

Mr. Schoellner 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 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.

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

DATE: September 8, 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 September 8, 2011.

Carolyn Cummins, Board Secretary

**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 24th. The report was finalized at the September 8th 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.

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.

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

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

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.

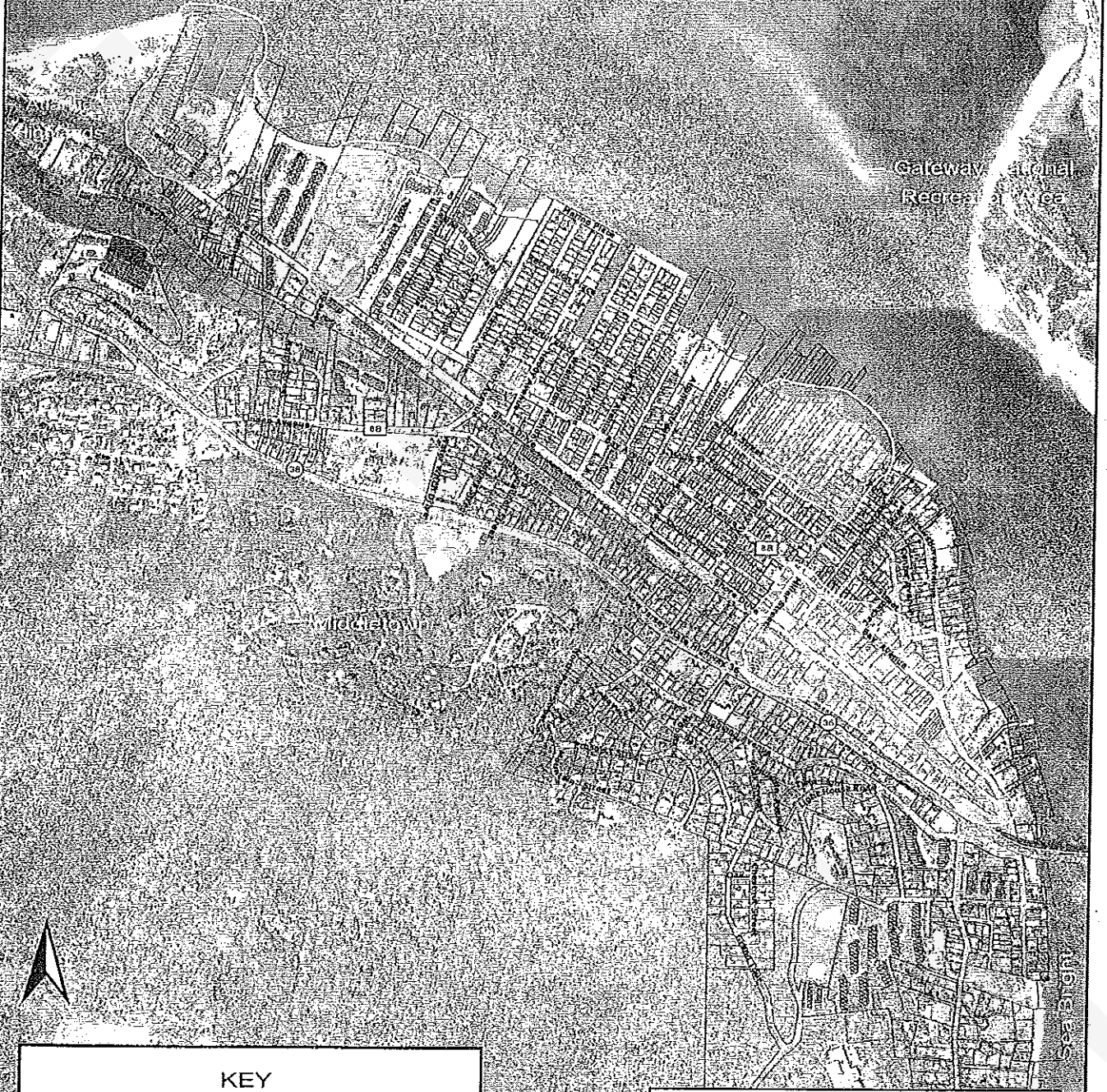
Many of the supporting photographs in the Zoning Recommendation Report of the Highlands Business Partnership were evidence that enhanced code enforcement would be beneficial to the Borough. The Planning Board feels strongly that the HBP should take a more active role in the documentation and enforcement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



KEY

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

POTENTIAL REDEVELOPMENT AREAS MAP
Highlands Borough, Monmouth County, New Jersey
Figure LU-5
TM
ASSOCIATES
N.T.S. September 2004