

A CLAM-TASTIC PLAN

for the Valley to Vet's community of Highlands Borough, NJ



Edward J. Bloustein School of Planning and Public Policy
Planning and Design Studio, May 2014

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1 INTRODUCTION

Appendices

Due to the significant amount of content included in the Appendices, these documents are included under a separate cover.

Study Area MOD IV Data - Sorted
Single-family Residential Sales, 2012-13
Single-family Residential for Sale, Spring 2014
Residential Condominium Unit Sales, 2012-13
Residential Condominium Units For Sale, Spring 2014
All Analytical Maps
Catalog of Properties Susceptible to Change
Zoning Definitions
Visual Preference Survey Results
Street Typologies
Building Typologies

Note:

Based on data listed in the February 2014 "Properties Deemed an Imminent Hazard", this report and its appendices contain two errors. The following corrections are not reflected in the material present herein:

- Block 45, Lot 4.01 (102 Bay Avenue) should be removed from the map of "Properties Deemed an Imminent Hazard," and
- Block 45, Lot 2.01 (33-35-37 Jackson Street) should be added to the map of "Properties Deemed an Imminent Hazard."

1.1 - Studio Mission

This document is the culmination of a Planning and Urban Design Studio course held at Rutgers University's Bloustein School of Planning and Public Policy during the Spring of 2014. The small borough of Highlands, NJ had requested that Rutgers examine the many problems and concerns it faced as a result of the severe impacts from Hurricane Sandy. Over a span of fifteen weeks the students in this class were tasked with the responsibility of creating an urban design and redevelopment plan, with a focus on a 'study area' encompassing the "Valley to Vets" section of downtown Highlands -- from Valley Street to South Street and from Shore Drive to the waterfront.

During the semester the students performed site visits, interacted with local stakeholders, analyzed data and created graphics of current site conditions, and developed new designs as part of an overall strategy. In particular, new regulatory rules on flood proofing and elevating structures were examined and in context with the threat of changing real estate market forces, population loss, economic stagnation and how all this may affect the town's historic traditions. The studio's own conclusions on what it believes offers the greatest potential benefits with regards to redesign and redevelopment are the basis for this document.

The Borough's predicament is fraught with uncertainty and competing proposals on how to proceed. What is most needed is a clearly articulated vision for the future of the study area. The intention of the Rutgers studio is to provide a service by offering informed planning ideas to the governing body, planning board and borough residents. We are well aware of the Borough's unique history and desire to maintain its legacy as a fishing and clamming community while balancing this with the need for economic development in ways that do not threaten or undermine the town's proud heritage. The challenges facing Highlands are difficult and complex and we do not pretend that any one idea can solve them. However, given the opportunity to provide some badly needed direction, we have worked to develop a plan of action that is bold, creative and tailored to the unique set of conditions we found in Highlands. We are pleased to offer this document and hope the Borough's residents consider these ideas as they move forward to face the many challenges that lie ahead in a post-Sandy environment.

1.2 - General Background

The Borough of Highlands, NJ is a 1.3 square miles community of about 5,000 year-round residents (pre-Sandy) and 3,146 housing units (2010 US Census) located just south and west of Sandy Hook. It is one of the oldest settled areas in New Jersey.



Map of Highlands Borough, Monmouth County, New Jersey



The municipality is bisected by New Jersey Route 36, a 4-lane arterial highway. There is a high-speed passenger ferry service to lower Manhattan, but no passenger rail service.

The western section of the Borough occupies a bluff overlooking Sandy Hook Bay and the Atlantic Ocean -- the Navesink Highlands. It includes residential, commercial and institutional uses, along with the 800-acre Hartshorne Woods Park, a part of the Monmouth County Park System, and the Highlands US Army Air Defense facility.

The eastern section of town (below Route 36) faces Sandy Hook Bay and the Gateway National Recreation Area. This part of town -- which includes the working waterfront, the downtown commercial district on either side of Bay Avenue, and the adjoining residential neighborhoods -- was the victim of a 12- to 17-foot storm surge during Hurricane Sandy and sustained considerable damage.

The Borough's history and economy is intimately connected with the water. In 1900 clamming employed 1/3 of the Borough's workforce. Clamming is still the largest employer in town, and is a year-round activity except for the rare occasions when the Bay freezes.

Commercial clamming has expanded in the last 20 years as a result of cleaner water and the opening, in 1995 of the J.T. White depuration plant. The only such facility in New Jersey, this plant uses state-of-the-art ultraviolet light to treat hard-shell clams (cherrystones, little necks and chowders) in 48 hours, a process that would otherwise require up to 45 days of cleansing in clean waters. The plant processes 240 bushels of clams a day and employs about 100 workers. The plant operates on land leased from the Borough and is looking to expand. However, the lease is up in 2015 and competing visions for how the land should be used have been aired. The Highlands waterfront is used for a variety of water-dependent uses: marinas, fishing, party boat rentals and the passenger ferry dock. The Borough also hosts an annual summer Clam Fest with games, carnival rides and a clam-shucking contest, as well as fishing tournaments. But large sections of the waterfront are private, and public access is neither intuitive nor encouraged.

The Borough's historic tradition as a maritime working class community and center of the oyster and clamming industries is potentially threatened by both real estate market forces and by the uncertainties unleashed by Hurricane Sandy, including the new regulatory requirements associated with the rebuilding process in terms of flood-proofing and elevating structures. In many ways Highlands provides a rich case study of the multi-layered challenges that coastal

communities must confront: changes in demographics and economic base that seemingly challenge the social character of the community, along with the daunting challenges posed by sea level rise and increasingly severe storm events that place at risk the community's physical setting and character.

The very severe impacts of Hurricane Sandy have heightened the need to find local solutions to mitigate future storm events. But there have been competing proposals and much confusion over what types of strategies are feasible, effective and desirable.

A possible approach is to impose a hard barrier between the Borough's downtown and the waterfront. The US Army Corps of Engineers (ACE) has been studying for years the feasibility of using several engineered devices to protect a section of the North Jersey shore, from Keyport to Highlands Bridge, including downtown Highlands, from future storm surges.

<http://www.nan.usace.army.mil/Portals/37/docs/civilworks/projects/nj/coast/rar934.pdf>

The ACE project would build 8,000 linear feet of protection using bulkheads, floodwalls, dunes, and raised roads and surfaces. A \$1.5 million feasibility study is currently underway. The project does not yet have an appropriation for construction. It appears that many waterfront residents and businesses do not support this approach, preferring to elevate their individual structures. An alternative vision is to follow the model adopted in Galveston, Texas in the early part of the 20th Century. This would involve raising the entire downtown area with fill, above the projected base flood elevation level. No serious feasibility or cost study of this scenario has been conducted, and it seems to have lost local political traction.

http://www.nytimes.com/2013/02/23/nyregion/highlands-nj-proposes-raising-the-borough-to-escape-hurricanes.html?pagewanted=all&_r=0

A third scenario is one where all the properties substantially affected by Hurricane Sandy (loss of 50% or more of their value) are rebuilt following the revised State of NJ requirements regarding minimum base elevations. FEMA has stipulated 12 feet as the Advisory Base Flood Elevation (ABFE) for downtown Highlands. Execution of the ACE shore protection project would not necessarily negate the need to elevate the structures, in FEMA's view.

Residential properties must elevate, in order to be eligible for flood insurance. Commercial properties must also elevate, or alternatively, "flood proof" the ground floors, but this can be very expensive. The alternative – to virtually vacate ground floors – also has severe cost implications.

1.3 - Impacts of Sandy

The entire downtown of Highlands Borough is in an AE flood zone (1% chance of flooding every year) and is extremely vulnerable to both the occasional impacts from severe weather events as well as to the long-term impacts of sea level rise. Approximately 1,250 of the 1,500 housing units in the downtown – along with many businesses – were damaged or totally destroyed. A substantial portion of the buildings located in the downtown area, between Bay Avenue and Sandy Hook Bay, lost over 50% of their value.

This older downtown residential area, including the entirety of the studio's Study Area, is characterized by small, detached single-family homes, frequently situated on micro-lots of as little as 2,000 square feet in size. This pattern is a legacy of the Borough's early days, when simple cottages close to the water were used only during the Summer season. Many of those housing units are currently rentals. Overall, 41% of the Borough's occupied housing stock is rental.

While some housing units in this area have been elevated and/or rebuilt, many others have not. It is not yet entirely clear how many housing units are abandoned or severely damaged by the storm, and what the subsequent effects of mold and rot are.

The Borough has been working with a consultant to identify abandoned properties damaged by Sandy that must be demolished for public health reasons. Some of the properties in question have been identified. If a property is identified as constituting a public health hazard, the Borough has the authority to demolish the structure and assess the property owner for the costs of demolition and debris removal (see Implementation section for a more comprehensive discussion).

The Borough has a unique opportunity to take advantage of the on-going demolitions, home elevations and private capital investment to develop and implement a strategy for scattered site redevelopment, with minimal displacement. This may involve incentivizing the assembly of two or more micro-lots and their redevelopment with attached housing types, which is currently not permitted under the zoning. It could also involve other types of changes. However, no such strategy exists at present.

The low-lying sections of Highlands Borough are highly vulnerable to coastal flooding, and increasingly so. A substantial number of buildings, both residential and commercial, are vacant (and many abandoned) in the wake of Sandy. There is considerable uncertainty as to how the area may evolve. This creates a unique opportunity to consider bold interventions that can guide the area's transformation towards more sustainable and resilient development prototypes. Both the Bay Avenue commercial corridor and the residential neighborhoods between Bay Avenue and the Bay are in play.

1.4 - Stakeholder Engagement

The studio sought to engage local officials, business owners and stakeholders from Highlands and Monmouth County in discussions regarding the preferred redevelopment scenarios for the downtown. The range of stakeholders engaged included elected and appointed officials, local businesses and commercial property-owners and non-profit organizations. The list of stakeholders can be found in the acknowledgements section. Informal mid-course correction/evaluation meetings with selected stakeholders were helpful in directing and focusing the studio's efforts. A presentation to the community, at a meeting organized by the Borough Council, took place on the evening of May 14. Over 40 people attended and participated in the informal give and take during and following the presentation.

2 EXISTING CONDITIONS

2.1 Introduction

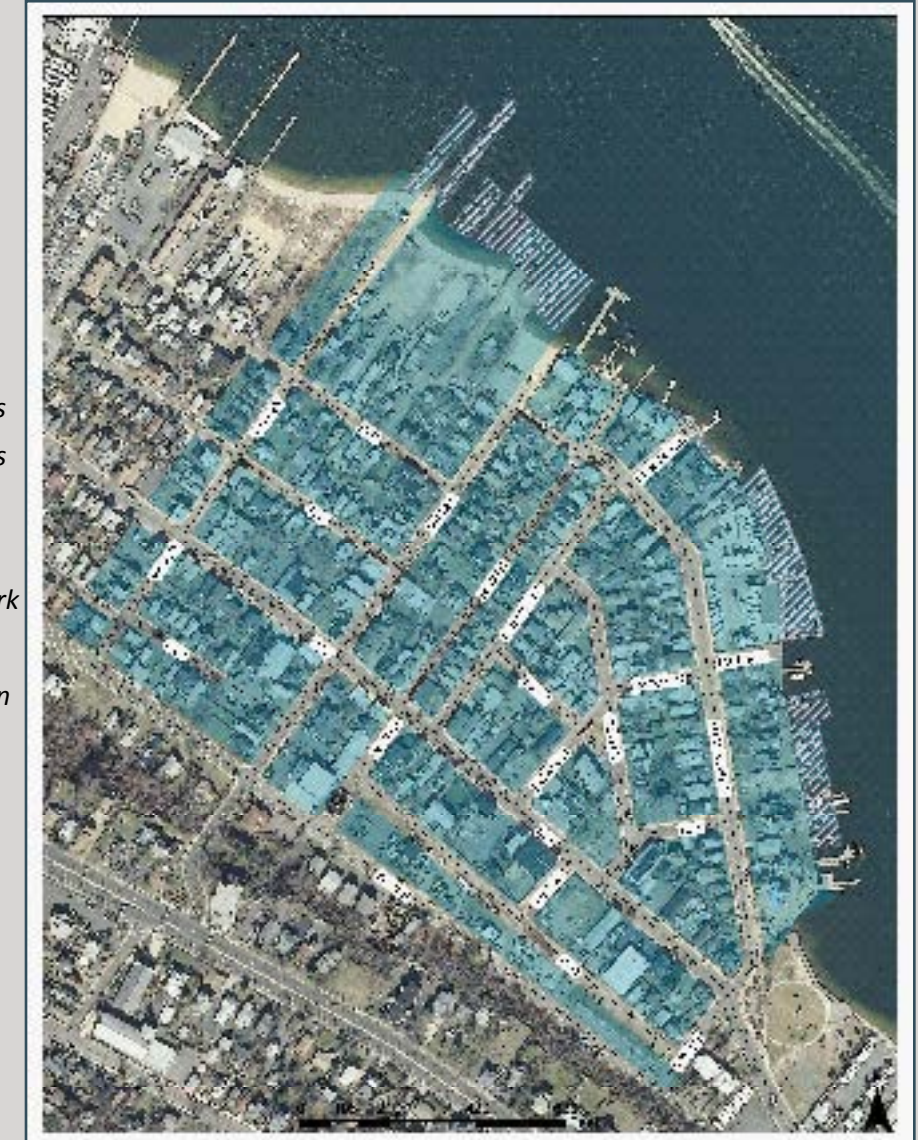
During the early weeks of the studio class, the students made an effort to study and learn about Highlands as a community and the problems it faces. Early on, the class met with various stakeholders in town and were given a tour of the study area. They saw firsthand the many decimated and/or abandoned residential and commercial buildings that exist today. The students created a series of maps of the study area that would be beneficial in better understanding existing conditions. For example, some of these identified individual residential lots in need of redevelopment; or which were identified by the borough as an imminent hazard; or where infill and redevelopment opportunities lay; or those properties that are owner-occupied versus those owned by landlords and occupied by renters; and those meeting a 'strong candidate for change' criteria, and so on. All told, a picture emerged of a borough that is struggling for answers as how best to address both the tremendous damage wrought by the storm, and the longer term issues of urban dispersal, economic hardship, and the consequences of climate change and rising sea levels.

The studio participants identified a number of problems that currently exist and need to be addressed. First, it found the Borough's economic potential to begin with is somewhat restricted by its location as a beachfront community and therefore its best opportunities are probably limited to the annual summer season. But beyond that, the glaring absence of local access to some vital goods and services, with particular emphasis on the lack of any quality supermarkets, is a clear and distinct burden for the residents. They discovered that the Borough's finest natural asset – its waterfront – is woefully underutilized and has insufficient public access. Most commercial properties are also underutilized, or were damaged by the storm and are currently abandoned (up to 75% of commercial structures along the Bay Avenue corridor are currently unoccupied and in an uncertain condition). A significant percentage of private residences are also unoccupied and in various stages of disrepair. Of the rest, up to half of the occupied structures are rental properties whose absentee landlords do little or nothing to maintain them and represent a major drag on the town's overall appeal and livability.

All of this has given the impression of a community that is struggling for answers as how to best address the myriad of problems it confronts. While Highlands had many problems that already were evident before the storm, these were exacerbated to a great deal by flooding damage and the lack of funds combined with a deteriorated tax base. Worse, there are simply few resources, and revenue sources, available to ameliorate them.

The worst problem identified, and most difficult to resolve, is the simple fact that the entire

MAP OF THE STUDY AREA



The Study Area consists of 56.4 acres and spans 20 blocks between Valley Street and Veteran's Memorial Park and the Shrewsbury River and Shore Drive in Highlands Borough.

study area is a low lying section of town abutting the Shrewsbury River at an elevation barely above sea level. This makes it highly vulnerable to flooding due to a constant threat of abnormal tides and storm surges. It was also discovered that the average residential lot size is quite small at just 2,500 square feet. This appears to be due to Highlands' legacy as a small fishing and clamming community that contained many small seasonal properties and Summer cottages. On average, the structures on these parcels are two to three stories in height. This existing building stock was poorly maintained even before the devastating effects of the flooding from Sandy. Now, the residents face some costly choices as how best to rehabilitate their properties while mindful of the threat of future flooding events with consequences as deleterious as Sandy was.

A closer analysis finds that Highlands has limited regional access by auto, because there are just three main access points to the low lying sections. These entrances are all situated along U.S. Highway 36 – the main east-to-west thoroughfare leading to the Sandy Hook Bridge. Only one access point holds any kind of gateway feature to attract the attention of motorists and is arguably in the wrong location (a billboard featuring the slogan “The Jersey Shore Begins Here” is located at the westernmost entry point). The limited number of access points creates a non-intuitive circulation system, making the Borough seem disjointed and without any real focal points. Adequate pedestrian and bicycle amenities are lacking. Parking is limited and sometimes difficult to find. Budgetary problems and the storm’s legacy created a street network currently badly in need of repairs.

STUDY AREA ATTRIBUTES

Physical Attributes

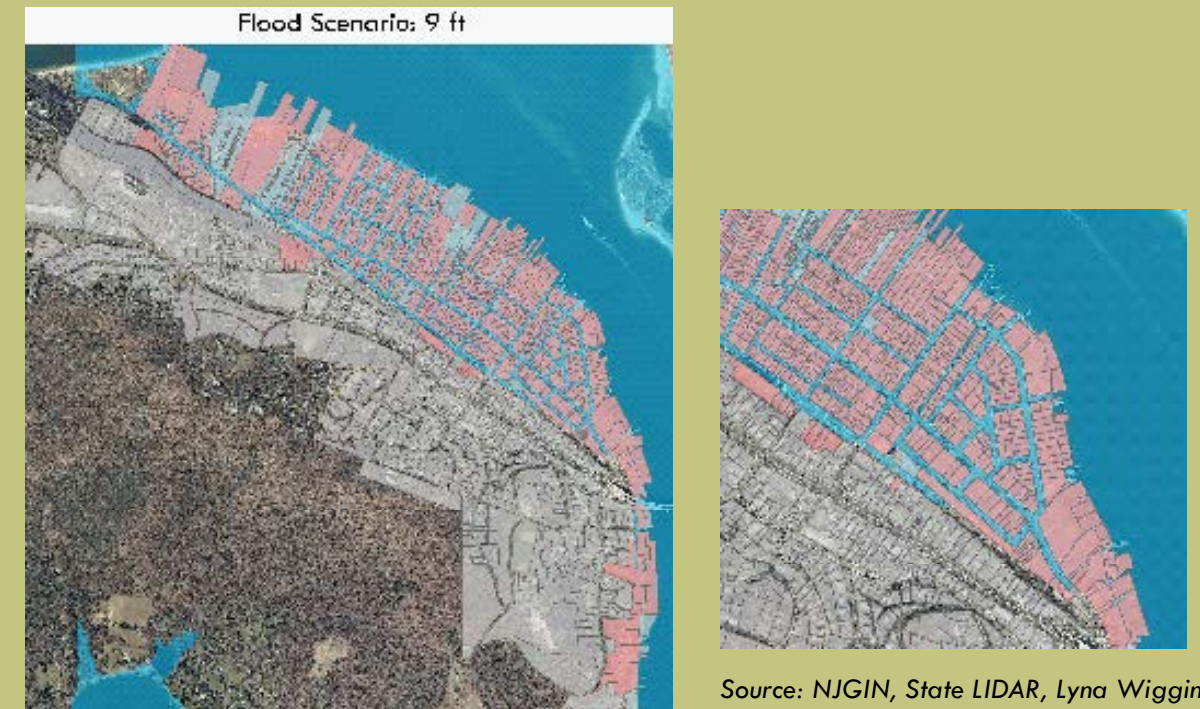
- Average elevation between 0’ and 10’
- 2 – 3 story scale
- Average residential lot size = 2,500 sq. ft.
- Poorly maintained building stock

Local and Regional Attributes

- Limited regional access
- Non-intuitive circulation system
- Lack of gateway features, wayfinding, pedestrian and bicycle amenities
- Annual visitors to Highlands: 100,000
- Annual visitors to Sandy Hook Recreational Area: 2 million
- Other local attractions:
 - Twin Lights National Historic Site
 - Pompora Park
 - Henry Hudson Trail
 - Certified clam depuration plant
 - Mount Mitchell Scenic Overlook
 - Clamming
 - Restaurants
 - Marinas
 - Ferry service to NYC

There are a number of local points of interest that could enhance the Borough’s economic condition if better efforts are made to advertise them. Most notably are the Sandy Hook recreational areas including its public beaches that attract an estimated 2 million visitors annually, and the Twin Lights State Historic Site situated on the slope 200’ above the study area. Others include the Mount Mitchell Scenic Overlook with its spectacular view of the bay and points beyond; Pompora Park; and numerous fine seafood restaurants that draw many out of town visitors. Daily ferry service to Manhattan is available on the Borough’s western side, and has potential to restore Highlands as a day destination for city dwellers just as it was when steamboats were regularly in service. The Henry Hudson Trail – a successful rails-to-trails county conversion project – passes through town on the way to the Sandy Hook Bridge, and could be diverted off Shore Drive onto Bay Avenue and help create more potential customers for businesses there.

FLOODING CONDITIONS DURING 2012 HURRICANE SANDY



The task of restoring the Borough’s tax base through redevelopment and revitalization of dilapidated properties is made especially difficult by the real and constant threat of more flooding in the future. This situation discourages the potential of private capital investment in the study area that could improve the local economy. It is important to note that Highlands’ vulnerability to flooding is not restricted to full blown hurricanes like Sandy. Unnamed storms can be just as calamitous. The December 1992 nor’easter - a three day event that covered no less than six tide cycles – reportedly caused more destruction than Sandy, and meteorologists warn of similar storms occurring in the future with greater frequency. Even events such as enhanced lunar tides increases the potential of flooding – such is the vulnerability of so much of this town that credits its early growth and popularity to the waterfront that threatens it today.

The short-term legacy of Sandy’s destruction is in the form of new regulations and guidelines for redevelopment. As a consequence, residential and commercial structures are now required to be raised up to fourteen (14) feet as a result of NJDEP Floodplain rules and FEMA requirements for eligibility to the subsidized National Flood Insurance program. The reaction by the residents has reportedly been mixed. During their site visits, the students observed up to several dozen individual structures in various stages of ‘lifting’ in order to comply with these new guidelines. However, far more structures - many abandoned and in various stages of disrepair - sit vacant with no discernible visible activity.

The devastating storm surge that inundated the low lying area of Highlands did not strike from the Atlantic Ocean to the east, but from the Shrewsbury River along its north/northeast shoreline. This storm surge reportedly was twelve (or more) feet high, and Shrewsbury Avenue

was covered with 77 inches of seawater at the surge's maximum. The water swept in and reached the slope just to the west of Shore Drive. Unfortunately, the issues facing the Bay Avenue commercial corridor are made even more problematic because it lies at the lowest elevations in town – lower than Shrewsbury Avenue itself. Because the risk of future flooding scenarios similar to this is growing, Highlands faces some very difficult decisions as to how best to protect itself from such similar events. The public debate appears to be contentious with competing ideas and some stiff resistance to the very idea of change to begin with.

One option the Borough has considered is a seawall and bulkhead protection system favored by the federal Army Corps of Engineers (ACE). This project would entail up to 8,000 feet of a system of bulkheads, floodwalls, dunes and raised surfaces and structures. While a feasibility study has been performed, the concept has languished due to growing community opposition over time, especially from those who have already commenced raising their own structures at considerable expense and assumed their water views would not be compromised this way. The planning scenarios explored in this report do not rely on the construction of the ACE floodwall, and can be implemented with or without this infrastructure.

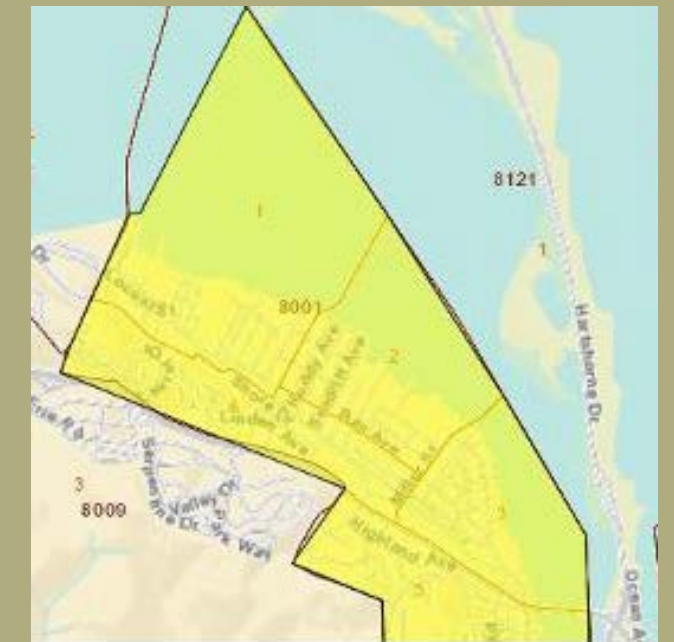
2.2 Demographic Analysis

ARMY CORPS OF ENGINEERS COASTAL PROTECTION PLAN



Proposed ACE design of Reach 3 tidal protection devices for the study area.

MAP OF US CENSUS BUREAU CENSUS TRACTS AND BLOCK GROUPS



Source: <http://factfinder2.census.gov/>, 2014

The study area is bounded by the Shrewsbury River, Veteran's Park, Shore Drive and Valley Road, and is located within the US Census Bureau's Census Tract 8001, Block Groups 2, 3 and 4. (See Map of US Census Bureau Census Tracts and Block Groups.) The study area is almost entirely contained in Block Group 3, except for the homes located between Miller and Valley Streets which are in Block Groups 2 and 4.

Data from Block Group 2 and 4, however, have not been considered in the following demographic analysis of the study area. The 2010 US Census data show Block Group 2 and 4 are significantly different than Block Group 3 in demographic composition and the inclusion of this data in the analysis would tell a different story. For instance, Block Group 2 and 4 have nearly 40 percent and 230 percent, respectively, more housing units than Block Group 3. Also, the vacancy rate is 7 percent different in Block Groups 2 and 4 compared to Block Group 3. Another significant difference between the Block Groups is the number of units of seasonal housing is 19 and 10 percent larger in Block Groups 2 and 4 than in Block Group 3. Keeping this in mind, below is a brief demographic description of Highlands Borough and the study area utilizing data from the US Census Bureau and the 2008-2012 American Community Survey.

Highlands Borough Census Data

According to the 2010 US Census, Highlands has a population of 5,005, a 2 percent population decline since the 2000 US Census. The population is overwhelmingly (93 percent) white, with smaller sectors of blacks (2 percent) and Asians (1 percent). Only 7 percent of the population describe themselves as Hispanic or Latino. The median age is 45 years.

The dominant occupations are management, business, science, and arts (50 percent), sales and office (27 percent), and service (13 percent). The median household income increased by 47 percent from \$45,692 in 2000 to \$67,292 in 2010. Conversely, the poverty status for families increased from 12 percent to 17 percent and unemployment increased from 4 percent to 13 percent during the same decade.

From 2000 to 2010, Highlands's housing stock increased by 12 percent from 2,820 to 3,146 housing units. In 2010, 2,623 housing units (83 percent) were occupied and 523 units (17 percent) were vacant. The 2008-2012 American Community Survey shows the majority (78 percent) of the occupied housing stock is over 30 years old. A majority (55 percent) of the homeowner population is between 45 and 64 years old, and a large portion of renters (45 percent) are 35 years old or younger. Only 17 percent of households have children under 18 years old and there is a notable difference between renter and owner-occupied households in family type: 33 percent of renter occupied households have children under 18 while only 18 percent of owner-occupied households have children under 18. Of the housing units in Highlands which are owner-occupied, 15 percent do not have a mortgage.

Study Area Census Data

The study area contains 351 housing units, which is 11 percent of the Borough's housing inventory. According to the 2010 US Census, the residential vacancy rate was 18 percent which is very similar to the vacancy rate of Highlands as a whole. The majority (63 percent) of the occupied units in the study area were occupied by renters. For the vacant units, 53 percent were listed available for rent and 31 percent were listed as seasonal rentals. The largest segment (27 percent) of householders were between the ages 45 and 54, followed by 25-34 year olds at 22 percent, 55-64 year olds at 20 percent, and 35-44 year olds at 16 percent. The majority (59 percent) of households in the study area are non-family households where the householder lives alone or with roommates; comparatively, 41 percent of householders are family.

Key Indicators

Seven data points were identified to indicate key demographic differences between the study area, Highlands Borough, and Monmouth County.

- Household size and average family size:
The study area's average household size (1.94 persons) and average family size (2.78) is considerably smaller than Monmouth County (2.66 and 3.22, respectively).
- Families below the poverty level:
Seventeen percent of families are living below the poverty level in Highlands compared to 5 percent in Monmouth County. This data point is not available at the Block Group level.
- Unemployment:

The unemployment rate is 5 percent higher in the Borough (13 percent) than in the County (8 percent). This data point is also not available at the Block Group level.

- Owner-occupied housing units:
Only 37 percent of occupied housing is owner-occupied in the study area, compared to 59 percent in Highlands as a whole and 75 percent in Monmouth County. Conversely, the study area has a much greater proportion (63 percent) of renter-occupied housing than Highlands (41) and the County (25 percent).
- Housing for rent and housing for seasonal use:
The study area has more than double the proportion (53 percent) of housing available for rent than both Highlands (25 percent) and Monmouth County (21 percent). It also has noticeably fewer vacant units (31 percent) available for seasonal, recreational or occasional use than both Highlands (53 percent) and Monmouth County (45 percent).
- Age of householder:
The study area has a greater percentage (22) of 25 to 34 year old householders than Highlands with (14 percent) and Monmouth County (10 percent). A greater proportion of the householders in Highlands and the County are older than householders in the study area.
- Household type:
Both the study area and Highlands have more non-family households than family households. The percentage of non-family households (59) in the study area is nearly double the 30 percent of non-family householders in the County.

The 2010 US Census demographic data does not take into account the impacts to the community by the 2012 storm, Hurricane Sandy. See Table of Demographic Data for Monmouth County, Highlands Borough and Block Group 3 for a comparison of additional demographic variables.

3

PLANNING ANALYSIS

**TABLE OF DEMOGRAPHIC DATA FOR
MONMOUTH COUNTY, HIGHLANDS BOROUGH AND BLOCK GROUP 3**

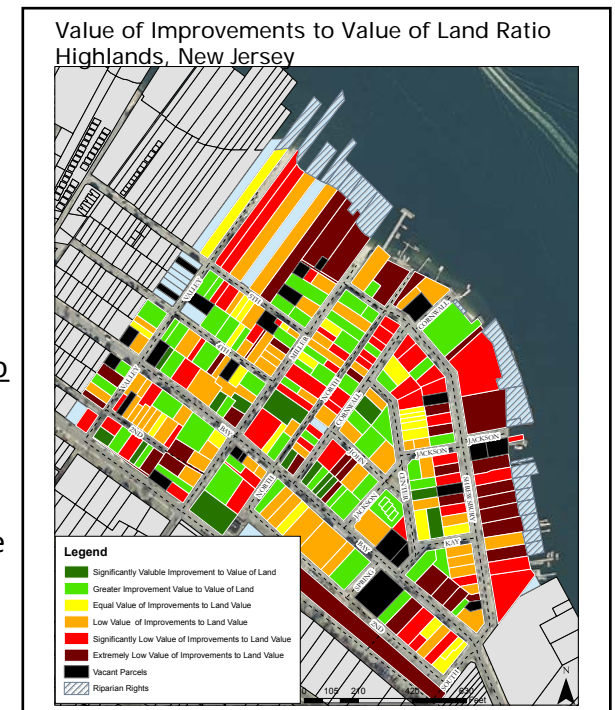
Sources: 2010 US Census & 2012 American Community Survey	Block Group 3 Study Area	Highlands Borough	Monmouth County
Variable	Percent unless otherwise noted	Percent unless otherwise noted	Percent unless otherwise noted
Land area (square miles)		0.8	469
Density (people/sq mile)		6,256	1,344
Population (persons)	556	5,005	630,380
Median Age (years)	38.8	45.1	41.3
Race			
White	92.1	93.0	82.6
Black or African American	1.6	1.6	7.4
American Indian and Alaska Native alone	1.1	0.3	0.2
Asian Alone	1.1	1.3	5.0
Native Hawaiian and Other Pacific Islander alone	0.0	0.0	0.0
Some Other Race alone	3.2	1.9	2.9
Two or More Races	0.9	1.9	2.0
Average Household Size (persons)	1.94	1.91	2.66
Average Family Size (persons)	2.78	2.71	3.22
Hispanic or Latino (of any race)	9.5	6.5	9.7
Median Household Income (dollars)	NA	67,292	84,746
Families below the poverty level	NA	16.7	4.8
People below the poverty level	NA	18.7	6.6
Unemployed	NA	12.6	8.3
Housing units in structure: 1 unit detached	NA	48.5	67.7
Housing units in structure: 1 unit attached	NA	9.4	8.1
Housing units in structure: 2 units	NA	3.4	3.1
Housing units in structure: 3 or 4 units	NA	9.7	3.6
Vehicles available: none	NA	6.4	8.0
Total Housing Units	100.0	100.0	100.0
Occupied Housing Units	81.8	83.4	90.5
Owner-Occupied	37.3	58.6	74.9
Owned with a mortgage or loan	NA	44.0	56.0
Owned free and clear	NA	14.6	18.9
Renter-Occupied	62.7	41.4	25.1
Vacant Housing Units	18.2	16.6	9.5
For rent	53.1	25.4	21.6
For sale only	1.6	9.0	12.0
Rented or Sold, Not Occupied	1.6	1.1	4.3
For seasonal, recreation or occasional use	31.3	53.2	45.4
For migratory workers	0.0	0.0	0.1
Other vacant	12.5	11.3	17.0
Age of Householder	100.0	100.0	100.0
15 to 24 years	3.1	2.7	1.7
25 to 34 years	21.6	13.7	10.1
35 to 44 years	16.0	17.1	18.4
45 to 54 years	26.5	26.8	25.8
55 to 64 years	19.5	21.2	20.3
65 years and over	13.2	18.4	23.8
Household Type			
Family	41.1	44.2	69.8
Husband-wife	24.7	31.3	55.5
Other	16.4	12.9	NA
Male HH, no wife	6.6	4.5	3.8
Female HH, no husband	9.8	8.5	10.5
Non-family	58.9	55.8	30.2
HH living alone	43.2	45.3	25.0
HH not living alone	15.7	10.4	5.2

3.1 Land Utilization: Value of Improvements to Value of Land Ratios

The most crucial step in our study area analysis was to determine how the land was being used, by whom, when and how well. To do this, we used data from MOD IV, Highlands Borough tax assessment data, the 2010 US Census, and ARCGIS. By seeing what happens where, we could determine which properties were underutilized and which were full of opportunity. We mapped vacant parcels (properties with no structures), properties deemed by the Borough's construction code official as "an imminent hazard", rental and seasonal properties, owner-occupied properties, a property's likelihood to change, land values, land uses and zoning. All maps can be found in the Appendix.

It was important to calculate the value of each parcel to determine if the improvements to the property (structures) are worth more, or worth less, than the land. If the land is worth more than the improvement, it indicates that the land is not being utilized to its upmost potential. It also signals that there is a missed opportunity for the Borough to receive higher property tax revenues. See [Value of Improvements to Value of Land Ratio Map](#).

An example of a parcel with an extremely low improvement to land value ratio would be a neglected property on the waterfront. Real estate 101 says that a property's improvements should be roughly two to four times the value of the land. For example, on a \$100,000 lot, a house should have a value of \$200,000 to \$400,000. An

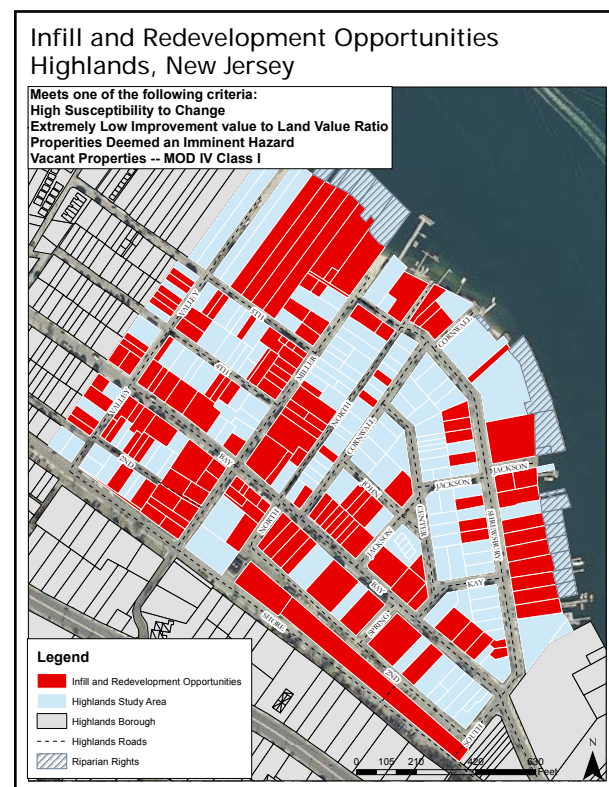


Land/Parcel Value Category	Improvement to land ratio	Valley to Vets # of parcels	
Empty lots to extreme low value improvements	.00 to .20	76	22.8%
Significantly low value improvements	.21 to .49	66	19.8%
Low value improvements	.50 to .79	71	21.3%
Improvements approximately equal to land value	.80 to .99	29	8.7%
Improvements greater than land value	1.00 to 1.99	76	22.8%
Significantly valuable improvements	2.0 and up	16	4.8%
Total parcels		334	100.0%

4

CURRENT PLANNING FRAMEWORK

improvement value to land value ratio for each parcel was calculated from the MOD IV data. Of the 334 parcels in the study area, 23% scored an extremely low improvement value to land value ratio. Forty percent (40%) of the properties fell into the categories of “significantly low” and “low” improvement value to land value ratio. Only four properties met the real estate criteria of having improvements valued at more than two times the value of the land. This shows that 63% of properties in the study area are not being utilized to their full potential, thereby lowering the average value of properties and decreasing the value of ratables for the Borough.



3.2 Infill and Redevelopment Opportunities

The Infill and Redevelopment Opportunities Map is the summation of all the map analyses. The red parcels indicate that at least one of the listed criteria for change was met. It was within this context that we developed urban design solutions. It is important to note that red properties do not necessarily denote that we recommend a house be demolished or that the land is vacant, but instead they are places where there is the largest opportunity for improvement. While some homes in the southeastern portion of Shrewsbury Avenue are mapped red, we decided not to propose specific development for them. We believe they met the infill and redevelopment criteria based on the fact that the homes had not yet been ‘elevated’ and we assume they will be at some point in the future. This is a street that is highly maintained and the market should adequately serve that portion of the study area without redevelopment intervention.

4.1 Existing Planning Documents

The Borough has invested in planning over the years.

The 2004 Master Plan includes a number of optional Master Plan elements, such as Economic Development, Circulation, Conservation, Community Facilities, Utilities, Historic and Recycling, in addition to the mandatory Goals and Objectives, Land Use and Housing Plan Elements required by New Jersey laws.

The Borough has also adopted a Stormwater Management Plan Element (2005), a Recreation and Open Space Plan Element (2008), a Master Plan Re-examination Report (2009) and a Land Use Plan Element update (2009). The Borough has also adopted a Design Manual for the Central Business District.

The entire downtown area was declared an “area in need of rehabilitation” years ago, and certain financial incentives were offered to property owners to spur rehabilitation of eligible structures. The program has not been successful. Over the years, only two property owners have applied for the incentives. The Borough has never used the other tools available through the NJ Redevelopment Law (see Implementation section).

The Borough is currently pursuing Transit Village designation from the NJDOT for the area around the passenger ferry terminal. A private-sector driven redevelopment plan, consisting of townhouses and a marina, was recently approved by the Planning Board for a parcel previously occupied by a mobile home park.

There are also plans, not yet approved, to redevelop the area around the ferry terminal with a hotel/conference center.

This notwithstanding, the Borough’s planning and zoning documents can be viewed as functionally obsolete with respect to the studio’s study area. They do not present an informed response to the increased frequency and severity of extreme storm events, to the impacts of sea level rise or to the need for adaptation to the impacts of climate change in general. But at a more fundamental level, the Borough’s current planning and zoning documents simply do not provide an appropriate or realistic vision for how the study area should evolve. The master plan does not recognize the area’s underlying flaws, such as the over-sized blocks, awkward circulation, inefficient parcel structure and privatized waterfront. The zoning is stilted and unimaginative.

Both the Master Plan and the zoning view Bay Avenue as the area's main commercial corridor, although it is obvious that this is not an appropriate role for a street that goes from nowhere to nowhere, and does not link any major local attractions.

In addition, neither the Master Plan nor the zoning offer an alternative vision for the waterfront, which is by far the area's main asset, but is hard to reach, largely privatized and vastly underutilized.

In the wake of Hurricane Sandy, FEMA's Community Planning Assistance program sponsored a recovery planning effort for Highlands during the Summer and early Fall of 2013. This "community-based" effort did not include a substantive planning analysis of the issues and possible policy alternatives, focusing instead on compiling a wish list of projects that the community identified and ranked in order of priority. These projects are described in the November 2013 [Recovery Plan for Highlands](#).

The highest priority projects include (a) physical improvements to the Borough's stormwater drainage system (repairing and replacing 48 check valves to prevent backflow of bay water into the streets at high tide; and automating two pump stations); (b) redirecting stormwater runoff originating in the higher areas south of Route 36; (c) repairing and upgrading the Borough's sanitary sewer system, to limit inflow and infiltration; (d) implementing the ACE shore protection system; (e) recruiting a housing advocate/grant manager; and (f) the Bay Avenue Renaissance initiative, described as streetscape improvements and business recruitment for the downtown commercial core.

The vision statement and objectives adopted as part of this planning effort are too generic to be useful in terms of defining specific policy initiatives. The emphasis on infrastructure projects (stormwater, streetscape) assumes engineering solutions to the area's challenges. The document provides no insights with respect to how the Borough should guide and support the physical and social transformation of the affected areas. It does not question the location of existing land uses and activities, nor does it propose any changes to the regulatory framework that might lead to changes to the area's established land use pattern, character and urban design framework.

The Borough needs to completely overhaul its planning and regulatory framework in order to bring it up to date with existing realities, jettison antiquated or misguided notions and help shape the coming transformation in a positive way. The alternative is to allow the area to

change entirely at the mercy of market forces, with no clear public policy objectives, and an antiquated and largely obsolete regulatory system.

4.2 Highlands Residents Responses to Bloustein Post-Sandy Survey

Funded by the New Jersey Recovery Fund, a team of planners and academics from the Bloustein School – including the two faculty in charge of the Highlands studio -- developed a visual preference survey to assess community preferences regarding possible rebuilding scenarios post-Sandy.

The on-line survey content drew on case studies from three communities: Sea Bright, Highlands and Sayreville. While anyone can respond to the survey, special efforts were taken by the Bloustein Center for Survey Research to target responses from residents and property owners in those three communities.

Highlands Borough posted a link to the survey on the Borough's website. As of 4/21/2014, 108 valid responses from Highlands residents had been submitted.

The full report for just Highlands-affiliated responses can be found in the Appendix. We provide here a summary of only the key points, relevant to the studio's assignment.

A majority (83%) of those surveyed from Highlands own their home, and over 2/3 (69%) indicated that their home or other property they own was damaged by Sandy. Indeed, 78% indicated that the house in which they live full time was damaged; only 12% indicated that their summer home was damaged. Of the full-time residents, 74% had flood insurance; 55% had their property damaged more than 50%; and 73% planned to repair and elevate the structure.

A slight majority of respondents think that another storm with the effect of Hurricane Sandy is "very likely" or "somewhat likely" to occur in the next 10 years; but 88% believe that another storm with the effect of Hurricane Sandy is "very likely" or "somewhat likely" to occur in the next 100 years.

Over 2/3 believe that projections of sea level rise of 1.4 feet by 2050 and 3.7 feet by 2100 are "as accurate a prediction as can be provided at this time."

Highlands respondents indicated considerable support for rebuilding scenarios where structures are elevated. Images depicting sensitive architectural treatments of elevated ground floors, with

IMAGES FROM VISUAL PREFERENCE SURVEY



Images reflect highly-rated design typology from the Visual Preference Survey: (top) homes with elevated ground floors and balconies; (bottom left) commercial streets with increased intensity, taller buildings and vibrant pedestrian spaces; and (bottom right) shared streets for motor vehicles and pedestrians.



balconies, screens and appropriate landscaping are favored. “Shared space” scenarios -- where a conventional asphalt street, with curbs and sidewalks, is replaced by a cobblestone street where motor vehicles and pedestrians share the public right-of-way – received strong support, as did those scenarios where conventional streets are replaced by boardwalks and motor vehicles are banned, except for emergency services.

Images depicting the public right-of-way as an extension of the beach, with sand and appropriate landscape treatments, received favorable ratings. This suggests that the idea of developing a catalogue of place-appropriate streets, reflecting the “beach town” or “bay town” features, instead of the generic suburban streets found everywhere, clearly resonated with many of the survey responders.

While current conditions on Bay Avenue received low ratings, simulations of future conditions, depicting curb-less, shared space treatments with textured pavement, bicycle lanes, bollards, green stormwater features and public spaces received high ratings. Visualizations showing increased intensity of use, taller buildings, vibrant pedestrian spaces, a variety of healthy retail

and services, and a substantial transformation of existing conditions received considerable support. Maritime elements incorporated into streetscape treatments and building elevations further reinforce the spirit of place and separate it from the generic suburban landscape.

The Highlands-specific results of this survey strongly suggest that there is considerable support among Highlands-affiliated responders for the types of physical change depicted in the simulations and advocated in the studio’s work products.

4.3 Infrastructure Constraints – Stormwater and Wastewater

One of the most pressing issues the Borough currently faces, and will continue to face in the future, is the limited capacity available in its stormwater and wastewater infrastructure. It is widely recognized that the Borough’s stormwater and wastewater infrastructure is subject to severe inflow and infiltration (I&I). Inflow and Infiltration occurs when groundwater enters the pipes carrying wastewater, through cracks or poorly sealed joints, thereby increasing the volume of effluent in the sanitary sewer system beyond the design capacity of the treatment plant. The stormwater component strains the treatment capacity of the plant and raises the treatment costs considerably.

TOMSA -- the utility authority that receives and treats Highlands effluent -- has enacted a hard cap on the amount of effluent it will receive from Highlands, in order to preserve the design capacity at its sewer treatment.

Unless the Borough addresses these pressing I&I issues, the amount of new growth requiring sewer hook-ups that may occur is extremely limited.

The Borough needs to adopt and implement aggressive strategies – such as green infrastructure -- to reduce the amount of stormwater entering the wastewater infrastructure. If this is not achieved, any discussion of substantial future redevelopment and growth will be academic, as the sewer capacity to handle new growth will not be available. As such, finding a solution for this issue is a pre-requisite to any serious redevelopment strategy.

5

PROPOSED PLANNING FRAMEWORK

5.1 Methodology

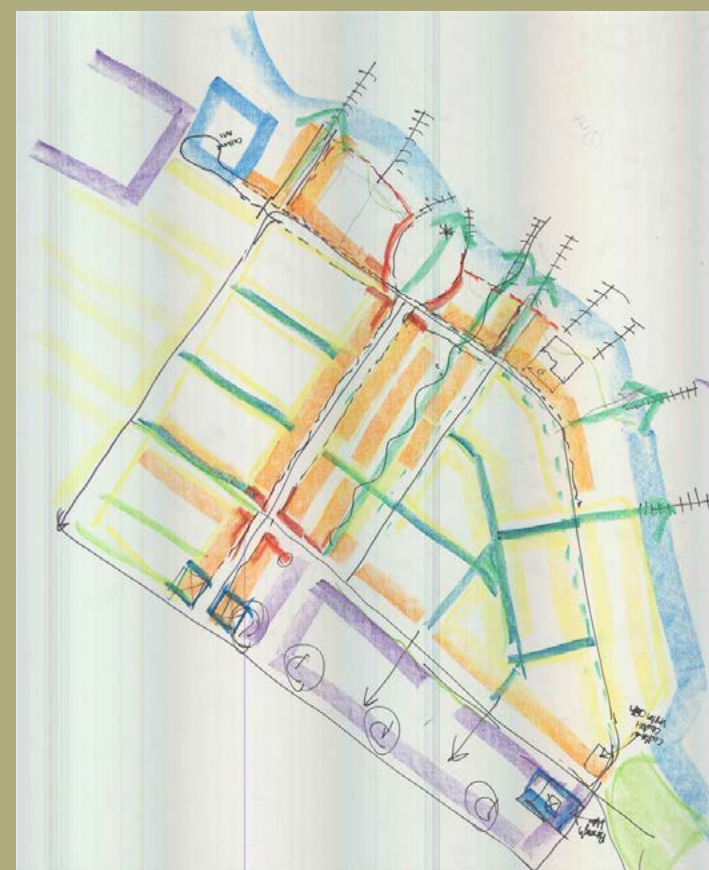
After completing the Infill and Redevelopment Opportunities analysis we began creating our conceptual sketches. There were many things to consider when we began our plan; we knew there would be large obstacles for us to overcome but Highlands also has incredible opportunities. Challenges included numerous vacant and storm damaged properties, small lot sizes, sewer and water capacity limitation, parking overflow from commercial properties into residential neighborhoods and conflicting zoning practices.

Of these concerns we focused especially on transforming the vacant and storm damaged properties. We strongly believe that if one can reduce the number of these properties then one can begin to help Highlands increase its tax base and overall property values.

We also focused very heavily on the sewer and water capacity limitations, especially since the issues caused by the Inflow & Infiltration could severely hamper the Borough's efforts to grow, thus decreasing the possibility to bring in more tax ratables.

Though these challenges were large we also knew we could capitalize on the opportunities that Highlands already has. We were extremely focused on the waterfront because it is a major asset to the community. We know the town's history of fishing and clamming as well as its tourism history. We wanted to ensure that we stay true to the character of the Highlands, in terms of its maritime history, but we really wanted to increase the amount of

INITIAL CONCEPTUAL SKETCH



AND URBAN DESIGN PLAN

tourists coming to the area.

We honed in on the Miller Street and Bay Avenue intersection because we believe that it also provides Highlands with a major opportunity. *Miller Street has an amazing vista towards the water and we wanted to harness that vista and turn it into a spectacular retail corridor.*

Highlands also has some narrow streets, which may lead to tough maneuverability for vehicles. While this may seem to be a challenge, our team saw this as an incredible opportunity. The narrowest street in our study area was North Street and we believe that Highlands can create a wonderful attraction for residents and tourists by revamping the narrowest street and turning it into a pedestrian walkway.

REFINED

Conceptual Sketch



We strongly believe that the site plan proposal will enhance Highlands' current maritime character helping it stay afloat in the future.

We will now highlight some of the features of our proposed site plan. The largest proposed transformation occurs at the corner of Miller Street and Bay Avenue. At this intersection we would concentrate new retail -- instead of encouraging it to continue to locate along Bay Avenue, as it is now -- in order to create a town center and a gateway to the waterfront.

We feel a concentration of retail at this location can better attract customers and act as a focal point for tourists during the summer season. The concentration of

Highlands Site Plan Proposal
Urban Design Studio - 2014



retail also helps to sustain other businesses, providing a critical mass needed for retail survival and creating year round solutions, as opposed to some of the current seasonal uses.

Another important element of our site plan is the proposed marina. But before we discuss the marina we must discuss the new street that will lead to it.

In order to access the new marina we decided to focus on extending Shrewsbury Avenue all the way to the existing clam factory. We wanted to extend Shrewsbury for multiple reasons: it is the street closest to the waterfront and we wanted it to be more of a signature street; we also needed the street to be extended in order to provide the space necessary to add the marina; and finally we wanted to increase the amount of open space and access to the beach.

The extended street will run along a proposed new public beach, which will provide residents and visitors with more open space and enhance public access to the waterfront.

Along with the beach is a proposed boardwalk and new retail shops. Further down Shrewsbury Avenue is a proposed new inn, which we believe can help anchor Highlands, in terms of tourist revenue, in the future.

Across from the inn we have located new multi-generational, multi-family units overlooking the water. We believe these multi-family units will allow private development efforts to realize a



The proposed site plan includes a new marina on the Shrewsbury Avenue extension.



Example of the architectural style of the proposed inn on the waterfront of Highlands.

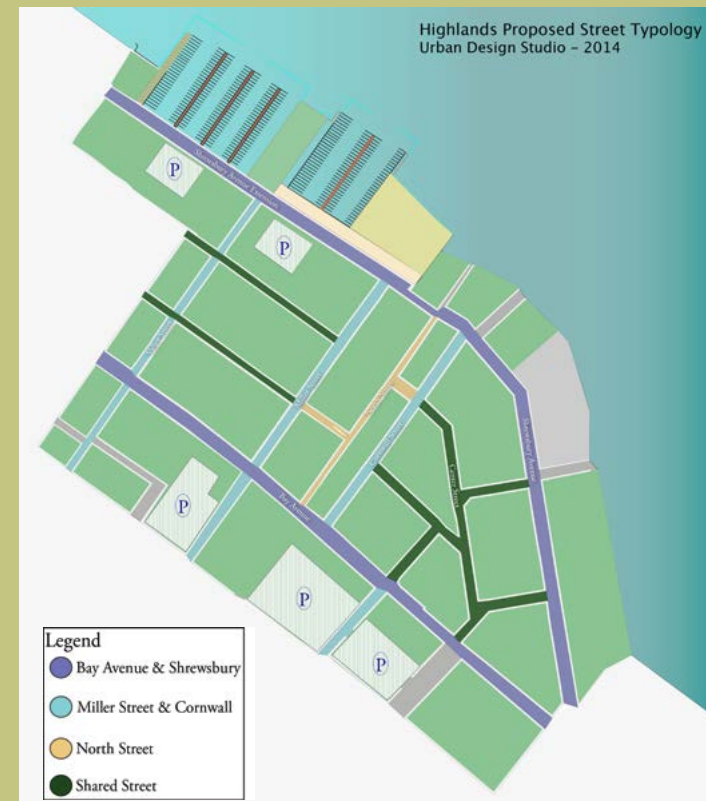
return on their investment.

Finally, towards the end of the newly extended Shrewsbury Avenue is a proposed marina. This new facility is necessary for the entire region as there is a strong demand for additional marina slips along the northern New Jersey Shore. We aimed to capitalize on this unsatisfied demand to increase the economic potential for Highlands while also bringing in many more people to the area.

In tandem with these larger proposals, we sought to address other aspects that are also crucial for Highlands to move forward.

First, we wanted to provide Highlands with a new Civic Center because we know that Borough Hall is no longer operable along with the current Post Office.

STREET REGULATING PLAN



We developed a street regulating plan, with a view towards improving vehicular and pedestrian circulation patterns.

Along with the street regulating plan, we developed proposed building typologies. These considerations can be found in the Appendix.

Highlands is a place of strong community so we wanted to enhance and create public spaces for town members and visitors to enjoy. See Park and Open Space Plan. The addition of a small pocket park across from the existing small park on Bay Avenue will provide a convenient meeting and relaxing space for those working, shopping

and living at the new Bay and Miller retail corner. The proposed pocket park will be an intimate setting located between two buildings and will provide an oasis within the Borough's center. Movable tables and seating will allow groups of all sizes to gather to enjoy a lunch break or a morning coffee. It could also become an attractive place for local art installations and exhibits, a water feature, and green walls, as depicted below.

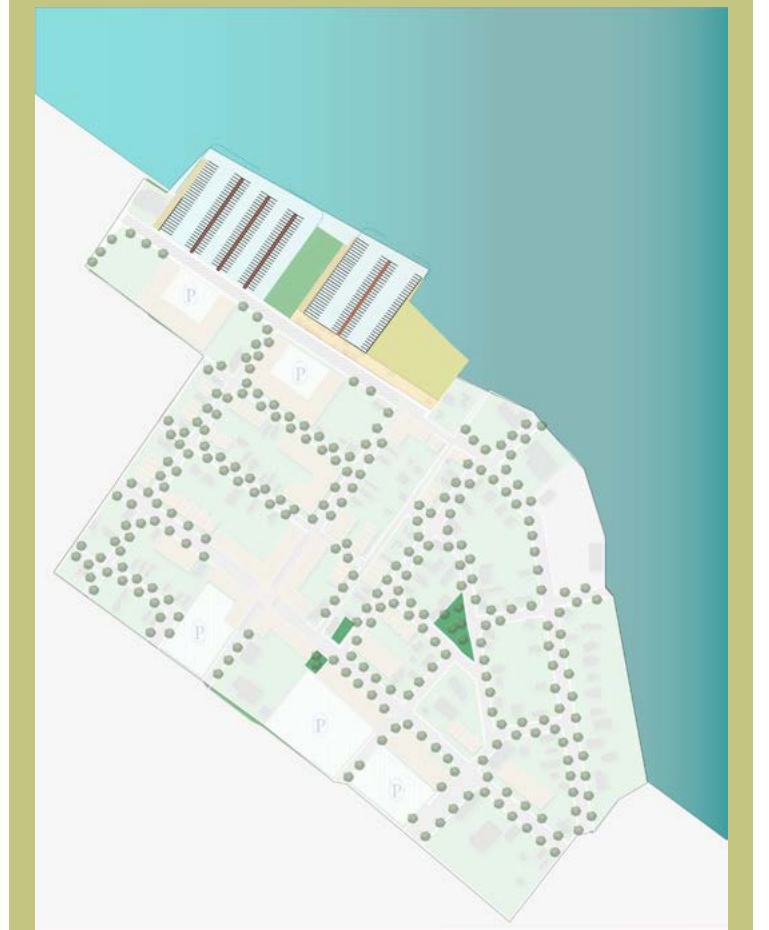
We also wanted to enhance the childrens' experience in Highlands with a sprayground at Center Street. Not only does this alleviate concerns over the awkward traffic triangle, it would provide a nice attraction for families. Similar to the set up at Dorbrook Sprayground in Colts Neck, NJ, this playground showcases fountains, water guns, wet slides and splash areas. In the colder months, it is still an entertaining and attractive park for children of all ages. This is a low cost addition to the town and will draw lots of families.

As previously mentioned, Highlands has limited public waterfront access. We suggest expanding the beach at the end of Miller Street, where there is a wonderful water vista.



A pocket park, such as New York City's Paley Park, will add to the inventory of great public spaces in Highlands.

PARK AND OPEN SPACE PLAN





Spraygrounds are popular family destinations.

Enhancing this area would add to the real estate value along Miller as well as the waterfront.

The beach area could be left as un-programmed sand for visitors and residents to bring their towels and

wade in the water, or it could be used for waterside concerts or movies, similar to Marine Park in Red Bank.

Nearby Sea Bright Borough uses beach space for Summer volleyball leagues, drawing hundreds of people to town on typically slow, mid-week evenings. These options could be great economic drivers for local businesses with little cost to the Borough.

The proposed enhancements in terms of the parks and open space would encompass green infrastructure measures in order to address the aforementioned I&I issues.

We recommend that new residential and commercial structures include either a green roof or a rain catchment system via rain barrels, or both. These green infrastructure features will make a positive difference in alleviating the I&I issues by capturing stormwater runoff before it reaches the stormwater drainage pipes, thereby reducing flooding.

We also suggest that Highlands adopt strategies to increase the amount of permeable surfaces, so stormwater can seep into the ground more slowly, rather than rapidly running off into the drainage system.

Overall, the proposed design concept is aimed at developing a more resilient infrastructure over time, while enhancing the built features of Highland's maritime history and spurring further economic activity in the Borough.

The plan proposes adding approximately 400 residential units and nearly 125,000 square feet of retail space. It would provide over 2,000 parking spaces, which is 300 more than required by code and should help mitigate current issues of patrons parking on residential streets.

The implementation of resilient design features such as rainwater collection, green roofs, permeable surfaces, elevated homes and flood resistant retail and office space will mitigate the

impacts of flooding and ease the recovery process after storms.

The design is sensitive to Highland's clamming heritage by focusing activity at the water's edge and redirecting circulation patterns to better take advantage of Highland's assets. The introduction of new public spaces such as the pocket park on Bay Avenue, the North Avenue bicycle and pedestrian boardwalk, and the sprayground at Center Street will complement existing public spaces such as the beach and the existing in-town pocket parks).

The proposed marina and concentration of retail on Miller Street and near the water will stimulate economic activity and attract both residents and visitors. The built out plan will create 283 permanent jobs in addition to the temporary jobs during the construction period. The increased value of the improved properties will not only boost the Borough's tax revenues but also decrease the tax burden on existing residents and business owners.

As stated previously, Highlands is struggling to find answers for how best to move forward. The proposed design concepts take into account many of the concerns the Borough is facing within the study area. A multifaceted approach will be necessary to find the right balance for the community.



IMPLEMENTATION MECHANISMS

6.1 Introduction

The Borough has a variety of tools for implementing the plans proposed by this studio. These tools can be used individually, or assembled as a package. All tools require legislative decisions by Borough Council. The decisions regarding which tools to adopt, and how to implement them, are political in nature and therefore subject to the political process. The studio takes no position on which tools are most appropriate, and which should be pursued most vigorously, as these are local political decisions. Instead, we explain the strengths and limitations of each tool, in order to provide the Borough with an informed decision-making framework.

Some of the implementation tools discussed in this section are already being employed by the Borough. The Borough has an existing, albeit dated, Master Plan, and an existing (also dated) set of Zoning and Land Development regulations. These regulations control current development initiatives. An updated Master Plan Reexamination Report is anticipated for later in 2014, drawing in part on the findings and recommendations of this studio.

The Borough has also pursued the use of the Local Redevelopment and Housing Law (the Redevelopment Law or LRHL) and has previously designated the entire Borough as an “area in need of rehabilitation.” Certain fiscal incentives for reconstruction have been offered pursuant to this designation.

Finally, the Borough’s construction code official has targeted certain problem properties as constituting an “imminent hazard”, under the applicable provisions of the Uniform Construction Code (UCC), which seek to compel property owners to repair or rebuild their properties, under threat of demolition.

Other tools, such as those available under the Abandoned Properties Rehabilitation Act (APRA) and the Local Redevelopment and Housing Law, have not to date been pursued by the Borough. In this section we describe the various redevelopment tools, assess their potential applicability to the Borough’s study area, and describe the potential advantages and shortcomings of each tool in order to provide the Borough with a clear set of options for moving forward.

A major focus of this section are the tools granted municipalities under state law to take control of problem properties and problem areas in order to influence and inform building rehabilitation and area transformation.

The UCC, APRA, and LRHL are very powerful public policy tools, which give municipalities the

power to intervene in private property rights, such as through the use of foreclosure, eminent domain, or an order of vacancy and demolition.

A municipality can use each tool separately or together, depending on the extent of the problems to be addressed. For instance, a municipality may use its authority under the UCC to order a building or structure that is in need of serious repair to be vacated; in addition to its authority under APRA to acquire an abandoned building through the use of various tools, such as spot-blight domain; as well as use its authority under LRHL to acquire numerous problem properties within an entire area through the use of eminent domain or strong financial incentives that encourage sale.

“Problem properties” and “problem areas” are defined in this section as those that are abandoned, hazardous, and/or blighted, having a negative effect on surrounding properties and areas, and detrimental to the public health, safety, and welfare.

6.2 Zoning/Land Development Regulations

The Borough’s current zoning framework divides the Study Area into eight zoning districts. The existing zoning map of the study area illustrates the location of the eight districts. The map was most recently adopted by Borough council in 2010. Two districts (R – 2.02 and R – 2.03) are single-family residential, although they encompass many rental properties owned by absentee landlords. Two other districts (B-2 and B-2-0) represent the Bay Avenue business corridor and adjacent properties. Lastly, there are four separate waterfront districts (WT-C, WC-T/C, WC-1, and WT-r) distinguishable by their own various uses and identified accordingly.

The distinctions between some of the districts are subtle and hard to justify. Limitations on acceptable uses in other districts are also hard to justify.

The studio proposal is to create four new districts (Waterfront, Bay Avenue, Miller Avenue and Residential R-1) that would encompass the entirety of the Study Area. The new districts are necessary in order to not interfere with existing zoning designations elsewhere in the Borough. The proposed zoning framework represents a consolidation and rationalization of the eight existing districts into four clear, concise and logical districts that reflect the changes in use recommended by this report.

Most notable is the new Miller Street mixed-use district that extends from a key intersection/gateway, at Bay and Miller, along a completely revamped mixed-use corridor leading to the

waterfront, which in effect, would act as a magnet for tourists and the dollars they might contribute to the local economy.

The waterfront district would make maximum use of the Borough's most valuable natural asset and proposes major new ratables, with a large new marina, expanded public beach, restaurants, gift shops, lodging, inns and other revenue producing venues. The intent and justification for the four districts is provided below.

6.2.1 Waterfront District (W)

Intent - The intent of the Waterfront district is to promote high-quality water-dependent and water-related development, hospitality, eating and drinking establishments and other related uses, including public uses while increasing public access along the Borough's waterfront.

Justification - The waterfront is seen as not only the Borough's finest natural asset but also its most economically underutilized space. This report offers ideas for the borough to remake its waterfront into a tourist destination and an economic engine that brings in badly needed revenue during challenging times. The proposed waterfront district replaces a scattershot of districts that do not complement each other, do not work well in attracting private capital investment, and are sundered by incoherent, empty spaces that do little to convey the message that the Borough shoreline is worthy of a daytrip for outsiders looking for a nice day out at the water's edge.

6.2.2 Residential 1 District (R-1)

Intent - The intent of the Residential 1 (R-1) district is to guide the transformation of an existing neighborhood of single-family detached houses on grade and on very small lots – which face substantial elevation requirements – into a more resilient neighborhood of elevated single-family detached housing. This is in conjunction with the opportunity for providing elevated attached housing and multi-family housing in locations where small lots can be assembled into larger lots, thus diversifying the type of housing products and encouraging more resilient and storm-appropriate housing typologies.

Justification - The current residential districts in the study area are badly pockmarked with vacant and damaged structures and empty lots where former structures were damaged beyond repair and were demolished. The new residential district seeks to consolidate and expand the types of uses and structures that can help remake the central low area into the vibrant, settled, fully occupied district that it once was up until mid-20th century.

6.2.3 Miller Avenue Mixed Use District (M)

Intent - The intent of the Miller Avenue (M) district is to encourage development of a vibrant mixed-use corridor leading from Bay Avenue to the Sandy Hook waterfront. This corridor is viewed as the Borough's major access to the waterfront, and therefore an appropriate address for quality retail, restaurants and residential.

Justification - The layout of charming older, traditional towns usually includes a series of focal points connected to a town center by a 'greenway' corridor. These greenways provide a sense of place by celebrate the town's history and encourage public use and interaction. Unfortunately, Highlands Borough lacks such a civic virtue and in fact squanders its potential by the very absence of such a design. We believe our proposed town center and Miller Street corridor to the waterfront provides that sense of place so desperately needed and in a part of town that is in dire need of revitalization.

6.2.4 Bay Avenue District (B)



Intent - The intent of the Bay Avenue Mixed-Use District (B) is to provide opportunities for a wide variety of commercial, residential, light industrial, commercial parking, civic and other activities.

Justification – While miscast as the Borough's Main Street, Bay Avenue will continue to offer more affordable opportunities for a wide variety of commercial uses, along with attached residential.

For the other districts to work well, we suggest steering certain building types and uses away from them and into the Bay Avenue Mixed-Use District.

This district would allow a variety of residential, commercial, office, personal and professional services, and more affordable retail uses, along with supporting parking to serve the greater study area. Public works and certain light industrial activities will be consolidated here and not intrude on the other proposed districts.

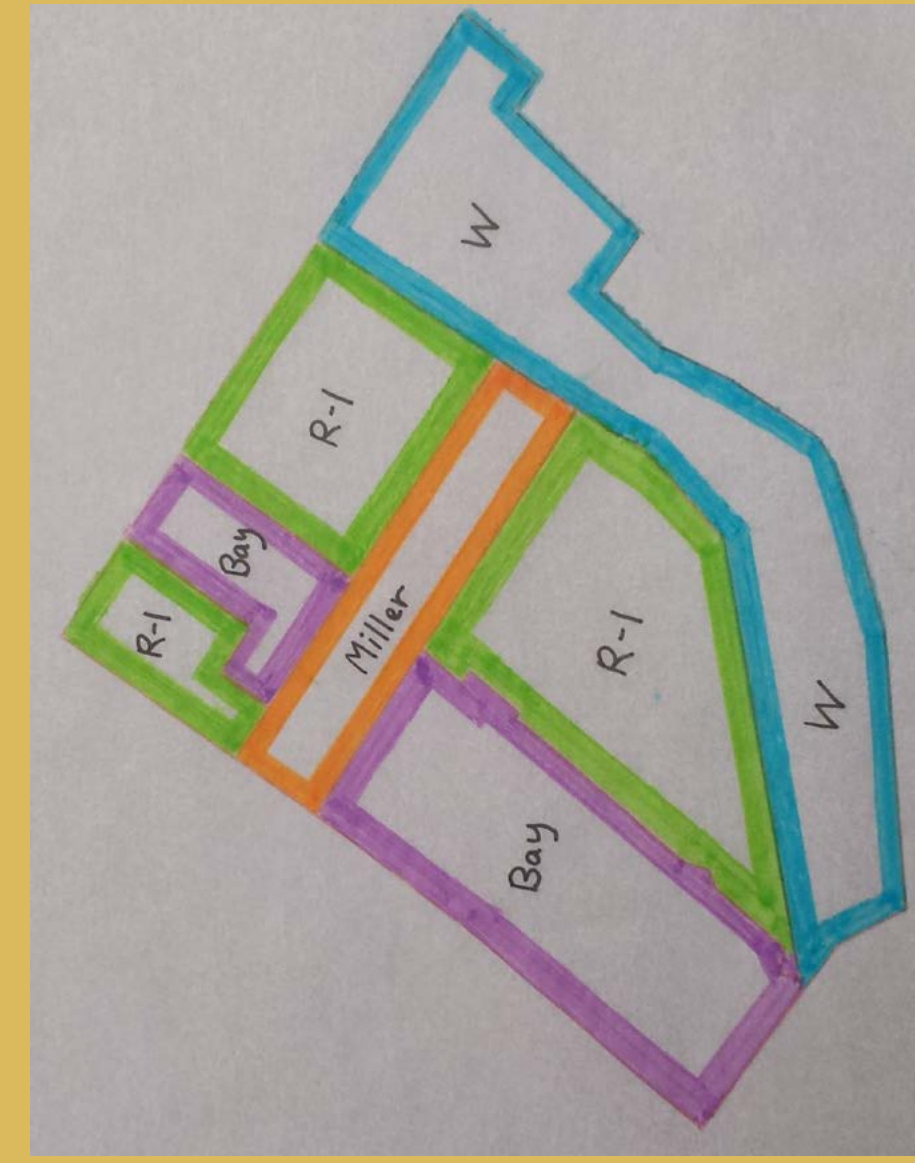
ZONING MAP: EXISTING

ZONE DISTRICTS	
R-1.01	Single Family Residential
R-1.02	Single Family Residential
R-1.03	Single Family Residential
R-2.01	Single Family Residential
R-2.02	Single Family Residential
R-2.03	Single Family Residential
MF	Multifamily Residential
PB	Professional Business
MH	Mobile Home
B-1	Neighborhood Business District
B-2	Central Business District
B	Business District
WT-R	Waterfront Transition – Residential
WT-C	Waterfront Transition – Commercial
WT-C/T	Waterfront Transition – Comm. /Townhouse
WC-1	Waterfront Commercial
WC-2	Waterfront Commercial
MXD	Mixed Use District
HO	Highway Oriented District
	B-1-O: Neighborhood Business Overlay District
	B-2-O: Central Business Overlay District



Source: T&M Associates

ZONING MAP: PROPOSED



W	Waterfront
R-1	Residential
Miller	Miller Avenue Corridor
Bay	Bay Avenue Corridor

The following charts summarize the permitted building types, uses, maximum building heights and minimum setbacks proposed in the (4) new zoning districts.

It should be noted that the Borough’s current Land Development Regulations focus exclusively on uses, and do not contemplate building types, as a regulated element. As such, the four proposed districts will have a slightly different regulatory structure, in that they regulate uses by building type. This will require technical adjustments to the Borough’s code, including a definition of “building type”.

6.2.5 Zoning Standards

District Designation: Waterfront (W)

Permitted Building Type	Minimum Lot Size	Minimum Lot Width	Maximum Impervious Coverage
Commercial Building	10,000 square feet	50 feet	70%
Mixed-Use Building	10,000 square feet	50 feet	70%
Hotel/Inn	5,000 square feet	50 feet	70%
Permitted Principal Uses	Ground Floor	Upper Floors	
Water-Dependent Uses	Yes	Yes	
Water-Related Uses	Yes	Yes	
Lodging / Hospitality	Yes	Yes	
Hotel/Inn	Yes	Yes	
Food and Drink	Yes	Yes	
Building Type	Building Height: Minimum	Building Height: Maximum	
Commercial Building	2 stories – 20 feet above FEMA	3 stories – 30 feet above FEMA floodplain	
Mixed-Use Building	Ibid	Ibid	
Hotel/Inn	Ibid	Ibid	
Setback	Minimum	Maximum	
Front: Sidewalk	10 feet	NA	
Side	20 feet	NA	
Rear (not including riparian)	30 feet	30 feet	

District Designation: Residential 1 (R-1)

Permitted Building Type	Minimum Lot Size	Minimum Lot Width	Maximum Impervious Coverage
Single-Family Detached	2,000 square feet	30 feet	80%
Townhouse	2,000 square feet	15 feet	80%
Apartment Building	10,000 square feet	50 feet	70%
Permitted Principal Uses	Ground Floor	Upper Floors	
Residential	Yes	Yes	
Live Work	Yes	Yes	
Bed and Breakfast	Yes	Yes	
Building Type	Building Height: Minimum	Building Height: Maximum	
Single-Family Detached	2 stories -- 20 feet above FEMA floodplain	3 stories -- 30 feet above FEMA floodplain	
Townhouse	Ibid	Ibid	
Apartment Building	Ibid	Ibid	
Setback	Minimum	Maximum	
Front: Sidewalk	10 feet	20 feet	
Side	10 feet	NA	
Rear	20 feet	NA	

District Designation: Miller Avenue Mixed Use (M)

Permitted Building Type	Minimum Lot Size	Minimum Lot Width	Maximum Impervious Coverage
Apartment Building	10,000 square feet	50 feet	80%
Mixed-Use Building	10,000 square feet	50 feet	80%
Townhouse	2,000 square feet	15 feet	90%
Hotel/Inn	5,000 square feet	30 feet	80%
Permitted Principal Uses	Ground Floor	Upper Floors	
Residential	Yes	Yes	
Retail	Yes	No	
Lodging / hospitality	Yes	Yes	
Food and drink	Yes	Yes	
Personal services	Yes	No	
Professional offices	Yes	No	
Building Type	Building Height: Minimum	Building Height: Maximum	
Apartment Building	4 stories -- 36 feet above FEMA floodplain	5 stories -- 48 feet above FEMA floodplain	
Mixed-Use Building	Ibid	Ibid	
Townhouse	Ibid	Ibid	
Hotel/Inn	Ibid	Ibid	
Setback	Minimum	Maximum	
Front: From Sidewalk	0 feet	20 feet	
Side	0 feet	15 feet	
Rear	10 feet	NA	

District Designation: Bay Avenue Mixed-Use (B)

Permitted Building Type	Minimum Lot Size	Minimum Lot Width	Maximum Impervious Coverage
Apartment Building	10,000 square feet	50 feet	80%
Mixed-Use Building	10,000 square feet	50 feet	80%
Commercial Building	10,000 square feet	50 feet	80%
Hotel/Inn	5,000 square feet	30 feet	80%
Townhouse	2,000 square feet	15 feet	90%
Parking Garage	10,000 square feet	60 feet	80%
Performing Arts/ Theatre	8,000 square feet	30 feet	80%
Civic Building	10,000 square feet	30 feet	80%
Permitted Principal Uses	Ground Floor	Upper Floors	
Retail / Wholesale	Yes	No	
Financial Institutions	Yes	Yes	
Personal Services	Yes	Yes	
Professional Services	Yes	Yes	
Professional Offices	Yes	Yes	
Live/Work	Yes	Yes	
Lodging / Hospitality	Yes	Yes	
Food and Drink	Yes	Yes	
Light Industrial	Yes	Yes	
Residential	Yes	Yes	
Commercial Parking	Yes	Yes	
Arts / Civic	Yes	Yes	
Building Type	Building Height: Minimum	Building Height: Maximum	
Townhouse	3 stories -- 36 feet above FEMA floodplain	3 stories -- 36 feet above FEMA floodplain	
All Other Permitted Building Types	3 stories -- 36 feet above FEMA floodplain	5 stories -- 48 feet above FEMA	
Setback	Minimum	Maximum	
Front: Sidewalk	0 feet	15 feet	
Side	0 feet	NA	
Rear	10 feet	NA	

6.3 - The Uniform Construction Code (“UCC”)

The UCC is an extensive body of state legislation that covers a variety of issues pertaining to building construction, including the elimination of unnecessary construction costs, setting uniformity with national standards regarding materials and construction, and assuring adequate maintenance of buildings and structures. See N.J.S.A. 52:27D-120; N.J.A.C. 5:23-1.3. We focus here on the section of the UCC that deals with the adequate maintenance of buildings and structures since it is the most relevant for redevelopment purposes. See Unsafe Structures, NJAC 5:23-2.32.

The UCC applies only to individual buildings and structures, and not to entire areas or vacant land. At its strongest the UCC gives municipalities the power to order the vacancy and demolition of an unsafe building or structure that is “dangerous to human life or the public welfare.” See Unsafe Structures, NJAC 5:23-2.32(a).

An unsafe building or structure includes one that constitutes a fire hazard or has an illegal use or occupancy. See Unsafe Structures, NJAC 5:23-2.32(a); Division of Health, Dept. of Health & Welfare v. Rogers, 179 N.J. Super. 389 (N.J. Ch. Div. 1981). A municipality has the authority to order a property owner of an unsafe building or structure to remove and make safe the unsafe condition. See Unsafe Structures, NJAC 5:23-2.32(a). If the building or structure is so unsafe as to require an immediate action due to an actual or imminent danger of fire or immediate danger of failure or collapse, the municipality is authorized to use emergency procedures and order the vacancy and demolition of the building or structure. See Unsafe Structures, NJAC 5:23-2.32(b); DEB Associates v. Greater New York Mutual Insurance Co., 407 N.J. Super. 287 (N.J. Super. App. Div. 2009). However, the UCC does have limitations.

The UCC does not give the municipality the authority to acquire the building, structure, or vacant land after demolition. Rather, the municipality can institute an action against the property owner to recover the costs of demolition and other emergency repairs incurred by the municipality. See Unsafe Structures, NJAC 5:23-2.32(b)(5).

A municipality that is unable to collect the costs of municipal demolition from the owner of a structure deemed an “imminent hazard” may place a lien against the property. However, as long as the property owner continues to pay property taxes and other applicable municipal fees and taxes, the UCC does not authorize the municipality to compel the property owner to redevelop the property.

As such, the application of the demolition powers granted to municipalities by the UCC, in the absence of other actions that can be taken by the municipality under the authority granted by other legal tools, may result in parcels that remain vacant for an undetermined, possibly indefinite period of time.

Furthermore, these vacant parcels will be paying property taxes on the land only, thereby undermining the local ratable base, and possibly having a long term blighting effect on the surrounding area. To date, Highlands has identified 50 properties, including 8 properties in the studio’s study area that have been deemed to constitute an “imminent hazard.”

As such, it is critical that the Borough have an implementable plan for how to proceed in the event the targeted parcels remain vacant and unimproved for an extended period of time.

6.4 The Abandoned Properties Rehabilitation Act (“APRA”)

Unlike the UCC, APRA does allow a municipality to acquire an abandoned building. APRA is a useful tool for municipalities to acquire abandoned buildings of any type, including residential, commercial, and industrial in order to turn them into productive uses where the public health, safety, and welfare is promoted. See N.J.S.A. 55:19-79, 81. APRA is useful for a municipality that wants to acquire a single or a few abandoned buildings that are scattered throughout an area. However, APRA only applies to buildings and does not cover vacant lots.

A municipality interested in utilizing APRA must first pass an ordinance that authorizes its use and designates a public officer who will identify abandoned properties for purposes of establishing a public *abandoned properties list*. See N.J.S.A. 55:19-55(a); N.J.S.A. 55:19-55(d); *B & B Realty Associates, LLC v. J & S Management Enterprises, Inc.*, 2008 WL 4681981 (N.J. Super. App. Div).

APRA provides a set of criteria for the public officer to use when determining whether a property is *abandoned* and thus, eligible to be put on an abandoned properties list.

A property is abandoned if (1) it has not been legally occupied for a period of six months, which can be shown by various records, including, but not limited to a report from a code enforcement officer, records of water-utility shut-offs, or illegal occupancy of squatters; and if (2) the public officer has determined in his or her *reasonable judgment* that the following additional criteria exists:

- (a) the property is in need of rehabilitation;
- (b) construction on the property began, but was discontinued before the building was suitable for occupancy or use;
- (c) at least one installment of property tax is delinquent at the time the public officer makes the determination; or
- (d) the property has been determined by the public officer to be a nuisance. See N.J.S.A. 55:19-81.

The nuisance criteria are very similar to the criteria for determining a property an “imminent hazard” under the UCC, but are less stringent because it allows a municipality to acquire a building even where an “imminent danger” is not present. If criterion (d) for nuisance is used, then the public officer must show that the following criteria apply:

- (a) the property is unfit for human habitation, occupancy or use;
- (b) the condition and vacancy of the property materially increases the risk of fire to the property and adjacent properties;
- (c) the property is subject to unauthorized entry or is unsecured, leading to potential health and safety hazards;
- (d) the property has vermin or the accumulation of debris, uncut vegetation or physical deterioration of the structure or grounds, which have created potential health and safety hazards; or
- (e) the property’s dilapidated condition materially affects the welfare, including the economic welfare, of the residents of the area in close proximity to the property. See N.J.S.A. 55:19-82.

Thus, a nuisance property can be deemed abandoned if it has not been legally occupied for at least six months and is a fire hazard, dangerous to human life or health, and/or negatively impacts property values, or other determinants of economic welfare, of surrounding properties due to its dilapidated condition.

Property is not considered *abandoned* if (a) the holder of the property’s tax sale certificate (other than the municipality) has continued to pay all taxes and liens on the property, and has initiated foreclosure proceedings within six months; or if (b) the property is used on a reasonable basis and does not contain at least two of the additional criteria set forth in N.J.S.A. 55:19-81. See N.J.S.A. 55:19-83.

Furthermore, partially-occupied properties that contain both residential and nonresidential space may be considered abandoned if the following criteria are satisfied: (1) at least two-thirds of the net square footage of the property was for residential use; (2) none of the residential space was legally occupied for at least six months, and (3) the property meets criterion (a)—“in need of rehabilitation” or (d)—“a nuisance” of the additional criteria set forth in N.J.S.A. 55:19-81.

Thus, APRA covers mixed-use properties where there is active commercial or other nonresidential use and an abandoned residential use.

Once the property is determined to be “abandoned” by the public officer and is put on an abandoned properties list, a municipality is then authorized to utilize various tools to acquire abandoned properties. These tools include the *spot blight domain*, *special tax sale*, *becoming an entity in possession*, and the *accelerated foreclosure of tax liens*. *Spot blight domain* allows for the acquisition and redevelopment of privately-owned abandoned properties through the use of eminent domain of a singular property without requiring the designation of an “area in need of redevelopment” or the adoption of a redevelopment plan. See NJSA .55:19-56.

Likewise, a *special tax sale* permits a municipality to set apart abandoned properties with tax arrears from the general tax sale in order to ensure that the property will later be used in furtherance of public interest. APRA imposes a variety of qualifications and performance requirements restricting who can bid at a special tax sale, such as the bidder’s financial ability and consistency with the municipality’s plan for the property.

Similarly, a municipality or a private entity acting with municipal authorization is authorized to acquire an abandoned property by *becoming an entity in possession* in order to rehabilitate (not demolish) the abandoned property where the owner has failed to do so in order to put the property back to a productive use. The purpose of this tool is to preserve the building rather than eliminating it due to its unique character, such as a physical, aesthetic, or historical character.

Unlike the *special tax sale*, a property acquired under *becoming an entity of possession* does not have to be in tax arrears or on the abandoned properties list. However, the property still has to be designated as abandoned by the public officer.

Furthermore, the owner of the property acquired by this tool is allowed to get the property back if a timely petition to a court is made and the owner completes the rehabilitation or reimburses the municipality or private entity for rehabilitation costs, reuses the property consistent with the municipal's plan, and posts a bond to ensure that the property will be maintained in sound condition after rehabilitation is completed.

Lastly, the *accelerated foreclosure of tax liens* tool allows the holder of a tax sale certificate for an abandoned property with tax arrears to file an action for foreclosure immediately after buying the certificate, rather than having to wait the two-year period otherwise required for tax foreclosures. See N.J.S.A 54:5-86; See also *B & B Realty v. J & S Management*, 2008 WL 4681981 (N.J. Super. Ct. App. Div. 2008).

Unlike the other tools, the *accelerated foreclosure of tax liens* tool cannot be used by the municipality, but only by an entity other than the municipality. APRA is a useful tool for taking control of individual abandoned properties, or abandoned properties scattered throughout one or more neighborhoods. APRA can transform abandoned buildings into market-rate use or affordable housing use where nonprofit developers utilize these tools to undergo affordable housing development in the midst of abandonment.

The current use of APRA shows that it is being used in a broad cross-section of New Jersey towns, but primarily in weak market towns. To date, Highlands has not used APRA. The Borough has not passed an ordinance designating an APRA officer and therefore has not compiled an abandoned properties list.

We estimate that there are 196 properties within the studio's study area that may meet the statutory definition of "abandoned properties" under APRA and could therefore be subject to an APRA-based intervention. These properties include seasonal properties that have been shown on initial study to have two or more qualifying conditions under APRA, including properties "in need of rehabilitation" and properties that have tax liens." The Borough's public officer would determine with up-to-date property information whether such properties would actually be considered abandoned due to its seasonal status and satisfaction of at least two additional criteria.

While APRA is a useful tool to acquire and redevelop individual abandoned properties, the LRHL is a more powerful tool for acquiring and redeveloping entire areas of properties, abandoned or otherwise.

6.5 The Local Redevelopment and Housing Law ("LRHL")

LRHL is the primary law by which municipalities can undertake redevelopment. In order for a municipality to formulate a redevelopment plan and undertake redevelopment projects, it must first designate an "area in need of redevelopment" as defined by LRHL. LRHL includes the following conditions as criteria for designating an "area in need of redevelopment:"

- a building that is substandard, unsafe, unsanitary, dilapidated, or obsolescent... or lacking in light, air, or space, that is conducive to unwholesome living or working conditions, (i.e. dilapidated buildings);
- a commercial building that is discontinued, abandoned, in disrepair, and untenable (i.e. uninhabitable and/or abandoned commercial buildings);
- land owned by the municipality that has been unimproved for ten years prior to designation and is unlikely to be developed due to its remoteness, lack of access, or nature of soil (i.e. unimproved and remote land owned by the municipality);
- buildings or improvements (i.e. obsolete and/or dilapidated buildings and parking lots) are detrimental to welfare, health and safety due to dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout;
- a growing lack or total lack of proper utilization of areas caused by the condition of the title or diverse ownership of the real properties in designated area, which impede land assemblage for re/development in line with community's planning and economic goals, resulting in a stagnant and unproductive condition of land that can be put to more valuable use (i.e. stagnant and unproductive areas);
- areas of five acres or more with buildings/improvements that have been damaged by fire, natural disaster, etc., leaving the aggregate value of the area materially depreciated (i.e. materially depreciated areas due to natural disaster);
- an area designated as an Urban Enterprise Zones; or a designation of blight in an area consistent with the state's smart growth planning principles. See N.J.S.A. 40A:12A-5.

In addition to the above statutory requirements, redevelopment designations are interpreted by New Jersey courts, which affect how the criteria are applied. For instance, the court in *Mulberry Street Property Owners v. City of Newark* found that parking lots and vacant lots are not in themselves enough to designate an "area in need of redevelopment" under section (e) of LRHL. In addition, the court interpreted "stagnation" found in section (e) of LRHL as an area

with buildings that are deteriorated and dilapidated *beyond* restoration and that negatively affect surrounding areas. Thus, a simple finding of deteriorated or dilapidated buildings in an area without finding that such conditions are *beyond* repair is insufficient for showing an “area in need of redevelopment” under section (e) of the LRHL.

The courts have also restricted the reach of section (e)’s “unproductive” and “proper utilization” requirement by not interpreting it to mean “fully productive” or “operating in an optimal matter.”

Thus, an area failing to maximize its potential, economic or otherwise, does not qualify as an “area in need of redevelopment.”

Likewise, the court in *Gallenthin v. Borough of Paulsboro* interpreted section (e)’s “unproductive” requirement to not equate an area that fails to be “fully productive.”

Furthermore, the court in *Gallenthin* restricted section (e) to areas with problems of title, diversity of ownership, or similar conditions that impeded land assemblage for purposes of redevelopment, and did not find a sixty-parcel vacant land having one owner and no issues with its title to be considered stagnant or unproductive.

Similarly, NJ courts have further defined “dilapidation” as expressed in section (a) of the LRHL as requiring substantial evidence showing detriment to public safety, health, morals, or welfare through the demonstration of zoning violations, building code violations, fire reports, tax liens, occupancy rate, employment rate, etc.

In addition, NJ courts found that section (d)’s “obsolete and faulty design” requirement applied where a parking lot caused detriment to the public welfare due to its failure in conserving land and satisfying increasing demand.

As shown, LRHL requires substantial evidence to show that an “area is in need of redevelopment.” While the statute requires only one criterion to be present in order for an area to be deemed “in need of redevelopment,” given various interpretations in light of recent case law, it is always advisable that a municipality documents the presence of as many criteria as may substantively exist.

It is also important to point out that the statute does not require that *all* properties in a given

area meet one (or more) of the criteria found in LRHL in order for that area to satisfy the definition of an “area in need of redevelopment.” Indeed, the statute does not even require that a majority of the properties in an area satisfy the criteria, but does require a substantial amount.

It is critical that a municipality substantively document how the area meets the redevelopment criteria, including, but not limited to, evidence of building code violations, fire code violations, and nuisance reports. A mere “opinion,” albeit from a licensed professional, is not sufficient to satisfy the legal proofs.

Lastly, LRHL requires that a municipality’s redevelopment plan be consistent with the Relocation Assistance Law (RAL) and the State Planning Act (SPA). RAL requires municipalities that adopt redevelopment plans to assist residents displaced by the redevelopment plan.

Similarly, the LRHL requires that the municipality conduct an assessment of any existing affordable housing for low and moderate income people that will be removed as a result of the redevelopment plan and requires that the municipality include a replacement plan for the loss of these affordable units. The SPA requires redevelopment plans to describe their relationship to the state plan and requires their consistency with the municipality’s zoning and land use law as well as its housing plan and master plan.

6.6 Options for Implementing the Redevelopment Law

The LRHL can be implemented in three ways: (1) designating an “area in need of rehabilitation,” (2) designating an area as a Non-Condemnation Redevelopment Area, or (3) designating an area as a Condemnation Redevelopment Area.

Area in Need of Rehabilitation

Designating an “area in need of rehabilitation” is less stringent than designating an “area in need of redevelopment.” The purpose of a rehabilitation program is not to acquire properties, but simply to “arrest and reverse patterns of decline and disinvestment in a residential neighborhood or community district” through “the repair, reconstruction, or renovation of an existing structure with or without new construction or the enlargement of the structure.”

A rehabilitation plan is an ideal tool for dealing with problem properties when the property and its respective area have conditions that fall short of meeting the necessary statutory requirements for designating an “area in need of redevelopment.” For an example, a

rehabilitation plan is used for restoring an aging housing stock, dealing with properties with tax arrears that may or may not be deemed abandoned, replacing or restoring old water and sewer lines, restoring abandoned properties and vacant storefronts found in mix-used properties.

A rehabilitation program is also good for infilling vacant land, which would otherwise not qualify as “in need of redevelopment” under LRHL or as abandoned under APRA. *See* N.J.S.A. 40A: 12A-14(a)(3).

In order to designate an “area in need of rehabilitation,” the municipality needs to show that that the following conditions exist:

- (1) a significant portion of structures therein are in a deteriorated or substandard condition;
- (2) more than half of the housing stock in the delineated area is at least 50 years old;
- (3) there is a pattern of vacancy, abandonment or underutilization of properties in the area;
- (4) there is a persistent arrearage of property tax payments on properties in the area;
- (5) environmental contamination is discouraging improvements and investment in properties in the area; or
- (6) a majority of the water and sewer infrastructure in the delineated area is at least 50 years old and is in need of repair or substantial maintenance.

The municipal government can designate the entire municipality as one “in need of rehabilitation.” N.J.S.A. 40A: 12A-14. Finding of “an area in need of rehabilitation,” can be determined by a site visit and the examination of code enforcement records. This determination is less stringent than designating “an area in need of redevelopment” as the municipality is not required to prove that the above conditions causes a threat to other people.

There is no need for the municipality to conduct a formal investigation or a public hearing under a rehabilitation plan; a municipality simply needs to adopt a resolution.

A municipality instituting a rehabilitation plan can use the same redevelopment tools as a redevelopment project, except the use of eminent domain and long-term tax abatements. *See* N.J.S.A. 40A: 12A-15. The redevelopment tools found in a rehabilitation program include the municipality’s use of five-year, short-term tax abatements and bond financing. *See* N.J.S.A. 40A:12A-8. In addition, a municipality can use funds from its local Affordable Housing

Trust Fund where the development of affordable housing is included in the rehabilitation program. Furthermore, a rehabilitation program can be used by itself or as a supplement to a redevelopment plan. *See* N.J.S.A. 40A:12A-15.

Highlands re-adopted and amended its rehabilitation ordinance in 2012, designating the entire town “in need of rehabilitation.” The ordinance allows up to a five year tax abatement for a maximum of \$25,000. *See Highlands Ordinance-12-24*. However, to date there has only been one five-year tax abatement application filed in Highlands. Thus, the Borough’s rehabilitation program is insufficient for dealing with its problem properties.

Non-Condemnation Redevelopment Area

In addition to its rehabilitation program, Highlands can also designate the study area as a Non-Condemnation Redevelopment Area in order to expedite the process for dealing with its problem properties. *See* N.J.S.A. 40A: 12A-6.

Designating an area as a Non-Condemnation Redevelopment Area under the LRHL allows a municipality to undergo redevelopment without the use of eminent domain. The goal of a plan designating an area as a Non-Condemnation Redevelopment Area is to promote the sale of properties rather than their condemnation by instituting subsidies that encourage developers to buy properties at a value higher than the fair market value. If these subsidies prove to be unsuccessful, then the municipality can still choose to redevelop around the property, leaving it out of the plan.

Or, the municipality can conduct further investigation to determine whether such properties are eligible for condemnation under a Condemnation Redevelopment Area plan. After designating an area as a Condemnation Redevelopment Area, a municipality is authorized to use the tool of eminent domain in order to acquire properties that satisfy the redevelopment criteria under the LRHL.

Whether the municipality designates an area as a Non-Condemnation Redevelopment Area or a Condemnation Redevelopment Area, the municipality is authorized to provide financial incentives to developers, such as long term tax abatements up to 30-35 years and in return get payments in-lieu of taxes (“PILOTS”) from the developers. *See* N.J.S.A. 40A: 20-12.

In addition, the municipality can use monies from its local Affordable Housing Trust Fund to support redevelopment projects as long as the development of affordable housing is also a part

of the plan.

Upon initial study, we found that the LRHL criteria (a) dilapidated buildings, (b) discontinued commercial buildings, (c) remote, long-term unimproved land, (d) buildings or improvements with obsolete or faulty designs, and (f) areas of five acres or more with buildings / improvements that have been damaged by fire, natural disaster -- may be found to apply to the study area.

A more definitive assessment will require a formal request by the governing body of Highlands to its planning board to conduct a formal preliminary investigation and determination of area in need of redevelopment.

6.7 Conclusions

Highlands is struggling to control problem properties within the study area and needs to develop a plan to effectively take control of such areas and properties. For instance, the study area has a significant number of abandoned and dilapidated properties, as well as properties with tax liens, long-term seasonal properties in need of rehabilitation, vacant lands, and non-conforming properties with zoning issues.

The Borough is already using the “imminent hazard” provisions of the UCC to try to encourage property owners to rehabilitate or redevelop hazardous properties in the Borough. But while this tool gives the Borough the authority to demolish unsafe structures, it does not give the Borough the power to compel a property owner, or any other party, to rebuild the resulting vacant lots. It also does not change the various laws surrounding redevelopment, such as zoning and design rules. Redeveloped properties must follow the existing regulations, absent costly and time-consuming variance requests. As such, opportunities to rebuild in more resilient forms will be lost.

The Borough has yet to take advantage of the authority granted under APRA. Nor has it sought the redevelopment authority granted under the LRHL. APRA and the LRHL are additional tools the Borough could use to take control of problem properties and help transform neighborhoods towards more positive outcomes.

The UCC, APRA and LRHL are similar in that each seeks to address dilapidated buildings causing danger to public health, safety, and welfare. However, they also have substantial differences. The municipality has demolition powers without acquisition powers under the UCC; demolition

powers with only the power to acquire individual properties under APRA; and demolition powers with the option to acquire or encourage the sale of properties in an entire area under the LRHL.

Thus, each tool can and should be used surgically, either on its own or in conjunction with other tools, depending upon the material circumstances and the desired outcomes.

It is recommended that the Borough consider each option carefully and conduct a thorough investigation to determine which tool(s) are most effective and best support the Borough’s vision.