

**Borough of Highlands
Planning Board
Regular Meeting
April 9, 2009**

Meeting Location: Robert D. Wilson Community Center located on Snug Harbor Avenue, Highlands, NJ.

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 requirement 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 Two River Times and the Asbury Park Press. Notice has been posted on the public bulletin board.

ROLL CALL:

Present: Mr. Manrodt, Mr. Mullen, Mr. Francy, Mr. Parla, Mr. Stockton,
Ms. Peterson, Mr. Roberts

Late Arrival: Mr. O'Neil arrived at 7:54 P.M.
Mayor Little arrived at 7:37 P.M.

Absent: Mr. Bahrs, Mr. Schoellner

Also Present: Nina Light Flannery, Borough Clerk
Jack Serpico, Esq. , Board Attorney
Martin Truscott, P.P. of T & M Associates

**PB#2009-1 Highlander Dev. Group, LLC
Block 105.107 Lot 1.01
Request for Postponement & Special Meeting Date**

Present: Paul Drobbin, Attorney for Applicant

Mr. Stockton stated that the next regular meeting is May 14, 2009 and the requested a Special Meeting date is April 30th.

Mr. Mullen stated that there have been correspondences from the opposing Attorney who stated that he could not make the Special Meeting.

Mr. Serpico – I received a letter today from Armen McCumber indicating that he represents an interested property owner Mrs. Jennings and that he cannot make it the evening of the 30th.

Mr. Stockton – so it sounds like a Special Meeting on the 30th is off the table.

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Mr. Serpico – a motion to put this matter on the May 14th Agenda is not necessary because there is no jurisdiction and we already had a completeness review and it's just a matter of giving it a hearing date.

Mr. Drobbin – notices were approved by the Board Attorney and were sent to the Asbury Park Press and the Asbury Park Press printed the wrong notice. Once we get a new date then we will go back to the Asbury Park Press.

Mayor Little arrived to the meeting.

Mr. Manrodt – since they sent certified letters out, they don't have to resend them again.

Mr. Serpico – we have had that discussion and as a matter of practicality it's going to be done again.

Mr. Drobbin – his intension is to reserve all the property owners as well as republish in the newspaper.

Mr. Stockton advised the public that this matter will be placed on the May 14th agenda for a public hearing at the Robert D. Wilson Community Center and that the applicant will be serving public notice again.

Unidentified Man questioned why the public hearing is being pushed off.

Mr. Stockton explained that the public notice was defective and that's why the hearing is been put on the May 14th agenda.

**PB#2008-3 Lin, Fang
Block 64 Lot 24 – 214 Bay Avenue
Approval of Resolution**

Mr. Serpico stated that there was a typo in the resolution which has now been corrected to reflect the correct property location as being 214 Bay Avenue not 171 Bay Avenue.

Mr. Venezia questioned condition Number 13 with regard to the parking deficiency of 17 spaces.

Mr. Serpico recommends that we adopt the resolution as is and if it turns out to be less than 17 spaces then he will submit a corrective resolution.

Mr. Manrodt offered a motion to move on the adoption of the following Resolution:

**RESOLUTION APPROVING THE MINOR SITE PLAN APPLICATION
OF FANG LIN, BLOCK 64, LOT 24**

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WHEREAS, the applicant Fang Lin is the owner of property known as Block 64, Lot 24 on the Borough of Highlands Tax Map, which property is located at 214 Bay Avenue, Highlands, New Jersey and is located in the B-1 Zone; and

WHEREAS, the applicant has applied for preliminary and final minor site plan approval for the purpose using an existing mixed use structure containing commercial space on the first floor and four residential units on the upper floor(s) as a take out Chinese restaurant on the first floor and the residential component to remain as is; and

WHEREAS, all jurisdictional requirements have been met and proper notice has been given pursuant to the Municipal Land Use Act and Borough Ordinances, and the Board has jurisdiction to consider this application; and

WHEREAS, the Board considered this application at a public hearing held on March 12, 2009; and

WHEREAS, the Board heard the testimony of the applicant's husband, Yang Huang, Frank Mileto, a licensed Planner and Architect in New Jersey and Bruce Jacobs, a licensed Planner and Professional Engineer in New Jersey; and

WHEREAS, the Board after considering the evidence and testimony presented by the applicant has made the following findings of fact and conclusions based thereon:

1. The property is located in the B-2 Zone.
2. The application as presented, in conjunction with the conditions of approval imposed by this Board hereinafter, complies with the applicable zoning and development ordinances of the Borough of Highlands; and

WHEREAS, the Board after considering the testimony and exhibits has found the proposed minor site plan to be acceptable with conditions.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Highlands that the application for preliminary and final minor site plan approval for Block 64, Lot 24 is hereby approved contingent upon the following conditions being met;

1. All testimony, evidence and representations made by the applicant and its witnesses are incorporated herein.
2. Taxes, fees and escrow accounts shall be current.
3. The applicant shall comply with all of the outstanding comments and conditions if any set forth in the Board Engineer's report for this project dated March 6, 2009, which report is incorporated herein in full by reference thereto.
4. The applicant agrees to post performance bonds and/or inspection fees as determined by the Borough Engineer if any.
5. The applicants will obtain the approval of the Monmouth County Planning Board for the project if required by law.

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6. The applicants will obtain the approval of the Highlands Regional Sewerage Authority for the project if required by law.
7. The applicant will be permitted to have “sit down dining” inside of the first floor space that is limited to two (2) tables and a total of eight (8) chairs.
8. The applicant will comply with the Borough sign ordinance as applicable to any proposed exterior signs.
9. The proposed trash dumpster will be a two yard container that will be completely enclosed and will be located in the area indicated in the testimony of Bruce Jacobs. The location of the dumpster can not impede the on-site parking of vehicles. If trash or the dumpster location becomes a problem in the future the applicant has agreed to increase the size of the dumpster and/or relocate it to a different position on the subject property. This condition is of a “continuing nature” and was specifically agreed to by the applicant.
10. The applicant agrees to install stone and railroad ties in the parking area in order to improve the existing driveway.
11. The applicant agrees to submit to the Board Engineer for his review and approval a proposed exterior lighting plan.
12. The applicant has agreed on the record to make façade improvements to the existing structure and clean up the structure and the property.
13. The applicant shall make the appropriate financial contribution to the Borough Parking Deficiency Fund for 17 parking spaces as determined by the Borough.

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

ROLL CALL:

AYES: Mr. Manrodt, Mr. Mullen, Mayor Little, Mr. Francy, Mr. Parla,
Ms. Peterson

NAYES: None

ABSTAIN: None

Master Plan Amendment Status Report Presented by Martin Truscott, P.P.

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

Mr. Serpico – over the past several months he has had discussions with the Borough Attorney and we’ve got our 6 year review of the master plan coming up in 2010. So the Statute provides that it has to be at least every 6 years and his interpretation of that is if the Borough wanted to they could incorporate the current Master Plan Review specific amendments with that to save the Borough the time and money. His discussion with the Borough Attorney two days ago was that we are going to be receiving an amended referral resolution authorizing the Planning Board to conduct the general overview of the Master Plan to satisfy the statutory requirements.

Mr. Truscott – the Subcommittee had another meeting and this time reached out to land developers and he has a summary of what took place at the meeting. He then read through the following recommendation list:

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RECOMMENDATIONS

The Master Plan Subcommittee recommends the following specific changes to the Land Development Ordinance:

1. In the Huddy Park area, the following zoning and development changes are recommended:
 - a. Building structures may be 4 stories and up to 49 feet in height if the parking for the structure is provided on-site and under the building.
2. Hotels. May be permitted as a conditional use in areas facing on Huddy park provided the following conditions are addressed:
 - a. The length of stay is limited to one-night and extended stay. The ordinance should limit the potential for conversion of a hotel to apartments by restricting the size of the hotel rooms and requiring certain common areas.
 - b. The first floor of the hotel may be a commercial use.
 - c. The height of the hotel may be four stories and a maximum height of 49 feet.
 - d. The density/intensity of the hotel use is to be limited to be consistent with the density standards of the Borough.
3. Underground utilities. All new development, redevelopment, conversions and rehabilitations shall install all utilities underground.
4. To encourage increased utilization of areas zoned for business, the permitted building coverage in the B-1 and B-2 zones should be increased from the current 35% standard to possibly as much as 70%. The increase in building coverage could be linked to on-site parking under the building.
5. To provide funding for critical infrastructure projects, establish a Developer's fee of 3% of the total project cost for both residential and non-residential developments above a \$1 million. The fee will be collected town-wide to pay for infrastructure such as drainage and flooding projects, rehabilitation of sanitary sewers and the municipal complex.
6. Residential Rehabilitation:
To encourage the conversion/redevelopment of nonconforming multifamily properties, allow construction of new multifamily units at a density equal to the existing multifamily. Provide a ratio of permitted new multifamily units to the number of existing multifamily units demolished.
7. Expand the uses as appropriate in the B-1 and B-2 zones. This may include:
 - a. In the B-2 Zone, allow garden/florist/landscape use, provided bulk storage is not permitted.
 - b. In the Highway Oriented (business) Zone, allow landscape supply.
 - c. Allow medical offices under the category "personal service" establishments.

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8. Changes in the zoning boundaries: B-2 Zone: Consider the extension of the B-2 Zone into the triangular area bounded by South Street, Bay Avenue, and Shore Drive, to allow both B-2 and WC-1 zone uses. The area is currently zoned WC-1.
9. To encourage additional development in the downtown, allow townhouse/commercial in the B-2 Zone on a side by side basis rather than upstairs and downstairs.

Mr. Truscott then asked for feedback from the Board on these recommendations.

Mayor Little spoke about retail commercial use being permitted as a principal use and suggested that the Board think about this. She also stated that we need to look at professional services in a commercial sense. If someone wants to open up a service office on Bay Ave that is not licensed by the State it could be difficult, which she further explained.

Mr. Mullen spoke favorably about allowing retail as a permitted use in our business district.

Mr. O'Neil arrived to the meeting.

Mr. Francy spoke about expanding of our uses. The law states that if a use is not specifically included in the ordinance then it's excluded and he does not know that our definition of uses is broad enough, which he further explained.

The Board had a discussion about Mr. Francy's comment.

Mr. Francy – we need to have some language in the ordinance to allow for the Zoning Officer to make a valid decision on a commercial use that is not specifically listed.

Mr. Serpico explained that you can't anticipate what's going to go on and to turn it around and have "similar uses" in the ordinance you are putting an undue burden on the Zoning Officer and or the Zoning Board. The better way to proceed is to try and review the permitted uses in a specific zone and expand on the definition to include as much as you can. So the board is better off reviewing the ordinance, expanding the definitions to make it more inclusive and then leave it as is. On an annual basis you can review the uses and further expand the uses as needed.

Mayor Little – if we want retail we need to decide in which business zones do we want to permit retail, which she further explained. She wants the Board to consider as part of the recommendation that will go to Council.

Mr. Mullen – we should encourage retail on the ground floor so that we are getting an active street. We should also discourage office type uses on the ground floor any make offices in that zone being condition on being located on the second or third floor.

Mayor Little agreed.

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Mr. Mullen – Johnny Urbanski spoke about having a pocket of a different use in the area of the New Life Church.

Ms. Peterson further commented on the Urbanski comment and it was specific to that area.

Mayor Little – maybe we can add a transitional element Mr. Truscott so people can have residential use in the structures to help pay for their mortgages.

Mr. Truscott – that may be a little difficult.

Mr. Mullen – one way you can do that is to waive F.A.R. requirements so that the floor area that you develop as a commercial building on Bay Avenue in the B-2 District could be greater than the floor area that you can build as a mixed building commercial/residential so that there would be a benefit to building more commercial floor area.

Mr. Manrodt spoke about the Huddy Park area and the need to make the corner wider and do that by going into the park by about 20 feet we need to make Waterwitch Street wider. He explained that the VFW could move to across the street for borough flexibility to widen that area.

Mayor Little – do we need to include some detail with regard to retail uses as primary uses and some language with regard to commercial office space in our recommendation to the Council.

Mr. Stockton – Mr. Truscott is making notes on our discussions and this is a work in progress and if there are suggestions they should be given to Mr. Truscott for inclusion for his final draft.

Mayor Little questioned the time frame for finalizing the recommendations to the Council.

Mr. Serpico – Mr. Arnette, Borough Attorney called him to expand to do a general review of the Master Plan.

Mr. Truscott – the document that we did in November is a comprehensive review of the Master Plan and it covers all of the statutory requirements, which he further explained.

Mr. Serpico – we will ultimately need to have a public hearing once we are ready. Once the Resolution comes over from the Council there isn't much more that has to be done before we can have our public hearing.

Mr. Mullen – the board should look at the recommendations from the Zoning Board over time to make sure that those recommendations are dealt with. He feels that there are Zoning Board recommendations that have never been dealt with such as Gravelly Point Road.

Mr. Serpico – why don't we pick the June meeting to be our target date to hold the public hearing so you have between now and then for any finalization that needs to be done.

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Mr. Mullen stated that he did a three page study of his own based on all the comments and his feeling is that we need to look at this business zone. We have to look at what's going on at Huddy Park and what is going on down town and they are not necessarily the same. The use of the structure, the height of the structures have to be suited to the area that they are in and if we want to allow hotel development and they want to put parking underneath it and if we think that it's a good idea then we need then hotel should be a conditional use and they may be given a greater amount of floor area in order to incorporate the need for off-site parking and therefore a greater height but he doesn't think that we should do a general height ordinance at Huddy Park that would permit 49 foot structure all around it. It may be more appropriate in a concentrated area downtown.

Mr. Stockton – like you say with a conditional use and you can put conditions on it to meet the use and that's where you can deal with height and residential.

Mr. Mullen – I think that the residential component above a business use should also be conditioned on however we think that it's necessary to do it. The size of the apartment is a good way of controlling one of the issues that Councilman Urbanski had which was ownership and if you make the units bigger they have a tendency to not be low market rate apartments.

Mr. Parla questioned what happened to parking.

Mr. Mullen – that may be another thing, I think that may be a good thing, again a conditional. You can have a residential unit here but you must provide onsite parking because what we don't want to do is let them develop residential construction that takes away from commercial parking . I think that in the Huddy Park area you would be better to have a higher component of residential above a commercial and in the Business area have a higher percentage of commercial and less than residential, which he further explained.

Mayor Little – I like the conditional use of residential especially if you are trying to stimulate retail on the first floor and commercial office space on the second floor. I think allowing the residential as a conditional use allows a new property owner who may be establishing a new commercial space which they are going to own the business to live where they are going to work and therefore entice them to make a go of it in Highlands.

Mr. Mullen – also one element that subcommittee wasn't able to do which he thinks is critical to the analysis of downtown is to get input from the NJDEP with regard to flood regulations and Marty Truscott has gotten in touch with FEMA and there very willing on coming and talking and he is very friendly with this man at the NJDEP and he believes that it would be very beneficial for the subcommittee to get to meet with them because I think the restriction with regard to parking underneath the buildings and flood proofing is something that we should be very well versed on.

Mr. Truscott stated that he can't guarantee to have them come.

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Mayor Little – I think the Governing Body limited the amount of money that we can pay you, so that's another issue.

Mr. Truscott – he is way over and he is not going to bill anymore.

Mr. Parla suggested that the subcommittee meet one more time and develop this together and come up with specifics. If we can get them to come great but he is not too optimistic.

Mr. Mullen – we should have the whole board meet with NJDEP and FEMA.

Mr. Francy – he is not so sure that the DEP regulations are critical to us but they are not going to in peed this master plan review.

Mr. Mullen – parking under the buildings or not parking under buildings could have a big impact on downtown.

Mayor Little – could we include something about parking under buildings is conditional upon DEP and FEMA regulations? She then commented on parking. We need to have the Planning Board at some point approve a parking plan and we can use the HBP parking study that they did years ago but that does not need to hold us up with this work.

The Board continued to have parking issue discussions.

Mr. Francy stated that he disagrees with Mr. Mullen regarding Huddy Park. He thinks that it needs to be at a 49 foot height all around which he further explained.

The Board had further discussions about the two business zones and the recommendations for them.

Mr. Truscott spoke about a creative development zone that has very little parameters which was brought up by an Architect at the subcommittee meeting. He investigated the Red Bank ordinance and there is no creative development zone.

Mr. Parla agreed with Mr. Francy about the Huddy Park area as a focal point of a circle of businesses.

Mr. Truscott – the Huddy Park area is a gateway into the community and it should have the streetscape and development to create some focal point.

Mr. Mullen – the notion that he had would really designate the properties within the B-1 and B-2 zone that we are targeting for development and we would say that all of these lots that face Huddy Park can have a such and such height and a such and such use and as soon as you move outside of that area you can still be in the same original B-2 zone the underling requirements are there but in this particular area we want to have this happen.

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Mr. Stockton – I heard that we are going to target the June 11 Meeting as the public hearing.

Mr. Parla – the subcommittee will meet one more time.

Mr. Stockton – we can have further discussion on this at the May Meeting and have the public hearing in June.

Approval of Minutes:

Mr. Mullen offered a motion to approve the March 12, 2009 Planning Board Minutes, seconded by Mr. Manrodt and approved on the following roll call vote:

ROLL CALL:

AYES: **Mr. Manrodt, Mr. Mullen, Mr. O’Neil, Mayor Little, Mr. Francy,
Mr. Parla. Ms. Peterson, Mr. Roberts**

NAYES: **None**

ABSTAIN: **Mr. Stockton**

**Highlands Landing (Seastreak)
326 Shore Drive**

Joann Kominsky of Conner’s Village which is adjacent to the Seastreak parking lot expressed her complaints about the new lights that were recently installed on the Seastreak lot.

Mr. Stockton – it becomes a Code Enforcement issue with the Borough.

Mr. Mullen stated that he does not believe that the Seastreak Planning Board plan has ever been finished. They put plans before the board for site plan for the parking lot and we are going to ask them to come in and give us an update.

Mr. Serpico – it’s an enforcement issue. There approvals are beyond any further extensions; however that does not mean that there approvals have expired, which he further explained.

Mr. Mullen – could we request them to come in and give us an update.

Mr. Serpico – the enforcement would either be the building inspector or code enforcement or if it’s been done by JCP&L then the Administrator should contact them.

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Mayor Little – I am recommending to the Borough Clerk this evening is that we attempt to address this between now and this Wednesdays Council Meeting through the Administrator and Code Enforcer and that a copy of the site plan approval be obtained and that the requirements of that site plan approval be reviewed for compliance and then separately the complaint about the lights be reviewed immediately in conjunction whoever was the electrical official who approved that. Hopefully we will have a report on this by this Wednesdays Council Meeting.

Mr. Francy explained that if the Seastreak plans have not been signed off by the Board as per the Board Secretary. She stated that they have not been signed off yet because there is still one outstanding condition to be satisfied.

Mr. Serpico - the drawings are in effect even though the Board hasn't signed off on them. The Board might also want to have Seastreak come back in to tell us where they are.

Mayor Little – we need to review the site plan and enforce what we can there.

Mr. Francy – lets invite them here to bring us up to date.

Mr. Serpico – send them a letter and invite them here in June.

Mrs. Flannery stated that she is making a note to send them a letter.

Communications:

Mr. Stockton reminded the Board Members to complete the annual Financial Disclosure Statements.

Mr. Mullen – stated that he heard that they are going to open the bike lane this month to Atlantic Highlands and he thinks that it was Councilwoman Burton was on the right track when she said let's look into dedication of the south side of Shore Drive from the park to the bridge and ask people to park on the other side. Most of the houses on the south side of shore drive do have off street parking and maybe that can be part of our master plan update.

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

The Meeting adjourned at 8:55 P.M.

CAROLYN CUMMINS, BOARD SECRETARY

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