

**Highlands Business Partnership Economic Development Committee
Yesterday, Today & Tomorrow
Zoning Recommendation Report**

YESTERDAY

Developmental History:

At the turn of the last century the primary mode of transportation to Highlands was rail and ferry service. Both received revenues from passenger and freight making it both profitable for companies and affordable for the riders. The town's development evolved from these forms of transportation and the abundance of visitors they brought to town. Hotels, bungalow colonies, rooming houses and other businesses all centered within walking distance of the points of transportation. The layout of the town matched its prominent forms of transportation. Streets were of narrow design for walking or horse buggy traffic. Parcels were small and density was high and it remains so today.

Another major factor in the development of the town was its topography. Much of the lower part of town was marshland, those parts that had high ground were the first to evolve. The first known business was located at the foot of the bridge, it was a tavern and rooming house operated by the Hartshorne Family. Soon hotels and inns were built on the hill centered at the beginning of Portland Rd. When that area was built out, construction began on the lower part of town. Those sections, such as Bay Avenue, Shrewsbury Avenue, and Miller Street and also in the area of 4th, 5th and Valley Street were all on natural high ground and needed little or no fill to develop. They were also close to the rail and ferry service. Most of the town's layout was completed before the automobile rose to prominence. Business centered on not only the town's main street (Bay Avenue), but also the entire waterfront. The side streets that led to the train and ferry developed into micro business districts (Miller Street, Cedar Street and Fifth Street), which have never recovered commercially.

The tourist trade was the single most important catalyst for development of the town. The summer population often increased from 4,000 winter residents to 16,000 summer tourists. Other large factors were the two nearby military bases Fort Hancock and the coastal defensive base at the end of Portland Road. These sites sustained constant growth up until the end of World War II. All these situations resulted to an extremely busy environment for commerce. Hotels, boarding houses, summer bungalow colonies, restaurants and bars thrived as did retail outlets, commercial and recreational fisheries and other shore related industries.

Following World War II the town was faced with many changes. The automobile became more affordable and was soon to surpass the train and ferry as the most used form of transportation to get to the Jersey shore. Major improvements to the highway systems made it easier to travel by car. The new highway 36 did not require motorists to drive through the center of downtown to get over the bridge, diverting traffic off Bay Avenue thus hurting businesses. The opening of the N.J Turnpike in the late forties made the trip faster. The ridership on the ferries and trains began to decline; the freight business that was another revenue source for the trains and ferries was lost to the trucking business. People were still coming but not as often. Then in the early 1960s the Garden State Parkway opened up the shore points to the south (Belmar, Point Pleasant, Seaside etc,) and vacationers started to favor these destinations. At the same time the post war house boom started to attract many of the summer

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residents of Highlands to settle in the new suburban communities in Middletown, Hazlet and other nearby areas. Highlands was about 75% developed at the end of the war and was not able to meet the housing markets demand. Another problem that the town faced was the closure of the military bases that further eroded the economic base of the town.

In the late 1960s and early 1970s the town began the process of transforming from a summer town to a year round community. This created a lot of growing pains. Old hotels, bungalows and other structures were converted to year round residences. These buildings for the most part were renovated in a slipshod fashion and substandard to the point of being dangerous as were the tenants they attracted. Many of which were recipients of public assistance. Landlords were making a good return on their investments while at the same time other businesses were on the losing end of spectrum. The movie theatre, bowling alley, the supermarket and several other businesses were shuttered. Shoppers preferred strip centers and the malls. The only industries that thrived were the restaurants, fisheries and marinas. Also the sections west of the Water Witch still had healthy summer residents and trade. Also a fee simple project was built across from Veterans Park, it was the first single-family attached project built in town.

Some positive things started to happen. A garden apartment complex was constructed at the end of Portland Road and two were constructed on Shore Drive (Bay View Condos Ferry Landing) at the sight of a former bungalow colony. Twin Light Condominiums were under construction and for the first time a high-rise (East Pointe) was being built. These developments brought in new middle class residents, however at the center of town things remained idle. Commercially the town's first chain store, Cumberland Farms opened and also M & R Mechanical built the town's first and only professional building. These would be the last new commercial buildings on Bay Avenue for almost two decades.

During the late mid 1970's and through most of the early 1980's, development stayed focused on residential projects with condominiums being the prime source of growth.

The Alpine Manor (one of the larger hotels) was destroyed by a fire and replaced with East Manor Square Condominiums, which was the first 3 level townhouse style project to be built. Gateway Villas was also built on Portland Road and was the first of the new construction to offer natural gas for heat. During the early 1970's till mid 1980's, a moratorium on new gas service was in effect so with the exception of Gateway Villas all other units were electric thus keeping the value down on the sale price. This moratorium remained in effect until the mid 1990's.

The Black family that owned Connors demolished 40 of the bungalows on the east side of their property and began construction of 60 flats that are now known as the Sandpiper Condominiums. The flats consisted of one and two bedroom units in 5 buildings with 12 twelve units per building. Hill Top Village was constructed across from the Highlands Elementary School. Hillside Village was built on Shore Drive and

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this was the first townhouse style condo built in the lower part of town. During this period of growth the parcels in the center of town still remained idle.

In the mid 1980's, things started to begin to happen in the center of town. The first notable change came when Ptak Tower, a five-story senior building was constructed on Shore Drive, thus leading to major improvements on Shore Drive. What had been a combination of an abandoned railway, a swamp and dirt road was transformed into the widest street in town. It was now out of the flood plain thus creating a path for growth that also increased the value of surrounding properties. For the first time, townhouses were being built in the middle of the lower portion of the town.

The site of the Highlands Marina (now Marina on the Bay) was approved for 40 townhouse units. The parcel directly across the street was developed into a 24-unit townhouse project known as Baypoint Condominiums. This eliminated an undesirable bungalow complex. At the same time, the Shores Project was being built across from Baypoint on Shore Drive.

In the mid 1980s, construction came to a halt in Highlands for two reasons. The first was the stock market crash of 1987 followed by a real estate crash and second, the town amended the zoning ordinances and took out condos and single family attached homes as a permitted use in the entire town. This was done because the town fathers and residents both feared that the condo population would overwhelm the school and other municipal services. Henceforth all condo development would need a use variance which is a huge obstacle and financial burden for any developer. History proved the town fathers theory to be wrong. In fact, the residents occupying these units generally were a single person or a couple and they did not utilize the school system and other municipal services provided were at a minimum and still are today.

On the commercial aspect, few projects moved forward. The Loori Family developed the site that houses Welch Farms, the town's second chain store. On Highway 36, the Britton Family developed the Quick Check Plaza and a car wash. A huge development in the early 80's was the arrival of the first ferry company, Express Navigation operated out of the Clam Hut Restaurant and Marina and then Conner's. This ferry operation created a lot of positive attention from the media and Highlands was brought to the forefront that elevated the status of our town to nearby residents, commuters and developers. Sadly, during the same time period, one of the town oldest retail establishments closed its doors, Bedles Pharmacy. It was absorbed into CVS in East Point Plaza, Middletown, NJ. "Connors Hotel" which also consisted of a beach club and a restaurant was demolished after being a successful family owned and operated summer resort facility for nearly a hundred years.

During the late eighties the town experienced limited growth both due to the economy and the restrictive effects of the new zoning ordinances. By the late 1990s the market rebounded. Some commercial development began to occur, "Off The Hook" opened on the former site of the "Stowaway Hotel" and the "Monmouth House". This was a huge gain as the two hotels had been long abandoned for over a decade and they

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were an eyesore that projected a bad image for the entrance/exit of town. Also the “Windansea” was built on Shrewsbury Avenue and it was the first restaurant to be built to flood plain standards and was a welcoming addition to waterfront. Today, the restaurant is one of our anchor businesses. On the residential side, the site of the former Long Johns Restaurant became a condominium development, which sold out quickly at premium prices. Also a small bungalow colony at the end of Shore Drive opposite Doris & Ed’s Restaurant was demolished and replaced with 6 single-family homes built by Matzel & Mumford. In 2007, the stock market again crashed and everything came to a screeching halt, which is where we find ourselves today.

TODAY

The current economic situation that our country is faced with has had a tremendous impact locally, affecting many residents and businesses. Not only has real estate suffered, deflation is not showing signs of any real movement and we may have not hit rock bottom yet. Many homeowners’ mortgages exceed the value of the homes they own. Zoning should stimulate growth in a practical realistic way that matches the town’s economy, demographics and geography. It should serve as a conduit for growth, not an electric fence that stops it. To paraphrase a movie line, “If Its Zoned Right Developers Will Come “.

Highlands has some challenges that need to be addressed and some creative and effective Zoning changes need to be considered. Listed below are some of the problems identified by the committee:

1. Ninety-Five (95) per-cent of the town is already developed so zoning will need to address redevelopment as opposed to new development.
2. The inventory of our tax-exempt properties is approximately 30%. The National landmark, Historic Twin Lights Lighthouse, Henry Hudson Regional School, Highlands Elementary School, Veterans Park, Huddy Park, Robert D. Wilson Community Center, four (4) beaches, Cornwall Square, Fred Hall Park, Miller Terrace, both sides of Marine Place, the municipal building, municipal parking lots, department of public works yard on Shore Drive, First Aid Building, Fire House, Pumping Stations, and other small parcels located throughout town are all tax exempt. Many of these public properties are located on sites that would have produced prime tax ratable. It is also equally true that these public areas add to the appeal and quality of life in our town. However the bottom line is that 2/3 of the taxpayers pay for 3/3 of the town, thus we must ensure that the remaining parcels are zoned at their highest and best use which will in turn ensure maximum tax ratable. This should be the primary goal and objectives of good zoning.
3. Highlands suffers another huge loss of tax revenue due to the existence of two mobile home parks. These parks are located on prime property occupying 18 acres in a town of 0.64 square miles. The existing use of these trailer parks is the most undervalued use for the property. Real estate value is determined by highest and best use thus the current zoning causes taxpayers to subsidize these properties by a minimum of \$\$\$\$ per household per year.

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4. Most of the business community is located in the flood zone thus creating some problems limiting development and retail use. Obtaining insurance in a flood plain area is extremely expensive and quite challenging, in some cases, insurance may be impossible for those operations with high value inventories or those that seek loss of business interruption insurance (Antiques or Jewelry Shops). Also the restrictions of waterfront development by the DEP and EPA are another obstacle.
5. The overall size of the Bay Avenue Business District is far too lengthy for its population and business flow, as it currently exists.
6. Zoning and planning building officials have historically been trained in almost a parrot fashion to say no. It is always easier and safer for a bureaucrat to say no then yes. This needs to be changed if we are to move ahead. Zoning ordinances need to be idiot proof, simply written, not vague and not in a legal manner that the average person could not comprehend thus requiring additional expenses for attorneys.
7. Many of the business that are currently on Bay Avenue are non-conforming, pre-existing uses. However, most are good for the town.

TOMORROW - A plan where the whole town benefits

Zoning Recommendation:

Flex zoning needs to be of paramount concern. Permitted uses are vital to the future of Highlands' business community because the process of obtaining a use variance is costly, complicated and most times not achievable. When they are granted, the court often overturns them, as one must show a hardship to be granted.

Non-permitted uses cause another problem. Lenders do not like writing loans for pre-existing, non-conforming uses. This causes a problem with the reselling of commercial property and also improvements to existing structures, which combined causes stagnation that leads to blighted neighborhoods (Miller Street).

Smart zoning would lead properties to their highest and best use; therefore making them more marketable, valuable and a better ratable for the town.

Specific Zoning Recommendations:

R-1 (this mostly addresses those sections on the hill that have large lots and less density)

Owner occupied two-family dwellings should be added as a permitted use. This would make it more affordable for residents to stay in their homes for a longer period of time. Also, it would make it more affordable for new buyers to purchase homes, which will result in higher value and therefore a better ratable. Basically making a mother/daughter style home a legal residence. We know that these units currently exist, however the town is losing money because they are not legally recorded, therefore their assessments are lower and are not paying sewer charges, certificate of occupancy or landlord registration fees.

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Adequate conditions and restrictions need be put in place to ensure the integrity of the neighborhood is not adversely affected:

- Units must be owner occupied. Rental Certificates of Occupancy and Resale Certificate's of Occupancy should expire with any change of ownership. In the event that an owner moves on a temporary or permanent basis, the unit will revert to a single one- family use.
- Lot size should allow for onsite parking for an extra vehicle.
- Minimum lot size should also be considered.
- The size of the apartment should allow for a modest 1-bedroom apartment approximately 650 - 700 Sq ft.
- The issue of detached should be addressed as some garages can be converted. Also a large lot may be able to offer a guest-house style unit, thus set backs, side yard and lot coverage would need to be addressed.

Currently, R1 is the most stable zone in the town. However the costs of owning a single -family dwelling have been rising and have become cost prohibitive to keep or to purchase. By allowing this flexibility, we could potentially save people from leaving their home prematurely or can make it more affordable for a young couple to purchase a home by having the additional income. It will also add to the salability of the property. Lastly, it protects the long-term residents that have spent a significant part of their life in Highlands.

Single Family Attached: For purpose of definition, this ownership form can be compared to the "Marina on the Bay" property. They do not share any common elements and are owned from the lot lines in (fee simple). Condominiums are owned from the walls in. Fee-simple single-family attached units have their own front and rear yards and corner units have side lots. This has multiple cost and other practical advantages:

- a) Banks prefer to fund fee simple projects for builders and those who buy them. The costs of running condo associations in not cheap and those costs are passed to the homeowner in the form of monthly assessment fees and are not tax- deductible on the individual level. These fees are deducted from a perspective buyer's income qualifications therefore the buyer must finance less. Another problem is the financial health of the condo association is factored into the lenders consideration when providing financing. When markets are bad as they are now, Associations find themselves in trouble collecting fees thus accruing debts that show up in title searches when done by purchasers. Quite simply, the default ratio of the fellow condominium owners is factored in. Especially in smaller condo units where the percentage is higher.

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- b) Agreements that force the town to reimburse condo association for fees do not apply to fee simple ownership thus costing the town less.
- c) It is the most cost effective method to build, because the State has less bureaucratic control of the units. (All condos must have a master deed and public offering statements therefore they have high legal and administrative fees). With fee simple, all that is required is sub-division.
- d) It would offer some assistance to some of the pre-existing condo owners by giving them a chance to convert to fee simple.
- e) Another big plus is that this type of construction prevents the use of eminent domain. Those who do not wish to sell need not be compelled to do so. However, the land will increase in value because of the use and also because of the finished project.
- f) This use will give us a chance to eliminate some of our sub-standard, old, multi-family housing.

If done correctly, single-family attached use has the potential to be the largest form of development type within the flood plain. If land use ordinances could be fashioned so they are not too restrictive, more flexible and be targeted to owner occupied dwellings, it would be a catalyst for the town's growth. That would increase the economic base.

Several elements need to come together to make it happen:

1. Units should be constructed in townhouse style fashion. A minimum square footage should be determined to target owner occupancy and not income investors. The townhouse is ideal for the flood plain as the first floor not usable as living space.
2. Lots size needs to be established. The best way to do this is to look at the current townhouse developments that exist AND choose the sites that are most appealing and have the ordinances drawn to match them. No rocket science here. History has proven that townhouse style construction has been beneficial to the town. The owners of these dwellings have been low users of town services.
3. These homes will create a very attractive economic base for our existing business and would serve as a magnet for potential business operators. Historically we find people that are empty nesters or young families with disposable income own these units. They basically work long hours; make a good living and tend to be convenience-oriented consumers.

We find Valley Street, Miller Street and Fifth Street are severely underdeveloped therefore detrimental to the town. We strongly recommend adding these specific streets to the Single Family Attached Zone:

Miller Street from Shore Drive to the River

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Valley Street from Shore Drive to the River
Fifth Street from North Street to the end of Fifth Street to the River

B1 – B2 – Central: Business District

We strongly recommend combining the B1, B2 and the Central Business District into one zone. All of Bay Avenue needs to be combined into one district with the following uses permitted:

- Allow for single-family attached homes to be built anywhere in the Business District.
- Allow for added uses specifically for wholesale and retail uses.
- We recommend removing assembly uses because they lead to tax exempt entities that are not ratables. They also use a lot of parking.
- Allow for craft and art-based business, light manufacturing such as woodcrafters, soap, cosmetics, and candle companies.
- Mixed use buildings (residential, commercial, retail, professional) should also be permitted in the Business Zone
- Hotels and accommodations should be permitted.
- Recreational Businesses such as day spa, fitness centers, gyms, skateboards, bicycles, windsurfing, and other shore related businesses.
- Convenience stores, florists, nail salons, antiques, dry cleaners, caterers, day care, pet care, photography studios, recording studio, film editing, computer, plumbing, electrical, construction, real estate office.

We do not support and strongly recommend NOT permitting the following:

- Go-Go Bars, Adult Bars (whatever proper language to not permit sexually explicit activity).
- No Pawn Shops
- No tattoos, Body Piercing Shops
- No Smoke Shops
- No Check Cashing Shops
- No Taxi, Livery, Bus Companies on Bay Avenue
- No delivery service companies that are not connected to an existing permitted business.
- Do not allow automotive, transmission, heavy-duty machine shops, fiberglass, and welding, as they are not conducive to creating a walkable community.
- No Automobile Sales on Bay Avenue

We need to apply the KISS (Keep it Simple Stupid) principle to the waterfront zoning. We recommend combining the following 4 zones into one Zone:

**WTC 21-94 - Waterfront Transitional Commercial
WTC 21-94.01 Waterfront Transitional Commercial Town Houses
WC-1 21-95 - Waterfront Commercial
WC-2 21-96 - Waterfront Commercial**

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The reason for recommending the 4 waterfront commercial zones is that they are too small to be micro managed and therefore the zoning is preventing potential development causing stagnation. Thus, our ratables suffer. We feel it is imperative that once combined the following are added as permitted uses:

Boat Sales

Hotel and Accommodations, Seasonal Rentals

Conference Facility

Marine Dealerships

Summer & Winter Storage

Boat Rentals

Marine Education Facilities

Multi Use on each parcel including the use of having live-in stewards or security

Fee Simple Town House Development (Town House already included). Fee Simple will allow for public access gaining public property that is beneficial for all.

WT-R Zone - Waterfront Transitional Residential

No recommended changes to this zone we feel confident with zone as is.

Highway Oriented Business 21-92.01 Highway District-PB Zone

We recommend adding service oriented establishments and recreational uses to this district and multi use professional buildings such as doctor, dentist, lawyer etc. We recommend allowing all uses in the MXD Zone to also be permitted in the PB Zone.

MXD – Mixed Use Development Zone

We recommend extending the MXD zone to include all properties from Shore Drive to the Bay, not from Shore Drive to the hill. We recommend including Pomponora Park to Seastreak (formerly Connors) with the exception of Bayview Condos. We recommend allowing the residential uses in the MXD Zone to include all uses permitted in the Waterfront Commercial Zone, R1, R2, and MF. We also recommend permitting Mid-Rise construction to the MXD zone, however a minimum square footage needs to be established to ensure that the units will encourage owner occupancy. Any construction on the waterfront that currently does not have a marina should require public access and public ownership. We encourage the borough to negotiate with the property owners to purchase any beachfront or gain access through easement but not eminent domain. This will allow for the future waterfront plan to include walking access and would also relieve the current owners of the tax burden. If the MXD use is not on the waterfront, no marine uses shall be permitted.

MH ZONE – Mobile Home

A current look at this zone would reveal that these two combined 18-acre parcels are not safe and sit on land tracks near water and are subject to high winds and severe storms making them vulnerable to the elements. The current use is at its lowest possible ratable. We strongly recommend making these uses part of the MXD zone and completely eliminating the MH Zone, as it is not suitable on an economic or safety

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stand point for our town. For Example: Currently, the Paradise Trailer Park pays \$33,000 annually in taxes for the entire plot of land. If developed for townhouse use, we project the value would be \$28 Million dollars thus the town would collect \$790,440.00 per year instead of \$33,000 annually on this park.

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