretary

I certify this to be a true copy of a Resolution adopted by the Borough of Highlands Planning Board on August 11, 2011.

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Carolyn Cummins, Board Secretary

FILE

**REPORT TO THE BOROUGH COUNCIL**  
**BY THE HIGHLANDS BOROUGH PLANNING BOARD**  
**FUTURE ZONING - SHADOW LAWN TRAILER PARK**

**July 1, 2011**

This report is submitted to the Borough Council in response to a letter dated May 6, 2011 to the Planning Board. The Council's letter put forth six principles or concepts that the governing body may be considering in any future amendment to the zoning ordinance addressing the Shadow Lawn Trailer Park site. The May 6<sup>th</sup> letter requested that the Planning Board review Ordinance 07-07 and the Master Plan and provide written recommendations to the Council as a basis for an amendment to the Borough zoning ordinance.

The Planning Board discussed the Council's request at its May meeting and convened a subcommittee to prepare the requested report to the Council. The subcommittee of the Planning Board met on May 19, 2011 in public workshop session in the Council chambers of the Borough Municipal Building. A report dated June 3, 2011 was prepared, by the consulting Borough Planner, summarizing the subcommittee's findings. The report was submitted to the Planning Board and discussed on June 9, 2011. The summary report was revised based on the discussion and comments of the full Planning Board membership at the June 9<sup>th</sup> meeting.

The recommendations of the Planning Board are as follows:

**1. Density**

There is no current density limit for the MH Mobile Home zone and the Master Plan does not contain a specific density standard. One oblique reference to density is a recommendation to expand the number of permitted uses "to include townhouses and single-family residential homes" (page LU-13). Townhouses are permitted in Highlands Borough in the multifamily zone as a multifamily use at a permitted maximum density of 14 units per acre. Another reference is a recommendation again on page LU-13: "Consideration should be given to various types of multifamily development that gives the flexibility to be creative while managing a reasonable density." This recommendation again suggests that a "reasonable" multifamily density is appropriate.

The Planning Board is of the opinion that the density of the Shadow Lawn MH zone should be consistent with the surrounding areas. In addition, the density should take into account setbacks, building coverage, developable areas, topography and the impact of ridgeline protection.

The subject MH zone district consists of Lot 1.01 of Block 105.107. The tract contains 100 mobile home pads and 5 apartments (per C. Heck, Borough Assessor, July 6, 2011) on 14.1 acres or a density of 7.45 units per acre. Ordinance 07-07 permitted a high rise structure (as

a conditional use) at a maximum density of 20 units per acre. (The Highlander project consisted of 282 condominium units.)

Surrounding densities are as follows:

- a. Most of the eastern side of the Shadow Lawn tract adjoins the East Pointe site. The East Pointe property has a lot area of 4.973 acres and 166 units in one building, a density of 33 units per acre. The area is zoned as multifamily, which allows up to 14 units per acre.
- b. The narrow western portion of the Shadow Lawn tract is bordered by Ocean Avenue. The property on the south side, across a segment of Ocean Avenue (Block 108), consists of four lots of commercial properties (Quik Check, car wash, Stewarts, etc.).
- c. The bulk of the Shadow Lawn tract is surrounded by the R-1.03 zone on the north and by the R-2.03 zone on the east. The permitted density of the R-1.03 zone is 3.1 units per acre (based on minimum 14,000 square foot lots, and the R-2.03 zones is 8.7 units per acre based on 5,000 square lots.

## 2. Density Bonus for Public Access

The Master Plan notes that the Shadow Lawn Mobile Home Park location "offers exceptional views of Sandy Hook, the Shrewsbury River and the Sandy Hook Bay" (page LU-13). If it is feasible for a future development proposal to incorporate public access to a scenic overlook, the Planning Board is in favor of some form of an incentive, possibly through an increase in density, to encourage the provision of a public access easement and a scenic lookout area within the tract in return for the public benefit. The density incentive that was discussed by the Planning Board to encourage such a facility was two units per acre.

## 3. Ridgeline Protection

The 2004 Master Plan contains the following recommendations concerning ridgeline protection:

*"The placement of buildings on or near hilltops or ridges should show a high degree of sensitivity to the terrain and its visual impact. The Borough should consider creating a ridgeline protection Ordinance to ensure that development near ridgeline areas blends in with rather than interrupts or modifies the natural contour elevations of this tract. Ridgeline areas should be retained in a natural state, and development should be sighted in such a manner so as not to create a silhouette against the skyline as viewed from the designated vantage points."*

Ordinance 07-07 did not address ridgeline protection.

The Planning Board recommends that the Borough Council consider measures to protect the ridgeline through specific zoning provisions. For example, a setback from the ridgeline

based on building height (sliding scale or ratio) would be one possible method to implement the Master Plan language concerning this issue. The Planning Board favors a specific quantitative measure to implement or clarify the Master Plan text in this regard.

#### 4. Height/Stories

The Planning Board is recommending that the Council consider mid-rise multi-family residential structures (that is, six to eight stories) as a permitted use in addition to townhomes or single-family homes, provided there was sufficient space between any structures at least equal to the height of the buildings to allow for emergency services and adequate air, light, and open space. The Planning Board does not endorse a high rise residential use of the site.

However, this recommendation is inconsistent with the following language of the Master Plan:

*"The existing Mobile Home (MH) district permits mobile homes as the only permitted use within the MH district. This Plan acknowledges the trend for mobile home parks to evolve into uses that are more consistent with surrounding land use patterns. To permit the evolution of mobile home parks in the Borough, this Plan recommends expanding the types of permitted uses in the MH district to include townhouses and single-family residential homes."*

If the Council were to consider allowing mid-rise residential structures, the Land Use Plan Element of the Master Plan should be amended.

#### 5. Additional Permitted Uses

The Planning Board re-affirms the recommendation in the 2004 Master Plan to expand the number of permitted residential uses in the MH zone. However, the Planning Board favors adding the additional uses as "permitted uses" rather than conditional uses. In addition, there should be consideration to a limited set of accessory uses that may be specific to a mid-rise use, such as a club or community room and a parking structure.

#### 6. Spot Zoning

The Council should be mindful of the findings of the Appellate Division's findings in the *Jennings v. Borough of Highlands* decision with regard to "spot zoning". This will require that any zoning amendment for the tract be crafted to further the comprehensive plan. Therefore, any future ordinance amendment should contain an introduction or purpose that identifies the manner in which the proposed amendment will advance the purposes of the Master Plan and the overall community.

#### 7. Other

Other findings of the Planning Board subcommittee on this matter:

- a. Townhouse structures should be limited to four (4) attached units per structure. *(Note to the Planning Board: This statement would appear to be inconsistent with the mid-rise recommendation since the mass of a mid-rise building would have more visual impact than a 6-8 unit townhome structure. Possibly this recommendation can be modified to reaffirm the Master Plan's discouragement of "long rows of townhomes".)*
- b. Access of fire and other emergency vehicles to all portions of future buildings is an important consideration for the Council and Planning Board.

#### Attachments

1. 2004 Master Plan, Pages LU-12 through 14.
2. Ordinance 07-07

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### Multi-family

The multi-family residential district includes those areas that contain existing medium density garden style apartment buildings many of which are in a condominium form of ownership and mid-rise apartments such as P-tak towers. Regulations in the MF district include a permitted density of 14 units per acre, a minimum lot frontage of 150 feet and a minimum lot area of one (1) acre. The one (1) acre lot size is required so that there is sufficient lot size to reasonably accommodate development and still maintain adequate buffering from adjacent residences. In many instances, multi-family locations throughout the Borough are located too close to existing single-family residences and situated in a manner and height that is out of character with the area. The following photograph illustrates this point.



The Borough should investigate whether such development is the result of variance relief or whether more stringent regulations are required to restrict such development that is out of scale and that is architecturally incompatible with the surrounding area. In addition to the above referenced recommendation, this Plan recommends revising the MF district boundary to include two parcels that are currently occupied by the Highlands on the Bay development, which is located in the vicinity of Beach Boulevard. This revision to the ordinance will better reflect existing conditions.

### Mobile Homes

Highlands contains two (2) separate mobile home parks, Shadow Lawn and Paradise, representing 16 acres or 3.3% of Borough property. The mobile home parks are located to the north of Linden Avenue when entering the Borough from Route 36 and bordering Atlantic Highlands north of Shore Drive. Borough regulations require mobile homes to be located within a mobile home park. As part of the Borough's vision, the creation of a mixed use development is planned, which permits a mix of commercial and residential uses near the county park (in Atlantic Highlands), the Sandy Hook Bay Marina and the waterfront. Accordingly, this Plan recommends rezoning the Paradise mobile home park and surrounding properties to the newly created Mixed Use district (MX).

The Shadow Lawn Mobile Home Park is approximately 12 acres in size and contains approximately 120 mobile home trailers. The tract in its entirety is irregularly shaped. Located on the top of the Highland's cliffs, adjacent to the slump blocks, the stability of the tract and the mobile homes that lie upon it require an engineering evaluation. The tract contains several areas of undulation, however, overall the tract contains a slope range appropriate for development. The location of the tract on the Highland's cliffs offer exceptional views of Sandy Hook, the Shrewsbury River and the Sandy Hook Bay.

The existing Mobile Home (MH) district permits mobile homes as the only permitted use within the MH district. This Plan acknowledges the trend for mobile home parks to evolve into uses that are more consistent with surrounding land use patterns. To permit the evolution of mobile home parks in the Borough, this Plan recommends expanding the types of permitted uses in the MH district to include townhouses and single-family residential homes.

Given the unique attributes of the tract of land where the Shadow Lawn mobile home park is located, any future development of the tract should investigate a curvilinear development plan. Buildings should be designed and placed on the site so as to visually compliment each other and the natural landforms of the site. Consideration should be given to various types of multi-family development that gives the flexibility to be creative while maintaining a reasonable density. This Plan specifically discourages long rows of townhouses that give the appearance of blank walls without articulation.

The placement of buildings on or near hilltops or ridges should show a high degree of sensitivity to the terrain and its visual impact. The Borough should consider creating a ridgeline protection ordinance to ensure that development near ridgeline areas blends in with rather than interrupts or modifies the natural contour elevations of this tract. Ridgeline areas should be retained in a natural state, and development should be sighted in such a manner so as not to create a silhouette against the skyline as viewed from the designated vantage points.

Specific ordinances/submission requirements should be considered for:

1. The maximum permitted level of disturbance
2. Grading requirements



3. Visual analysis requirements
4. Maximum permitted density
5. Design guidelines

#### Neighborhood Business District (B-1)

Highlands contains three (3) separate Neighborhood Business (B-1) districts. One district is located on the Bay Avenue corridor in the area adjacent to Waterwitch Avenue and Bay Avenue, while the remaining two (2) districts are located on Route 36 within the western portion of the Borough. Within the Bay Avenue corridor, the B-1 district currently has a mixed-use character with significant residential development. Along Route 36, there are two separate B-1 districts, which have attracted highway-oriented uses.

The Neighborhood Business District is designed to encourage relatively small scale shopping districts intended to serve the daily needs of residents living in adjacent low, medium density and mobile home residential districts. Desirable uses in a B-1 district include small grocery stores, dry cleaners, beauty shops, delicatessens and restaurants. Guidelines are encouraged to discourage retail strip-mall development. This Plan recommends rezoning parcels in the existing B-1 districts on Route 36 to a newly created district named Highway Oriented Neighborhood Business (HO), which will require bulk and design regulations more appropriate for businesses fronting on Route 36. While a zero (0) foot front yard setback is appropriate along Bay Avenue, a greater front yard setback should be created along Route 36 for safety and individual comfort. Other considerations include creating minimum lot sizes, minimum areas to be landscaped and specific guidelines to regulate signage. Along Bay Avenue, there are significant opportunities for redevelopment within the B-1 district to upgrade fading commercial uses and to create an improved gateway into the Borough. It is recommended that residential uses on upper floors be encouraged within the portions of the B-1 district on Bay Avenue. Due to the variation of existing lot sizes and setbacks, flexible bulk standards should be considered to regulate the HO district.

#### Central Business District (B-2)

Bay Avenue is a linear corridor that spans the majority of Highlands from approximately Ocean Avenue to Shrewsbury Avenue. It is predominantly commercial in character with several residential uses on the upper floors of buildings and scattered public and quasi-public uses. Bay Avenue has historically functioned as the Borough's central business district and primary shopping, entertainment and service destination. At first glance, it appears that the entire Bay Avenue corridor contains some

form of non-residential uses. However, this is contrary to existing land uses and districts, which comprise the corridor.

During the past several decades, the B-2 district has experienced economic and physical decline as a result of decreased retail activity. The Borough has made the revitalization of Bay Avenue a priority. A substantial effort to revitalize Highlands' commercial areas is being coordinated by a public/private partnership between the Borough and the Business Improvement District (BID), which is formally the Highlands Business Partnership (HBP). HBP consists of seventeen (17) voting members and four non-voting members, which include a mayor's designee, a planning board member, a council member, seven commercial property owners and seven business operators in the Borough.

HBP has undertaken numerous activities, which include but are not limited to the marketing of Highlands as a destination, sponsoring events to attract visitors to the Borough, the creation of a parking lease facilitator, maintenance improvements, and beautification efforts. One significant accomplishment is HBP's recommended concept of acting as a broker to facilitate lease parking options between private sector business operators. For instance, restaurants' parking demand increases during the evening hours while the commuter ferry parking lots highest demand is from 7 a.m. to 6 p.m. Accordingly, an opportunity exists to share parking during off-peak hours. HBP would serve as a logical facilitator of such a program.

The Borough has also created a parking improvement fund to generate fees from individuals who impact or create the need for additional parking.

The intention of the Central Business District is to provide for a mix of commercial uses that act as a focal point for the community. The B-2 district should accommodate a higher density concentration of retail, service, office and entertainment uses than other commercial districts in the Borough. The District is currently characterized by a variety of low-rise structures containing ground level retail and services with some multi-family residential apartments on the upper floors. A limited number of public and quasi-public uses including the U.S. Post Office are located within the District and Highlands Borough Hall is located at the intersection of Bay Avenue and Miller Street. Issues that have been identified along Bay Avenue include the mix of retail stores, hours of operation, signage, and aesthetic appearance.

Mayor O'Neil offered the following Ordinance pass and final reading and moved on its adoption and authorized its publication according to law:

O- 07-07

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 MULTI-FAMILY DEVELOPMENTS IN THE MH ZONE AS CONDITIONAL USES, AND TO ESTABLISH REGULATIONS PERTAINING THERETO ).

Additions noted by underline. Deletions noted by strikeover.

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 21-89 MH Mobile Home Residence** The following regulations shall apply to all MH districts:

**1. Permitted Uses:**

Mobile Homes, in a mobile home park only.

**2. 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.

**3. Conditional Uses.**

Satellite Dish Antennas

Multi-family dwellings, and structured parking accessory or appurtenant thereto.

**4. Relocation Rights and Non-severability**

Any approval for development in the MH Mobile Home Residence District 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 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 or more variance(s). For purposes of this Ordinance, '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 Section 15 to the Board of Original Jurisdiction prior to obtaining Final Approval. This Section is not severable from the other provisions of the Ordinance and the zoning of the property to the MH Mobile Home Residence District Zone is conditioned upon the above relocation provision.

## **Section 21-97 Conditional Uses**

**Add new Subsection to existing text:**

### **I. Multi-Family developments in the MH Zone**

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

1. Density shall not exceed 20 dwelling units per acre.
2. Minimum lot size: 10 acres
3. Minimum front yard: 100 feet to a principal building
4. Minimum side yard: 60 feet to a principal building
5. Minimum rear yard: 60 feet to a principal building
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 per cent.
8. Maximum lot coverage: 50 per cent.
9. Maximum FAR: 1.50
10. Maximum Height:

a. Residential buildings: 180 feet, not including the height of attached parking structures. 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 structures: 25 feet.

11. Accessory Structures:

a. Recreational facilities. Recreational facilities shall be provided for the use of residents of the 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 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.

Notwithstanding anything contained herein to the contrary, all ordinances inconsistent herewith are expressly repealed to the extent of such inconsistency.

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

**ROLL CALL:**

**AYES:** Mr. Nolan, Mrs. Burton, Mayor O'Neil

**NAYES:** Mr. Caizza, Mr. Urbanski

**ABSENT:** None

**ABSTAIN:** None

**Date:** December 19, 2007

\_\_\_\_\_  
NINA LIGHT FLANNERY, Borough Clerk

**Introduced:** May 2, 2007

**Publication:** May 8, 2007, The Asbury Park Press

**Amended:** June 20, 2007

**Publication:** , July 26, 2007

**Invalid Action Taken at the Sept. 5, 2007 Mtg**  
**Publication: December 7, 2007, Asbury Park Press**  
**Public Hearing: December 19, 2007**  
**Adoption: December 19, 2007**  
**Publication: \_\_\_\_\_**

**NOTE: Borough Engineer and Edward McKenna, Esq. must certify the validity of the objectors petition on this ordinance. The results of the Petition may affect the validity of the adoption of this ordinance.**

**THE VALIDY OF THE ADOPTION OF THIS ORDINANCE HAS NOT BEEN PROVEN AND UNTIL SUCH TIME THIS ORDINANCE WILL NOT TAKE EFFECT.**