



**BOROUGH OF HIGHLANDS**  
**LAND USE BOARD MEETING**  
22 Snug Harbor Avenue, Highlands NJ 07732  
Thursday, June 09, 2022 at 7:00 PM

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## **AGENDA**

*Please be advised that the agenda as shown may be subject to change. This meeting is a quasi-judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all times.*

### **CALL TO ORDER**

*The chair reserves the right to change the order of the agenda.*

### **PLEDGE OF ALLEGIANCE**

### **OPEN PUBLIC MEETING STATEMENT**

*As per requirement, notice is hereby given that this is a Regular Meeting of the Borough of Highlands Land Use Board and all requirements have been met. Notice has been transmitted to the Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board. Formal Action will be taken.*

### **ROLL CALL**

### **OPEN FOR PUBLIC COMMENTS**

*General Questions or Comments not pertaining to Applications*

### **ACTION ON OTHER BUSINESS**

### **RESOLUTIONS**

1. Memorialization: Ordinance 22-09 Amending Section 21-84B "Steep Slope and Slump Blocks" of Municipal Code
2. Memorialization: Ordinance 22-11 Ordinance Repealing Chapter 21 (Zoning and Land Use Regulations), Part VII (Flood Damage Prevention), Article XXIV (Flood Damage Prevention), Sections 21-109 Through 21-127 and Replacing It with a New Article XXIV (Floodplain Management Regulations) to Adopt Flood Hazard Maps and to Designate a Floodplain Administrator

### **HEARINGS ON NEW BUSINESS**

3. LUB2022-02: Shwom Block 101 Lot 9 (342 Shore Dr.)
4. LUB2022-03: B-Four Enterprises Block 69 Lots 13 & 13.01 and Block 72 Lots 8, 8.01 9.001, 9.011, and 9.012 (1 Atlantic St. & 1 Marina Court)

## **HEARINGS ON OLD BUSINESS**

### **APPROVAL OF MINUTES**

5. May 12, 2022 LUB Meeting Minutes
6. May 26, 2022 LUB Special Meeting Minutes

### **COMMUNICATION AND VOUCHERS**

#### **EXECUTIVE SESSION - Attorney/Client Privilege: LUB Res 2022-09 Appeal**

7. Attorney/Client Privilege: LUB Res 2022-09 Appeal

### **ADJOURNMENT**

*Board Policy: • All meetings shall adjourn no later than 10:00 P.M. unless a majority of the quorum present at said hour vote to continue the meeting to a later hour. • No new hearing shall commence after 9:15 P.M. unless the Chairperson shall rule otherwise. • The Chair may limit repetitive comments or irrelevant testimony and may limit the time or number of questions or comments from any one citizen to ensure an orderly meeting and allow adequate time for members of the public to be heard.*



BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH

## LAND USE BOARD RESOLUTION 2022-12

### MEMORIALIZATION CONSISTENCY DETERMINATION FOR ORDINANCE NO. 22-09 AMENDING SECTION 21-84B "STEEP SLOPES AND SLUMP BLOCKS" OF THE BOROUGH OF HIGHLANDS MUNICIPAL CODE

Decided: May 12, 2022  
Memorialized: June 9, 2022

#### MATTER OF CONSISTENCY DETERMINATION FOR ORDINANCE NO. 22-09

**WHEREAS**, under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-26a, prior to the adoption of a Development Regulation, revision or amendment thereto, the Land Use Board, shall make and transmit to the Governing Body, within 35 days after referral, a report including identification of any provisions of the proposed development regulation, revision or amendment which are inconsistent with the Master Plan and Recommendations concerning these inconsistencies and any other matters as the Board deems appropriate; and

**WHEREAS**, the Borough of Highlands Governing Body introduced Ordinance No. 22-09 entitled "Ordinance Amending Section 21-84B 'Steep Slopes and Slump Blocks' of the Borough of Highlands Municipal Code" and;

**WHEREAS**, the Mayor and Council of the Borough of Highlands referred this matter to the Land Use Board under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-26a; and

**WHEREAS**, the Land Use Board has considered this matter at a duly-noticed, in-person, public meeting conducted on May 12, 2022; and

**NOW, THEREFORE,** the Highlands Land Use Board having reviewed Ordinance No. 22-09 makes the following findings of fact and conclusions of law in regard to the proposed amendments to the Code of the Borough of Highlands in connection therewith:

1. Ordinance No. 22-09 amends Section 21-84B of the Code of the Borough of Highlands to update and clarify the provisions pertaining to the development and preservation of the Borough's steep slope properties to promote the public health, safety, and welfare of the Borough's citizens.

2. The Board's Professional Engineer and Mayor Broullon provided an overview of the Ordinance and recommended that it is substantially consistent with the Master Plan.

3. The Land Use Board finds that the adoption of Ordinance No. 22-11 is substantially consistent with the comprehensive goals set forth in the Master Plan.

6. The Land Use Board finds that adoption of Ordinance No. 22-09 is substantially consistent with the comprehensive goals, land use goals, and economic development goals as set forth in the Master Plan or is designed to effectuate such plan elements for the reasons expressed on the record as well as the reasons expressed by its Professional Engineer and Mayor Broullon.

**NOW, THEREFORE, BE IT RESOLVED, BY** the Highlands Land Use Board that Ordinance No. 22-09 entitled "Ordinance Amending Section 21-84B 'Steep Slopes and Slump Blocks' of the Borough of Highlands Municipal Code" has been determined by the Land Use Board to be substantially consistent with the comprehensive goals, land use goals and economic development goals in the Master Plan or as designed to effectuate such plan elements for the Borough of Highlands.

**BE IT FURTHER RESOLVED** that the Land Use Board Secretary is hereby directed to transmit a copy of this Resolution to the Mayor and Borough Council. This Resolution shall serve as the report to the governing body pursuant to N.J.S.A. 40:55D-26a of the Municipal Land Use Law.

**BE IT FURTHER RESOLVED** that this Resolution shall take effect immediately.

ON MOTION OF:

SECONDED BY:

ROLL CALL:

YES:

NO:

RECUSED:

INELIGIBLE:

ABSENT:

DATED:

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Highlands Land Use Board, Monmouth County, New Jersey at a public meeting held on June 9, 2022.

\_\_\_\_\_  
Nancy Tran, Secretary  
Borough of Highlands Land Use Board



BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH

## ORDINANCE 22-09

### ORDINANCE AMENDING SECTION 21-84B "STEEP SLOPES AND SLUMP BLOCKS" OF THE BOROUGH OF HIGHLANDS MUNICIPAL CODE

**WHEREAS**, Section 21-84B of the Borough Code entitled "Steep Slopes and Slump Blocks" addresses land use and construction requirements for properties located in steep slope and slump block areas; and

**WHEREAS**, the governing body of the Borough of Highlands wishes to better guide the development and preservation of the Borough's steep slope properties and has determined that it is in the best interest of the Borough to revise Section 21-84B to update and clarify these provisions to promote the public health, safety, and welfare.

**NOW, THEREFORE, BE IT ORDAINED** by the governing body of the Borough of Highlands as follows:

**SECTION I.** Borough Code Section 21-84B "Steep Slopes and Slump Blocks" is hereby deleted in its entirety.

**SECTION II.** Borough Code Section 21-84B "Steep Slopes" shall be added as follows:

#### 21-84B STEEP SLOPES.

- A.** Areas Covered. The areas of Highlands covered by this section (referred to hereafter as "slope area") are any properties south of Shore Drive and the Highlands-Sea Bright Bridge, including Blocks 1 through 29, inclusive, Blocks 34 through 38, inclusive, Blocks 40, 60, and 61, and Blocks 103 through 120, inclusive, as described by the Tax Assessment Map of the Borough of Highlands.
- B.** Permit requirement exceptions. A slope area permit is required for any work or disturbance affecting a slope area, except when the area of the proposed work or disturbance:
  - (1)** Contains no slopes greater than 10%, nor any slope greater than 15% within 100 feet, and the work or disturbance is:
    - (a)** Soil disturbance of five cubic yards or less;
    - (b)** Change in impervious ground cover of 200 square feet or less;
    - (c)** Removal of five trees or less, having a circumference of up to 20 inches each, measured at four feet above the ground;
    - (d)** Removal or disturbance of vegetation covering 200 square feet or less.
  - (2)** Contains no slopes greater than 15%, nor any slope greater than 20% within 100 feet; and the work or disturbance is:
    - (a)** Soil disturbance of three cubic yards or less;

- (b) Change in impervious ground cover of 100 square feet or less;
  - (c) Removal of three trees or less, having a circumference of up to 20 inches each, measured at four feet above the ground;
  - (d) Removal or disturbance of vegetation covering 100 square feet or less.
  - (3) Contains slopes greater than 15% and the work or disturbance is:
    - (a) Soil disturbance of one cubic yard or less;
    - (b) Change in impervious ground cover of 25 square feet or less;
    - (c) Removal of one tree, having a circumference of up to 20 inches measured at four feet above the ground;
    - (d) Removal or disturbance of vegetation covering 25 square feet or less.
    - (e) All items described in Subsection B(1), (2) and (3) above represent a cumulative total per lot, per calendar year.
  - (4) Inspection for tree trimming.
    - (a) In slope areas of greater than 15%, no normal tree topping to provide a view, protecting adjacent structures or the removal of dead or unhealthy trees shall take place prior to an inspection and a determination as to how much of the tree may be trimmed or what trees may be removed. Such determination shall be subject to the Tree Commissioner and shall require a permit as set forth in Section 22-1 of the Borough Code.
    - (b) Where site plan or subdivision approval is also required, the slope area permit review will be performed along with that approval process, and the applicant will submit copies of all required information to the Land Use Board. Although the Board cannot grant or deny a slope area permit (except for an appeal under Subsection J), the Board shall consider all plans submitted under this section in any application for site plan or subdivision approval affecting a slope area.
  - (5) Additions to a single-family residence shall be exempt from the lot coverage, impervious coverage and lot disturbance provisions of this section if the following conditions exist:
    - (a) That the size of any one-story addition, deck, patio or excavation is less than 200 square feet. Soil logs and testing for future subsurface disposal systems shall not be exempted.
    - (b) That no slope greater than 10% exists within 20 feet of the area to be disturbed.
    - (c) The applicant provides plans or a written statement describing soil erosion and stabilization measures which will be used as part of construction.
    - (d) A final inspection fee of the equivalent of one hour of the Borough Engineer's time is posted prior to the issuance of the permit.
- C. Application for permit. An application for a slope area permit shall be made to the Highlands Construction Official. The application shall include at least:
- (1) Property description by Tax Map block and lot, and by street address if available.
  - (2) Scalable drawing of location of proposed work or disturbance along with existing and proposed topography. This drawing shall also include a delineation of the proposed limit of disturbance with area calculation.

- (3)** Areas clearly identified showing the following, as measured between ten-foot contour lines: Area 1, 30% or greater; Area 2, 20% but less than 30%; Area 3, 15% but less than 20%; Area 4, less than 15%.
  - (4)** Calculation, in square footage and acres, of amount of area in the various slope categories listed above. All applications shall contain calculations demonstrating compliance with Subsections E(1) through E(4) of this Section.
  - (5)** Statement of proposed work or disturbance.
  - (6)** Any other additional information as is reasonably necessary to make an informed decision, including, but not limited to, the items listed below and in Subsection F:
  - (7)** Where site plan or subdivision approval is required, the following exhibits shall also be submitted:
    - (a)** Topographic map showing existing contours at two-foot intervals.
    - (b)** Extent and erosion potential of exposed soils.
    - (c)** Length, steepness and surface roughness of exposed slopes.
    - (d)** Resistance of soil to compaction and stability of soil aggregates.
    - (e)** High water table, water infiltration capacity and capacity of soil profile.
    - (f)** Chemical, physical and biological nature of subsurface soils.
    - (g)** Type and location of construction activity, including the amount of site grading, and depth of such grading.
    - (h)** The time period of exposure of erodible soils during construction.
    - (i)** The area and density of woodlands and forest, within the construction site and on contiguous lands for a distance of 200 feet, or such other distance as deemed appropriate by the Borough Engineer. All significant tree specimens four inches or greater in diameter, measured at four feet above the ground; all dogwood, American holly, and mountain laurel; and all other vegetation on slopes 15% or greater shall be indicated on the application plans as well as physically marked on the construction site.
    - (j)** The extent of impervious surface to be constructed.
    - (k)** Location of construction access roads.
    - (l)** Calculation of amount of site grading, to include a cut-and-fill balance sheet, including cross sections, and indicating, where applicable, the volume of and source of off-site fill.
    - (m)** Extent of on-site erosion sediment control measures, during and after construction and until any affected area is stabilized.
    - (n)** Any other information as is reasonably necessary to make an informed decision.
- D.** Application review and standards of approval.
- (1)** The Borough Engineer shall review every slope area application to determine whether the proposed work or disturbance may have a detrimental impact upon any slope area. Such review shall include at least an on-site inspection.
  - (2)** The Borough Engineer shall thereafter approve only those applications where the proposed work or disturbance will:
    - (a)** Have no detrimental impacts.
    - (b)** Control velocity and rate of water runoff so that such velocity and rate are no greater after construction and development than before, and are within tolerances



- deemed safe by the Borough Engineer, and the project or site plan complies with all other provisions of the Borough Code and Article XXIV of the Land Use Volume of the Borough Code, Flood Damage Prevention.
- (c) Minimize stream turbidity and changes in flow.
  - (d) Protect environmentally vulnerable areas.
  - (e) Stabilize exposed soils both during and after construction and development.
  - (f) Prevent soil slippage.
  - (g) Minimize number and extent of cuts to prevent groundwater discharge areas to underlying soils.
  - (h) Preserve the maximum number of trees and other vegetation on the site and avoid disturbance of the critical hillside, slope and forest areas.
  - (i) Control water infiltration at the top of the slope and thus decrease the tendency for shear failure and erosion.
  - (j) Control the growth of vegetation, which is detrimental to slope stability and promote the establishment of plant species which add to the stabilization of the slope.
  - (k) Control construction techniques to mitigate damage to steep slopes at the time of greatest vulnerability.
- (3) The Borough Engineer may impose such conditions upon any approval as said Engineer deems necessary to achieve the purposes of this section. All permanent improvements necessary to achieve the purposes of this section shall require performance and maintenance bonds in forms and amounts to be reviewed and approved by the Borough Engineer and Borough Attorney. Said maintenance bond shall continue for two years after complete stabilization.
- (4) Any approval may be subject to the condition that, for safety reasons, the applicant provides and adheres to a detailed construction and inspection schedule, copies of which shall be supplied to the Borough Construction Official for the purpose of monitoring the progress of the work and compliance with the construction schedule. Said approval may be further conditioned upon submission of periodic certifications by the applicant as to compliance with the construction schedule, and, in the event of noncompliance, written assurance as to the nature and time when steps will be taken to achieve compliance with the construction schedule.
- (5) If the applicant does not comply with the construction schedule or any other requirements or conditions attached to the approval of the application, and the Borough Engineer or the Borough Construction Official certifies such lack of compliance, the Borough Construction Official shall thereupon revoke approval of the application, after notice to the applicant, and no further work may be performed on such site, with the exception for temporary measures necessary to stabilize the soil and to protect the site from stormwater damage or other hazards created by construction activity on the site.
- E. Lot size, development density, lot coverage and disturbance. To meet the purposes, goals and standards set forth in this section, in areas of slopes greater than 15%, the applicable provisions of this chapter relating to minimum lot sizes and density of development, and

maximum percentage of lot coverage, shall be modified, and limitations including maximum impervious surfaces and maximum lot disturbance shall be added as follows:

**(1) Minimum lot size; density.**

**(a)** The minimum lot size shall be determined by multiplying the total land area in various slope categories by the following factors and totaling the results. This modified minimum lot size shall be used as the lot size in density calculations. Slope calculations shall be based on elevation intervals of 10 feet.

<b>Slopes</b>	<b>Factor</b>
30% or greater	0.1
20% but less than 30%	0.2
15% but less than 20%	0.5
Less than 15%	1.0

**(b)** As the result of the computation of the total density allowed, any fractional amount shall be rounded down or truncated to the nearest whole integer. If the total density allowed is less than one, and prior to this section the lot dimensions met or exceeded the minimum lot size for its zone, than the total density allowed shall be one.

**(2) Determination of maximum lot coverage.**

**(a)** The maximum lot coverage area shall be determined by multiplying the total land area in various slope categories by the following factors, totaling the results and multiplying the result by the maximum lot coverage percentage allowed for the appropriate zone. Slope calculations shall be based on elevation intervals of 10 feet.

<b>Slopes</b>	<b>Factor</b>
30% or greater	0.25
20% but less than 30%	0.50
15% but less than 20%	0.75
Less than 15%	1.00

**(b)** Where the modified maximum lot coverage area is less than the minimum gross floor area required for the proposed building, the minimum gross floor area required shall be the modified maximum lot coverage area.

**(3) The maximum impervious surface area permitted in slope areas shall be determined by multiplying the total land area in various slope categories by the following percentages and totaling the results:**

<b>Slopes</b>	<b>Percentage</b>
30% or greater	10%
20% but less than 30%	15%
15% but less than 20%	25%
Less than 15%	35%

**Slopes****Percentage**

- (4) The maximum lot disturbance shall be no greater than 130% of the maximum impervious surface permitted for the lot.
  - (5) No disturbance or improvements shall be permitted in the areas within fifteen (15) feet of the top of slope and no structures shall be located within twenty-five (25) feet of the top of slope; nor shall there be any disturbance within ten (10) feet of the toe of the slope or any structures located within fifteen (15) feet of the toes of the slope
  - (6) Setbacks of all structures necessary for slope area stabilization shall be sufficient to allow for any future maintenance that may be necessary.
  - (7) All land required to be maintained as permanent open space shall be indicated as such on any approved plans.
- F. Environmental appraisal and applicability.**
- (1) When site plan or subdivision is required, an environmental impact report or request for waiver shall be prepared. The Borough Engineer shall review and approve the report in accordance with specifications and procedures required by this section.
  - (2) No application for slope area permit shall be approved unless it has been affirmatively determined, after an environmental appraisal, that the proposed project:
    - (a) Will not result in a detrimental impact on the environment; and
    - (b) Has been conceived and designed in such a manner that it will not significantly impair natural processes.
- G. Review and inspections fees.** The applicant shall deposit an initial application filing fee of \$425 with the Chief Financial Officer. If additional escrow fees are required, the applicant shall deposit with the Chief Financial Officer an amount equal to the estimated review fee, as determined by the Borough Engineer. Inspections shall be required before, during stabilization and upon completion of the work or disturbance, during and for two years after complete stabilization, or for any other reasonable time, as determined by the Borough Engineer, to insure the purposes of this section are met. No permit will be issued until a deposit is placed with the Chief Financial Officer, equal to the estimated inspection fee, as determined by the Borough Engineer. If additional inspection fees are required, the applicant shall deposit with the Chief Financial Officer an amount equal to the new estimated inspection fee before any work can continue. The inspection fee deposit account shall remain for two years after complete stabilization. Any deposit accounts shall be maintained at levels sufficient at all times to cover all estimated fees or work may be halted. The Chief Financial Officer will keep the Borough Engineer aware of account balances as necessary.
- H. Municipal liability.** The granting of any permit or approval in any slope area shall not constitute a representation, guarantee or warranty of any kind by the Borough, Borough Engineer, Borough Attorney, Construction Official, or by any other official, employee or representative thereof of the practicability or safety of any structure, use or other plan proposed, and shall create no liability upon, or a cause of action against, such public body, official or employee for any damage that may result pursuant thereto.

- I. Penalties. In addition to penalties already provided in Section 1-5 of the Borough Code, the Court may order any person convicted of violating this section to pay the Borough all costs for and associated with necessary stabilization or corrective measures, as determined by the Borough Engineer.
- J. Appeal. The Land Use Board shall have the power to hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, decision (including review and inspection fees under Subsection G) or refusal made by the Borough Engineer based on or made in the enforcement of this section. All such appeals under this section from the decisions of the Borough Engineer shall be taken within 20 days by filing a notice of appeal with the Borough Engineer specifying the grounds of such appeal. The Borough Engineer shall immediately transmit to the Land Use Board all papers constituting the record upon which the action appealed from was taken. All such appeals shall be heard by the Land Use Board upon notice given by the applicant as required by Section 21-11 of the Land Use Volume of the Borough Code. The Land Use Board may permit, or require, the record on appeal to be supplemented with such documents or other evidence or information as are reasonably necessary to make an informed decision as to whether the requirements of this section have been met.

**SECTION II. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

**SECTION III. REPEALER.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION IV. EFFECTIVE DATE.** This ordinance shall take effect immediately upon its passage and publication in accordance with law.

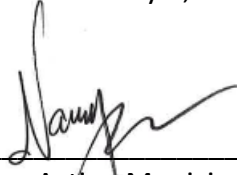
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First Reading and Set Hearing Date for O-22-09:

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
CERVANTES			X			
CHELAK		X	X			
MELNYK			X			
OLSZEWSKI			X			
BROULLON	X		X			

This is a Certified True copy of the Original Resolution on file in the Municipal Clerk's Office.

DATE OF VOTE: May 4, 2022




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Nancy Tran, Acting Municipal Clerk  
Highlands

Public Hearing and Adoption for O-22-09:

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
CERVANTES						
CHELAK						
MELNYK						
OLSZEWSKI						
BROULLON						

This is a Certified True copy of the Original Resolution on file in the Municipal Clerk's Office.

DATE OF VOTE: June 1, 2022

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Nancy Tran, Acting Municipal Clerk  
Highlands



BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH

## LAND USE BOARD RESOLUTION 2022-13

**MEMORIALIZATION CONSISTENCY DETERMINATION FOR ORDINANCE NO. 22-11 REPEALING CHAPTER 21 (ZONING AND LAND USE REGULATIONS), PART VII (FLOOD DAMAGE PREVENTION), ARTICLE XXIV (FLOOD DAMAGE PREVENTION), SECTIONS 21-109 THROUGH 21-127 AND REPLACING IT WITH A NEW ARTICLE XXIV (FLOODPLAIN MANAGEMENT REGULATIONS) TO ADOPT FLOOD HAZARD MAPS AND TO DESIGNATE A FLOODPLAIN ADMINISTRATOR**

**Decided: May 26, 2022  
Memorialized: June 9, 2022**

### **MATTER OF CONSISTENCY DETERMINATION FOR ORDINANCE NO. 22-11**

**WHEREAS**, under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-26a, prior to the adoption of a Development Regulation, revision or amendment thereto, the Land Use Board, shall make and transmit to the Governing Body, within 35 days after referral, a report including identification of any provisions of the proposed development regulation, revision or amendment which are inconsistent with the Master Plan and Recommendations concerning these inconsistencies and any other matters as the Board deems appropriate; and

**WHEREAS**, the Borough of Highlands Governing Body introduced Ordinance No. 22-11 entitled "Ordinance Repealing Chapter 21 (Zoning and Land Use Regulations), Part VII (Flood Damage Prevention), Article XXIV (Flood Damage Prevention), Sections 21-109 through 21-127 and Replacing it with a New Article XXIV (Flood Plain Management Regulations) to Adopt Flood Hazard Maps and to Designate a Flood Plain Administrator" and;

**WHEREAS**, the Mayor and Council of the Borough of Highlands referred this matter to the Land Use Board under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-26a; and

**WHEREAS**, the Land Use Board has considered this matter at a duly-noticed special, public meeting conducted on May 26, 2022 virtually via the Zoom platform; and

**NOW, THEREFORE**, the Highlands Land Use Board having reviewed Ordinance No. 22-11 makes the following findings of fact and conclusions of law in regard to the proposed amendments to the Code of the Borough of Highlands in connection therewith:

1. Ordinance No. 22-11 amends Chapter 21 to be consistent with New Jersey flood hazard area rules and regulations promulgated by the New Jersey Department of Environmental Protection (NJDEP) concerning the development and use of land in the flood fringe areas.

2. The Board's Professional Engineer and Mayor Broullon provided an overview of the Ordinance and recommended that it is substantially consistent with the Master Plan and conforms to the flood hazard area rules and regulations promulgated by the NJDEP.

3. The Land Use Board finds that the adoption of Ordinance No. 22-11 is substantially consistent with the comprehensive goals set forth in the Master Plan and conforms to the flood hazard area rules and regulations promulgated by the NJDEP.

6. The Land Use Board finds that adoption of Ordinance No. 22-11 is substantially consistent with the comprehensive goals, land use goals, and economic development goals as set forth in the Master Plan or is designed to effectuate such plan elements for the reasons expressed on the record as well as the reasons expressed by its Professional Engineer and Mayor Broullon.

**NOW, THEREFORE, BE IT RESOLVED, BY** the Highlands Land Use Board that Ordinance No. 22-11 entitled "Ordinance Repealing Chapter 21 (Zoning and Land Use Regulations), Part VII (Flood Damage Prevention), Article XXIV (Flood Damage Prevention), Sections 21-109 through 21-127 and Replacing it with a New Article XXIV (Flood Plain Management Regulations) to Adopt Flood Hazard Maps and to Designate a Flood Plain Administrator" has been determined by the Land Use Board

to be substantially consistent with the comprehensive goals, land use goals and economic development goals in the Master Plan or as designed to effectuate such plan elements for the Borough of Highlands.

**BE IT FURTHER RESOLVED** that the Land Use Board Secretary is hereby directed to transmit a copy of this Resolution to the Mayor and Borough Council. This Resolution shall serve as the report to the governing body pursuant to N.J.S.A. 40:55D-26a of the Municipal Land Use Law.

**BE IT FURTHER RESOLVED** that this Resolution shall take effect immediately.

ON MOTION OF:

SECONDED BY:

ROLL CALL:

YES:

NO:

RECUSED:

INELIGIBLE:

ABSENT:

DATED:

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Highlands Land Use Board, Monmouth County, New Jersey at a public meeting held on June 9, 2022.

\_\_\_\_\_  
Nancy Tran, Secretary  
Borough of Highlands Land Use Board





BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH

**ORDINANCE 22-11**

**ORDINANCE REPEALING CHAPTER 21 (ZONING AND LAND USE REGULATIONS), PART VII (FLOOD DAMAGE PREVENTION), ARTICLE XXIV (FLOOD DAMAGE PREVENTION), SECTIONS 21-109 THROUGH 21-127 AND REPLACING IT WITH A NEW ARTICLE XXIV (FLOODPLAIN MANAGEMENT REGULATIONS) TO ADOPT FLOOD HAZARD MAPS AND TO DESIGNATE A FLOODPLAIN ADMINISTRATOR**

**WHEREAS**, the Legislature of the State of New Jersey has, in N.J.S.A. 40:48 et seq and N.J.S.A. 40:55D et seq., conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of Borough of Highlands and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

**WHEREAS**, the Borough of Highlands was accepted for participation in the National Flood Insurance Program on September 3<sup>rd</sup>, 1971 and the Mayor and Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59, 60, 65, and 70 necessary for such participation; and

**WHEREAS**, the Borough of Highlands is required, pursuant to N.J.A.C. 5:23 et seq., to administer and enforce the State building codes, and such building codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas; and

**WHEREAS**, the Borough of Highlands is required, pursuant to N.J.S.A. 40:49-5, to enforce zoning codes that secure safety from floods and contain certain provisions that apply to the development of lands; and

**WHEREAS**, the Borough of Highlands is required, pursuant to N.J.S.A.58:16A-57, within 12 months after the delineation of any flood hazard area, to adopt rules and regulations concerning the development and use of land in the flood fringe area which at least conform to the standards promulgated by the New Jersey Department of Environmental Protection (NJDEP).

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Highlands as follows:

**SECTION I.** The foregoing Whereas clauses are incorporated herein by reference and made a part hereof.

**SECTION II.** Chapter 21 (Zoning and Land Use Regulations), Part VII (Flood Damage Prevention), Article XXIV (Flood Damage Prevention) is hereby deleted in its entirety and replaced with the following floodplain management regulations:

**CHAPTER 21 (ZONING AND LAND USE REGULATIONS), PART VII (FLOOD DAMAGE PREVENTION), ARTICLE XXIV (FLOODPLAIN MANAGEMENT REGULATIONS)**

**21-109 SCOPE AND ADMINISTRATION**

**21-109.1 Title.** These regulations, in combination with the flood provisions of the Uniform Construction Code (UCC) N.J.A.C. 5:23 (hereinafter "Uniform Construction Code," consisting of the Building Code, Residential Code, Rehabilitation Subcode, and related codes, and the New Jersey Flood Hazard Area Control Act (hereinafter "FHACA"), N.J.A.C. 7:13, shall be known as the *Floodplain Management Regulations* of Borough of Highlands (hereinafter "these regulations").

**21-109.2 Scope.** These regulations, in combination with the flood provisions of the Uniform Construction Code and FHACA shall apply to all proposed development in flood hazard areas established in Section 21-110 of these regulations.

**21-109.3 Purposes and objectives.** The purposes and objectives of these regulations are to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas through the establishment of comprehensive regulations for management of flood hazard areas, designed to:

- (1) Protect human life and health.
- (2) Prevent unnecessary disruption of commerce, access, and public service during times of flooding.
- (3) Manage the alteration of natural floodplains, stream channels and shorelines;
- (4) Manage filling, grading, dredging and other development which may increase flood damage or erosion potential.
- (5) Prevent or regulate the construction of flood barriers which will divert floodwater or increase flood hazards.
- (6) Contribute to improved construction techniques in the floodplain.
- (7) Minimize damage to public and private facilities and utilities.
- (8) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas.
- (9) Minimize the need for rescue and relief efforts associated with flooding.
- (10) Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas.

- (11) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events.
- (12) Meet the requirements of the National Flood Insurance Program for community participation set forth in Title 44 Code of Federal Regulations, Section 59.22.

**21-109.4 Coordination with Building Codes.** Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the Borough of Highlands administer and enforce the State building codes, the Mayor and Council of Borough of Highlands does hereby acknowledge that the Uniform Construction Code contains certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the Uniform Construction Code.

**21-109.5 Ordinary Building Maintenance and Minor Work.** Improvements defined as ordinary building maintenance and minor work projects by the Uniform Construction Code including non-structural replacement-in-kind of windows, doors, cabinets, plumbing fixtures, decks, walls, partitions, new flooring materials, roofing, etc. shall be evaluated by the Floodplain Administrator through the floodplain development permit to ensure compliance with the Substantial Damage and Substantial Improvement Section 21-111.14 of this ordinance.

**21-109.6 Warning.** The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Enforcement of these regulations does not imply that land outside the special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage.

**21-109.7 Other laws.** The provisions of these regulations shall not be deemed to nullify any provisions of local, State, or Federal law.

**21-109.8 Violations and Penalties for Noncompliance.** No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation under N.J.S.A. 40:49-5. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to one (1) or more of the following: a fine of not more than \$2,000, imprisonment for a term not exceeding ninety (90) days or a period of community service not exceeding 90 days.

Each day in which a violation of an ordinance exists shall be considered to be a separate and distinct violation subject to the imposition of a separate penalty for each day of the violation as the Court may determine except that the owner will be afforded the opportunity to cure or abate the condition during a 30-day period and shall be afforded the opportunity for a hearing before

the court for an independent determination concerning the violation. Subsequent to the expiration of the 30 day period, a fine up to \$2,000 may be imposed if the court has not determined otherwise, or if upon reinspection of the property, it is determined that the abatement has not been substantially completed.

Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.

**21-109.8.1 Solid Waste Disposal in a Flood Hazard Area.** Any person who has unlawfully disposed of solid waste in a floodway or floodplain who fails to comply with this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2500 or up to a maximum penalty by a fine not exceeding \$10,000 under N.J.S.A. 40:49-5.

**21-109.9 Abrogation and greater restrictions.** These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal or abrogate any existing ordinances including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern.

## **21-110 APPLICABILITY**

**21-110.1 General.** These regulations, in conjunction with the Uniform Construction Code, provide minimum requirements for development located in flood hazard areas, including the subdivision of land and other developments; site improvements and installation of utilities; placement and replacement of manufactured homes; placement of recreational vehicles; new construction and alterations, repair, reconstruction, rehabilitation or additions of existing buildings and structures; substantial improvement of existing buildings and structures, including repair of substantial damage; installation of tanks; temporary structures and temporary or permanent storage; utility and miscellaneous Group U buildings and structures; and certain building work exempt from permit under the Uniform Construction Code; and other buildings and development activities.

**21-110.2 Establishment of Flood Hazard Areas.** The Borough of Highlands was accepted for participation in the National Flood Insurance Program on September 3<sup>rd</sup>, 1971.

The National Flood Insurance Program (NFIP) floodplain management regulations encourage that all Federal, State, and Local regulations that are more stringent than the minimum NFIP standards take precedence in permitting decisions. The FHACA requires that the effective Flood Insurance Rate Map, most recent preliminary FEMA mapping and flood studies, and Department

delineations be compared to determine the most restrictive mapping. The FHACA also regulates unstudied flood hazard areas in watersheds measuring 50 acres or greater in size and most riparian zones in New Jersey. Because of these higher standards, the regulated flood hazard area in New Jersey may be more expansive and more restrictive than the FEMA Special Flood Hazard Area. Maps and studies that establish flood hazard areas are on file at the office of the Floodplain Administrator at 42 Shore Drive, Highlands, NJ 07732.

The following sources identify flood hazard areas in this jurisdiction and must be considered when determining the Best Available Flood Hazard Data Area:

- 1) **Effective Flood Insurance Study.** Special Flood Hazard Areas (SFHAs) identified by the Federal Emergency Management Agency in a scientific and engineering report entitled Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions)” dated September 25, 2009 and revised June 20, 2018 and June 15, 2022, and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 21-110.2(1) whose effective dates are June 20, 2018 or June 15, 2022 are hereby adopted by reference.

Table 21-110.2(1)

Map Panel #	Effective Date	Revision Letter
34025C0067	June 20, 2018	G
34025C0069	June 15, 2022	G
34025C0086	June 20, 2018	G
34025C0088	June 15, 2022	H

- 2) **Federal Best Available Information.** Borough of Highlands shall utilize Federal flood information as listed in the table below that provides more detailed hazard information, higher flood elevations, larger flood hazard areas, and results in more restrictive regulations. This information may include but is not limited to preliminary flood elevation guidance from FEMA (such as Advisory Flood Hazard Area Maps, Work Maps or Preliminary FIS and FIRM). Additional Federal Best Available studies issued after the date of this ordinance must also be considered. These studies are listed on FEMA’s Map Service Center. This information shall be used for floodplain regulation purposes only.

Table 21-110.2(2)

Map Panel #	Preliminary Date
34025C0067H	January 30, 2015
34025C0069H	January 31, 2014
34025C0086H	January 30, 2015
34025C0088J	January 31, 2014

- 3) **Other Best Available Data. Borough of Highlands** shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by the Borough of Highlands. Other “best available information” may not be used which results in less restrictive flood elevations, design standards, or smaller flood hazard areas than the sources described in Section 21-110.2 (1) and (2), above. This information shall be used for floodplain regulation purposes only.
- 4) **State Regulated Flood Hazard Areas.** For State regulated waters, the NJ Department of Environmental Protection (NJDEP) identifies the flood hazard area as the land, and the space above that land, which lies below the “Flood Hazard Area Control Act Design Flood Elevation”, as defined in Section 21-117, and as described in the New Jersey Flood Hazard Area Control Act at N.J.A.C. 7:13. A FHACA flood hazard area exists along every regulated water that has a drainage area of 50 acres or greater. Such area may extend beyond the boundaries of the Special Flood Hazard Areas (SFHAs) as identified by FEMA. The following is a list of New Jersey State studied waters in this community under the FHACA, and their respective map identification numbers.

Table 21-110.2(3) List of State Studied Waters

Name of Studied Water	File Name	Map Number
Sandy Hook Bay	V0000081	Sheet 4

**21-110.3 Establishing the Local Design Flood Elevation (LDFE).** The Local Design Flood Elevation (LDFE) is established in the flood hazard areas determined in Section 21-110.2, above, using the best available flood hazard data sources, and the Flood Hazard Area Control Act minimum Statewide elevation requirements for lowest floors in A, Coastal A, and V zones, ASCE 24 requirements for critical facilities as specified by the building code, plus additional freeboard as specified by this ordinance.

At a minimum, the Local Design Flood Elevation shall be as follows:

- (1) For a delineated watercourse, the elevation associated with the Best Available Flood Hazard Data Area determined in Section 21-110.2, above plus one foot or as described by N.J.A.C. 7:13 of freeboard; or
- (2) For any undelineated watercourse (where mapping or studies described in Section 21-110.2 (1) and (2) above are not available) that has a contributory drainage area of 50 acres or more, the applicants must provide one of the following to determine the Local Design Flood Elevation:

- (a) A copy of an unexpired NJDEP Flood Hazard Area Verification plus one foot of freeboard and any additional freeboard as required by ASCE 24; or
  - (b) A determination of the Flood Hazard Area Design Flood Elevation using Method 5 or Method 6 (as described in N.J.A.C. 7:13) plus one foot of freeboard and any additional freeboard as required by ASCE 24. Any determination using these methods must be sealed and submitted according to Section 21-113.2(3).
- (3) AO Zones – For Zone AO areas on the municipality’s FIRM (or on preliminary flood elevation guidance from FEMA), the Local Design Flood Elevation is determined from the FIRM panel as the highest adjacent grade plus the depth number specified plus one of freeboard. If no depth number is specified, the Local Design Flood Elevation is three (3) feet above the highest adjacent grade.
- (4) Class IV Critical Facilities - For any proposed development of new and substantially improved Flood Design Class IV Critical Facilities, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 2 feet of freeboard in accordance with ASCE 24.
- (5) Class III Critical Facilities - For proposed development of new and substantially improved Flood Design Class III Critical Facilities in coastal high hazard areas, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 1 foot of freeboard in accordance with ASCE 24.

## **21-111 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR**

**21-111.1 Floodplain Administrator Designation.** The Borough Engineer is designated as the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees.

**21-111.2 General.** The Floodplain Administrator is authorized and directed to administer the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code and shall not have the effect of waiving specific requirements without the granting of a variance pursuant to Section 21-115 of these regulations.

**21-111.3 Coordination.** The Floodplain Administrator shall coordinate with the Construction Official to administer and enforce the flood provisions of the Uniform Construction Code.

**21-111.4 Duties.** The duties of the Floodplain Administrator shall include but are not limited to:

- (1) Review all permit applications to determine whether proposed development is located in flood hazard areas established in Section 21-110 of these regulations.
- (2) Require development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage.
- (3) Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
- (4) Determine whether additional flood hazard data shall be obtained or developed.
- (5) Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete.
- (6) Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 21-111.14 of these regulations.
- (7) Coordinate with the Construction Official and others to identify and investigate damaged buildings located in flood hazard areas and inform owners of the requirement to obtain permits for repairs.
- (8) Review requests submitted to the Construction Official seeking approval to modify the strict application of the flood load and flood resistant construction requirements of the Uniform Construction code to determine whether such requests require consideration as a variance pursuant to Section 21-115 of these regulations.
- (9) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps when the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available.
- (10) Require applicants who propose alteration of a watercourse to notify adjacent jurisdictions and the NJDEP Bureau of Flood Engineering, and to submit copies of such notifications to the Federal Emergency Management Agency (FEMA).
- (11) Inspect development in accordance with Section 21-114 of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits.
- (12) Prepare comments and recommendations for consideration when applicants seek variances in accordance with Section 21-115 of these regulations.
- (13) Cite violations in accordance with Section 21-116 of these regulations.



- (14) Notify the Federal Emergency Management Agency when the corporate boundaries of Borough of Highlands have been modified.
- (15) Permit Ordinary Maintenance and Minor Work in the regulated areas discussed in Section 21-110.2.

**21-111.5 Use of changed technical data.** The Floodplain Administrator and the applicant shall not use changed flood hazard area boundaries or base flood elevations for proposed buildings or developments unless the Floodplain Administrator or applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) revision and has received the approval of the Federal Emergency Management Agency. A revision of the effective FIRM does not remove the related feature(s) on a flood hazard area delineation that has been promulgated by the NJDEP. A separate application must be made to the State pursuant to N.J.A.C. 7:13 for revision of a flood hazard design flood elevation, flood hazard area limit, floodway limit, and/or other related feature.

**21-111.6 Other permits.** It shall be the responsibility of the Floodplain Administrator to assure that approval of a proposed development shall not be given until proof that necessary permits have been granted by Federal or State agencies having jurisdiction over such development, including section 404 of the Clean Water Act. In the event of conflicting permit requirements, the Floodplain Administrator must ensure that the most restrictive floodplain management standards are reflected in permit approvals.

**21-111.7 Determination of Local Design Flood Elevations.** If design flood elevations are not specified, the Floodplain Administrator is authorized to require the applicant to:

- (1) Obtain, review, and reasonably utilize data available from a Federal, State, or other source, or
- (2) Determine the design flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Such analyses shall be performed and sealed by a licensed professional engineer. Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator. The accuracy of data submitted for such determination shall be the responsibility of the applicant.

It shall be the responsibility of the Floodplain Administrator to verify that the applicant's proposed Best Available Flood Hazard Data Area and the Local Design Flood Elevation in any development permit accurately applies the best available flood hazard data and methodologies for determining flood hazard areas and design elevations described in Section 21-110.2 and Section 21-110.3 respectively. This information shall be provided to the Construction Official and documented according to Section 21-111.15.

**21-111.8 Requirement to submit new technical data.** Base Flood Elevations may increase or decrease resulting from natural changes (e.g. erosion, accretion, channel migration, subsidence, uplift) or man-made physical changes (e.g. dredging, filling, excavation) affecting

flooding conditions. As soon as practicable, but not later than six months after the date of a man-made change or when information about a natural change becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

**21-111.9 Activities in riverine flood hazard areas.** In riverine flood hazard areas where design flood elevations are specified but floodways have not been designated, the Floodplain Administrator shall not permit any new construction, substantial improvement or other development, including the placement of fill, unless the applicant submits an engineering analysis prepared by a licensed professional engineer that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachment, will not increase the design flood elevation more than 0.2 feet at any point within the community.

**21-111.10 Floodway encroachment.** Prior to issuing a permit for any floodway encroachment, including fill, new construction, substantial improvements and other development or land-disturbing-activity, the Floodplain Administrator shall require submission of a certification prepared by a licensed professional engineer, along with supporting technical data, that demonstrates that such development will not cause any increase in the base flood level.

**21-111.10.1 Floodway revisions.** A floodway encroachment that increases the level of the base flood is authorized if the applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) and has received the approval of FEMA.

**21-111.11 Watercourse alteration.** Prior to issuing a permit for any alteration or relocation of any watercourse, the Floodplain Administrator shall require the applicant to provide notification of the proposal to the appropriate authorities of all adjacent government jurisdictions, as well as the NJDEP Bureau of Flood Engineering and the Division of Land Resource Protection. A copy of the notification shall be maintained in the permit records and submitted to FEMA.

**21-111.11.1 Engineering analysis.** The Floodplain Administrator shall require submission of an engineering analysis prepared by a licensed professional engineer, demonstrating that the flood-carrying capacity of the altered or relocated portion of the watercourse will be maintained, neither increased nor decreased. Such watercourses shall be maintained in a manner that preserves the channel's flood-carrying capacity.

**21-111.12 Alterations in coastal areas.** The excavation or alteration of sand dunes is governed by the New Jersey Coastal Zone Management (CZM) rules, N.J.A.C. 7:7. Prior to issuing a flood damage prevention permit for any alteration of sand dunes in coastal high hazard areas and

Coastal A Zones, the Floodplain Administrator shall require that a New Jersey CZM permit be obtained and included in the flood damage prevention permit application. The applicant shall also provide documentation of any engineering analysis, prepared by a licensed professional engineer, that demonstrates that the proposed alteration will not increase the potential for flood damage.

**21-111.13 Development in riparian zones** All development in Riparian Zones as described in N.J.A.C. 7:13 is prohibited by this ordinance unless the applicant has received an individual or general permit or has complied with the requirements of a permit by rule or permit by certification from NJDEP Division of Land Resource Protection prior to application for a floodplain development permit and the project is compliant with all other Floodplain Development provisions of this ordinance. The width of the riparian zone can range between 50 and 300 feet and is determined by the attributes of the waterbody and designated in the New Jersey Surface Water Quality Standards N.J.A.C. 7:9B. The portion of the riparian zone located outside of a regulated water is measured landward from the top of bank. Applicants can request a verification of the riparian zone limits or a permit applicability determination to determine State permit requirements under N.J.A.C. 7:13 from the NJDEP Division of Land Resource Protection.

**21-111.14 Substantial improvement and substantial damage determinations.** When buildings and structures are damaged due to any cause including but not limited to man-made, structural, electrical, mechanical, or natural hazard events, or are determined to be unsafe as described in N.J.A.C. 5:23; and for applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, ordinary maintenance and minor work, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Construction Official, shall:

- (1) Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- (2) Determine and include the costs of all ordinary maintenance and minor work, as discussed in Section 21-110.2, performed in the floodplain regulated by this ordinance in addition to the costs of those improvements regulated by the Construction Official in substantial damage and substantial improvement calculations.
- (3) Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure.
- (4) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage. This determination requires the evaluation of previous permits issued for improvements and repairs over a period of 10

years prior to the permit application or substantial damage determination as specified in the definition of substantial improvement.

- (5) Notify the applicant in writing when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required and notify the applicant in writing when it is determined that work does not constitute substantial improvement or repair of substantial damage. The Floodplain Administrator shall also provide all letters documenting substantial damage and compliance with flood resistant construction requirements of the building code to the NJDEP Bureau of Flood Engineering.

**21-111.15 Department records.** In addition to the requirements of the building code and these regulations, and regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood provisions of the Uniform Construction Code, including Flood Insurance Studies, Flood Insurance Rate Maps; documents from FEMA that amend or revise FIRMs; NJDEP delineations, records of issuance of permits and denial of permits; records of ordinary maintenance and minor work, determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required certifications and documentation specified by the Uniform Construction Code and these regulations including as-built Elevation Certificates; notifications to adjacent communities, FEMA, and the State related to alterations of watercourses; assurance that the flood carrying capacity of altered waterways will be maintained; documentation related to variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to these regulations and the flood resistant provisions of the Uniform Construction Code. The Floodplain Administrator shall also record the required elevation, determination method, and base flood elevation source used to determine the Local Design Flood Elevation in the floodplain development permit.

**21-111.16 Liability.** The Floodplain Administrator and any employee charged with the enforcement of these regulations, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by these regulations or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Floodplain Administrator and any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of these regulations.

## 21-112 PERMITS

**21-112.1 Permits Required.** Any person, owner or authorized agent who intends to conduct any development in a flood hazard area shall first make application to the Floodplain Administrator and shall obtain the required permit. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

**21-112.2 Application for permit.** The applicant shall file an application in writing on a form furnished by the Floodplain Administrator. Such application shall:

- (1) Identify and describe the development to be covered by the permit.
- (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- (3) Indicate the use and occupancy for which the proposed development is intended.
- (4) Be accompanied by a site plan and construction documents as specified in Section 21-113 of these regulations, grading and filling plans and other information deemed appropriate by the Floodplain Administrator.
- (5) State the valuation of the proposed work, including the valuation of ordinary maintenance and minor work.
- (6) Be signed by the applicant or the applicant's authorized agent.

**21-112.3 Validity of permit.** The issuance of a permit under these regulations or the Uniform Construction Code shall not be construed to be a permit for, or approval of, any violation of this appendix or any other ordinance of the jurisdiction. The issuance of a permit based on submitted documents and information shall not prevent the Floodplain Administrator from requiring the correction of errors. The Floodplain Administrator is authorized to prevent occupancy or use of a structure or site which is in violation of these regulations or other ordinances of this jurisdiction.

**21-112.4 Expiration.** A permit shall become invalid when the proposed development is not commenced within 180 days after its issuance, or when the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing and justifiable cause demonstrated. The Floodplain Administrator is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each.

**21-112.5 Suspension or revocation.** The Floodplain Administrator is authorized to suspend or revoke a permit issued under these regulations wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or code of this jurisdiction.

## 21-113 SITE PLANS AND CONSTRUCTION DOCUMENTS

**21-113.1 Information for development in flood hazard areas.** The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations when necessary for review of the proposed development. For buildings that are located in more than one flood hazard area, the elevation and provisions associated with the most restrictive flood hazard area shall apply.
- (2) Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 21-113.2.
- (3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 21-113.2(3) of these regulations.
- (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A zones, new buildings shall be located landward of the reach of mean high tide.
- (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose. The applicant shall provide an engineering certification confirming that the proposal meets the flood storage displacement limitations of N.J.A.C. 7:13.
- (7) Extent of any proposed alteration of sand dunes.
- (8) Existing and proposed alignment of any proposed alteration of a watercourse.
- (9) Floodproofing certifications, V Zone and Breakaway Wall Certifications, Operations and Maintenance Plans, Warning and Evacuation Plans and other documentation required pursuant to FEMA publications.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by these regulations but that are not required to be prepared by a registered design professional when it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance.

**21-113.2 Information in flood hazard areas without base flood elevations (approximate Zone A).** Where flood hazard areas are delineated on the effective or preliminary FIRM and base flood elevation data have not been provided, the applicant shall consult with the Floodplain Administrator to determine whether to:

- (1) Use the Approximation Method (Method 5) described in N.J.A.C. 7:13 in conjunction with Appendix 1 of the FHACA to determine the required flood elevation.
- (2) Obtain, review, and reasonably utilize data available from a Federal, State or other source when those data are deemed acceptable to the Floodplain Administrator to reasonably reflect flooding conditions.
- (3) Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques according to Method 6 as described in N.J.A.C. 7:13. Such analyses shall be performed and sealed by a licensed professional engineer.

Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator prior to floodplain development permit issuance. The accuracy of data submitted for such determination shall be the responsibility of the applicant. Where the data are to be used to support a Letter of Map Change (LOMC) from FEMA, the applicant shall be responsible for satisfying the submittal requirements and pay the processing fees.

**21-113.3 Analyses and certifications by a Licensed Professional Engineer.** As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a licensed professional engineer for submission with the site plan and construction documents:

- (1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 21-113.4 of these regulations and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
- (2) For development activities proposed to be located in a riverine flood hazard area where base flood elevations are included in the FIS or FIRM but floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments will not increase the base

flood elevation more than 0.2 feet at any point within the jurisdiction. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.

- (3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained, neither increasing nor decreasing the channel's flood-carrying capacity. The applicant shall submit the analysis to FEMA as specified in Section 21-113.4 of these regulations. The applicant shall notify the chief executive officer of all affected adjacent jurisdictions, the NJDEP's Bureau of Flood Engineering and the Division of Land Resource Protection; and shall provide documentation of such notifications.
- (4) For activities that propose to alter sand dunes in coastal high hazard areas (Zone V) and Coastal A Zones, an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage and documentation of the issuance of a New Jersey Coastal Zone Management permit under N.J.A.C. 7:7.
- (5) For analyses performed using Methods 5 and 6 (as described in N.J.A.C. 7:13) in flood hazard zones without base flood elevations (approximate A zones).

**21-113.4 Submission of additional data.** When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change (LOMC) from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

## 21-114 INSPECTIONS

**21-114.1 General.** Development for which a permit is required shall be subject to inspection. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of these regulations or the building code. Inspections presuming to give authority to violate or cancel the provisions of these regulations or the building code or other ordinances shall not be valid.

**21-114.2 Inspections of development.** The Floodplain Administrator shall inspect all development in flood hazard areas authorized by issuance of permits under these regulations. The Floodplain Administrator shall inspect flood hazard areas from time to time to determine if development is undertaken without issuance of a permit.

**21-114.3 Buildings and structures.** The Construction Official shall make or cause to be made, inspections for buildings and structures in flood hazard areas authorized by permit in accordance with the Uniform Construction Code, N.J.A.C. 5:23.



- (1) **Lowest floor elevation.** Upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 21-123.2 shall be submitted to the Construction Official on an Elevation Certificate.
- (2) **Lowest horizontal structural member.** In V zones and Coastal A zones, upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 21-123.2 shall be submitted to the Construction Official on an Elevation Certificate.
- (3) **Installation of attendant utilities** (electrical, heating, ventilating, air-conditioning, and other service equipment) and sanitary facilities elevated as discussed in Section 21-123.2.
- (4) **Final inspection.** Prior to the final inspection, certification of the elevation required in Section 21-123.2 shall be submitted to the Construction Official on an Elevation Certificate.

**21-114.4 Manufactured homes.** The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted on an Elevation Certificate to the Floodplain Administrator prior to the final inspection.

## **21-115 VARIANCES**

**21-115.1 General.** The Borough of Highlands Land Use Board shall hear and decide requests for variances. The Borough of Highlands Land Use Board shall base its determination on technical justifications submitted by applicants, the considerations for issuance in Section 21-115.5, the conditions of issuance set forth in Section 21-115.6, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The Borough of Highlands Land Use Board has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of these regulations.

**21-115.2 Historic structures.** A variance to the substantial improvement requirements of this ordinance is authorized provided that the repair or rehabilitation of a historic structure is completed according to N.J.A.C. 5:23-6.33, Section 1612 of the International Building Code and R322 of the International Residential Code, the repair or rehabilitation will not preclude the structure's continued designation as a historic structure, the structure meets the definition of the historic structure as described by this ordinance, and the variance is the minimum necessary to preserve the historic character and design of the structure.

**21-115.3 Functionally dependent uses.** A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use provided the variance is the minimum necessary to allow the construction or substantial improvement, and that all due consideration has been given to use of methods and materials that minimize flood damage during the base flood and create no additional threats to public safety.

**21-115.4 Restrictions in floodways.** A variance shall not be issued for any proposed development in a floodway when any increase in flood levels would result during the base flood discharge, as evidenced by the applicable analysis and certification required in Section 21-113.3(1) of these regulations.

**21-115.5 Considerations.** In reviewing requests for variances, all technical evaluations, all relevant factors, all other portions of these regulations, and the following shall be considered:

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage.
- (2) The danger to life and property due to flooding or erosion damage.
- (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.
- (4) The importance of the services provided by the proposed development to the community.
- (5) The availability of alternate locations for the proposed development that are not subject to flooding or erosion and the necessity of a waterfront location, where applicable.
- (6) The compatibility of the proposed development with existing and anticipated development.
- (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwater and the effects of wave action, where applicable, expected at the site.
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.

**21-115.6 Conditions for issuance.** Variances shall only be issued upon:

- (1) Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site limit compliance with any provision of these regulations or renders the elevation standards of the building code inappropriate.
- (2) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable.
- (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (4) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Notification to the applicant in writing over the signature of the Floodplain Administrator that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and that such construction below the base flood level increases risks to life and property.

**21-116 VIOLATIONS**

**21-116.1 Violations.** Any development in any flood hazard area that is being performed without an issued permit or that is in conflict with an issued permit shall be deemed a violation. A building or structure without the documentation of elevation of the lowest floor, the lowest horizontal structural member if in a V or Coastal A Zone, other required design certifications, or other evidence of compliance required by the building code is presumed to be a violation until such time as that documentation is provided.

**21-116.2 Authority.** The Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of property involved, to the owner's agent, or to the person or persons doing the work for development that is not within the scope of the Uniform Construction Code, but is regulated by these regulations and that is determined to be a violation.

**21-116.3 Unlawful continuance.** Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by N.J.S.A. 40:49-5 as appropriate.

**21-116.4 Review Period to Correct Violations.** A 30-day period shall be given to the property owner as an opportunity to cure or abate the condition. The property owner shall also be afforded an opportunity for a hearing before the court for an independent

determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine up to \$2,000 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

## **21-117 DEFINITIONS**

**21-117.1 General.** The following words and terms shall, for the purposes of these regulations, have the meanings shown herein. Other terms are defined in the Uniform Construction Code N.J.A.C. 5:23 and terms are defined where used in the International Residential Code and International Building Code (rather than in the definitions section). Where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies.

### **21-117.2 Definitions**

**30 DAY PERIOD** – The period of time prescribed by N.J.S.A. 40:49-5 in which a property owner is afforded the opportunity to correct zoning and solid waste disposal after a notice of violation pertaining to this ordinance has been issued.

**100 YEAR FLOOD ELEVATION** – Elevation of flooding having a 1% annual chance of being equaled or exceeded in a given year which is also referred to as the Base Flood Elevation.

**500 YEAR FLOOD ELEVATION** – Elevation of flooding having a 0.2% annual chance of being equaled or exceeded in a given year.

**A ZONES** – Areas of ‘Special Flood Hazard in which the elevation of the surface water resulting from a flood that has a 1% annual chance of equaling or exceeding the Base Flood Elevation (BFE) in any given year shown on the Flood Insurance Rate Map (FIRM) zones A, AE, AH, A1–A30, AR, AR/A, AR/AE, AR/A1– A30, AR/AH, and AR/AO. When used in reference to the development of a structure in this ordinance, A Zones are not inclusive of Coastal A Zones because of the higher building code requirements for Coastal A Zones.

**AH ZONES**– Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone.

**AO ZONES** – Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

**ACCESSORY STRUCTURE** – Accessory structures are also referred to as appurtenant structures. An accessory structure is a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For example, a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses,

small pole barns, storage sheds, and similar buildings.

**AGRICULTURAL STRUCTURE** - A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Communities must require that new construction or substantial improvements of agricultural structures be elevated or floodproofed to or above the Base Flood Elevation (BFE) as any other nonresidential building. Under some circumstances it may be appropriate to wet-floodproof certain types of agricultural structures when located in wide, expansive floodplains through issuance of a variance. This should only be done for structures used for temporary storage of equipment or crops or temporary shelter for livestock and only in circumstances where it can be demonstrated that agricultural structures can be designed in such a manner that results in minimal damage to the structure and its contents and will create no additional threats to public safety. New construction or substantial improvement of livestock confinement buildings, poultry houses, dairy operations, similar livestock operations and any structure that represents more than a minimal investment must meet the elevation or dry-floodproofing requirements of 44 CFR 60.3(c)(3).

**AREA OF SHALLOW FLOODING** – A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. **AREA OF SPECIAL FLOOD HAZARD** – see **SPECIAL FLOOD HAZARD AREA**

**ALTERATION OF A WATERCOURSE** – A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

**ASCE 7** – The standard for the Minimum Design Loads for Buildings and Other Structures, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. which includes but is not limited to methodology and equations necessary for determining structural and flood-related design requirements and determining the design requirements for structures that may experience a combination of loads including those from natural hazards. Flood related equations include those for determining erosion, scour, lateral, vertical, hydrostatic, hydrodynamic, buoyancy, breaking wave, and debris impact.

**ASCE 24** – The standard for Flood Resistant Design and Construction, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. References to ASCE 24 shall mean ASCE 24-14 or the most recent version of ASCE 24 adopted in the UCC Code [N.J.A.C. 5:23].

**BASE FLOOD ELEVATION (BFE)** – The water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year, as shown on a

published Flood Insurance Study (FIS), or preliminary flood elevation guidance from FEMA. May also be referred to as the “100-year flood elevation”.

**BASEMENT** – Any area of the building having its floor subgrade (below ground level) on all sides.

**BEST AVAILABLE FLOOD HAZARD DATA** - The most recent available preliminary flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

**BEST AVAILABLE FLOOD HAZARD DATA AREA**- The areal mapped extent associated with the most recent available preliminary flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

**BEST AVAILABLE FLOOD HAZARD DATA ELEVATION** - The most recent available preliminary flood elevation guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

**BREAKAWAY WALLS** – Any type of wall subject to flooding that is not required to provide structural support to a building or other structure and that is designed and constructed such that, below the Local Design Flood Elevation, it will collapse under specific lateral loads such that (1) it allows the free passage of floodwaters, and (2) it does not damage the structure or supporting foundation system. Certification in the V Zone Certificate of the design, plans, and specifications by a licensed design professional that these walls are in accordance with accepted standards of practice is required as part of the permit application for new and substantially improved V Zone and Coastal A Zone structures. A completed certification must be submitted at permit application.

**BUILDING** – Per the FHACA, “Building” means a structure enclosed with exterior walls or fire walls, erected and framed of component structural parts, designed for the housing, shelter, enclosure, and support of individuals, animals, or property of any kind. A building may have a temporary or permanent foundation. A building that is intended for regular human occupation and/or residence is considered a habitable building.

**COASTAL A ZONE** – An Area of Special Flood Hazard starting from a Velocity (V) Zone and extending up to the landward Limit of the Moderate Wave Action delineation. Where no V Zone is mapped the Coastal A Zone is the portion between the open coast and the landward Limit of the Moderate Wave Action delineation. Coastal A Zones may be subject to wave effects, velocity flows, erosion, scour, or a combination of these forces. Construction and development in Coastal A Zones is to be regulated similarly to V Zones/Coastal High Hazard Areas except as allowed by ASCE 24.

**COASTAL HIGH HAZARD AREA** – An Area of Special Flood Hazard inclusive of the V Zone extending from offshore to the inland limit of a primary frontal dune along an open coast and any other

area subject to high velocity wave action from storms or seismic sources.

**CONDITIONAL LETTER OF MAP REVISION - A Conditional Letter of Map Revision (CLOMR)** is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the Letter of Map Change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

**CONDITIONAL LETTER OF MAP REVISION - FILL -- A Conditional Letter of Map Revision - Fill (CLOMR-F)** is FEMA's comment on a proposed project involving the placement of fill outside of the regulatory floodway that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the Letter of Map Change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

**CRITICAL BUILDING – Per the FHACA, “Critical Building” means that:**

- (a) It is essential to maintaining continuity of vital government operations and/or supporting emergency response, sheltering, and medical care functions before, during, and after a flood, such as a hospital, medical clinic, police station, fire station, emergency response center, or public shelter; or
- (b) It serves large numbers of people who may be unable to leave the facility through their own efforts, thereby hindering or preventing safe evacuation of the building during a flood event, such as a school, college, dormitory, jail or detention facility, day care center, assisted living facility, or nursing home.

**DEEP FOUNDATIONS – Per ASCE 24, deep foundations refer to those foundations constructed on erodible soils in Coastal High Hazard and Coastal A Zones which are founded on piles, drilled shafts, caissons, or other types of deep foundations and are designed to resist erosion and scour and support lateral and vertical loads as described in ASCE 7. Foundations shall extend to 10 feet below Mean Water Level (MWL) unless the design demonstrates that pile penetration will provide sufficient depth and stability as determined by ASCE 24, ASCE 7, and additional geotechnical investigations if any unexpected conditions are encountered during construction.**

**DEVELOPMENT** – Any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of materials, mining, dredging, filling, grading, paving, excavations, drilling operations and other land-disturbing activities.

**DRY FLOODPROOFING** – A combination of measures that results in a non-residential structure, including the attendant utilities and equipment as described in the latest version of ASCE 24, being watertight with all elements substantially impermeable and with structural components having the capacity to resist flood loads.

**ELEVATED BUILDING** – A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. Solid perimeter foundations walls are not an acceptable means of elevating buildings in V and VE Zones.

**ELEVATION CERTIFICATE** – An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support an application for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

**ENCROACHMENT** – The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

**FEMA PUBLICATIONS** – Any publication authored or referenced by FEMA related to building science, building safety, or floodplain management related to the National Flood Insurance Program. Publications shall include but are not limited to technical bulletins, desk references, and American Society of Civil Engineers Standards documents including ASCE 24.

## FLOOD OR FLOODING

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) The overflow of inland or tidal waters.
  - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
  - (3) Mudslides (i.e. mudflows) which are proximately caused by flooding as defined in (a) (2) of this definition and are akin to a river or liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature,



such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

**FLOOD HAZARD AREA DESIGN FLOOD ELEVATION** – Per the FHACA, the peak water surface elevation that will occur in a water during the flood hazard area design flood. This elevation is determined via available flood mapping adopted by the State, flood mapping published by FEMA (including effective flood mapping dated on or after January 31, 1980, or any more recent advisory, preliminary, or pending flood mapping; whichever results in higher flood elevations, wider floodway limits, greater flow rates, or indicates a change from an A zone to a V zone or coastal A zone), approximation, or calculation pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-3.1 – 3.6 and is typically higher than FEMA’s base flood elevation. A water that has a drainage area measuring less than 50 acres does not possess, and is not assigned, a flood hazard area design flood elevation.

**FLOOD INSURANCE RATE MAP (FIRM)** – The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS)** – The official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

**FLOODPLAIN OR FLOOD PRONE AREA** – Any land area susceptible to being inundated by water from any source. See "Flood or flooding."

**FLOODPLAIN MANAGEMENT REGULATIONS** – Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOODPROOFING** – Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

**FLOODPROOFING CERTIFICATE** – Certification by a licensed design professional that the design and methods of construction for floodproofing a non-residential structure are in accordance with accepted standards of practice to a proposed height above the structure’s lowest adjacent grade that meets or exceeds the Local Design Flood Elevation. A completed floodproofing certificate is required at permit application.

**FLOODWAY** – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water

surface elevation more than 0.2 foot.

**FREEBOARD** – A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**FUNCTIONALLY DEPENDENT USE** – A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities necessary for the loading or unloading of cargo or passengers, and shipbuilding and ship repair facilities. The term does not include long-term storage or related manufacturing facilities.

**HABITABLE BUILDING**– Pursuant to the FHACA Rules (N.J.A.C. 7:13), means a building that is intended for regular human occupation and/or residence. Examples of a habitable building include a single-family home, duplex, multi-residence building, or critical building; a commercial building such as a retail store, restaurant, office building, or gymnasium; an accessory structure that is regularly occupied, such as a garage, barn, or workshop; mobile and manufactured homes, and trailers intended for human residence, which are set on a foundation and/or connected to utilities, such as in a mobile home park (not including campers and recreational vehicles); and any other building that is regularly occupied, such as a house of worship, community center, or meeting hall, or animal shelter that includes regular human access and occupation. Examples of a non-habitable building include a bus stop shelter, utility building, storage shed, self-storage unit, construction trailer, or an individual shelter for animals such as a doghouse or outdoor kennel.

**HARDSHIP** – As related to Section 21-115 of this ordinance, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Borough of Highlands Land Use Board requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**HIGHEST ADJACENT GRADE** – The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

**HISTORIC STRUCTURE** – Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved State program as determined by the Secretary of the Interior; or
  - (2) Directly by the Secretary of the Interior in States without approved programs.

LAWFULLY EXISTING – Per the FHACA, means an existing fill, structure and/or use, which meets all Federal, State, and local laws, and which is not in violation of the FHACA because it was established:

- (a) Prior to January 31, 1980; or
- (b) On or after January 31, 1980, in accordance with the requirements of the FHACA as it existed at the time the fill, structure and/or use was established.

Note: Substantially damaged properties and substantially improved properties that have not been elevated are not considered “lawfully existing” for the purposes of the NFIP. This definition is included in this ordinance to clarify the applicability of any more stringent statewide floodplain management standards required under the FHACA.

LETTER OF MAP AMENDMENT - A Letter of Map Amendment (LOMA) is an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map that is requested through the Letter of Map Change (LOMC) process. A LOMA establishes a property's location in relation to the Special Flood Hazard Area (SFHA). LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. Because a LOMA officially amends the effective NFIP map, it is a public record that the community must maintain. Any LOMA should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP CHANGE – The Letter of Map Change (LOMC) process is a service provided by FEMA for a fee that allows the public to request a change in flood zone designation in an Area of Special Flood Hazard on a Flood Insurance Rate Map (FIRM). Conditional Letters of Map Revision, Conditional Letters of Map Revision – Fill, Letters of Map Revision, Letters of Map Revision-Fill, and Letters of Map Amendment are requested through the Letter of Map Change (LOMC) process.

LETTER OF MAP REVISION - A Letter of Map Revision (LOMR) is FEMA's modification to an effective Flood Insurance Rate Map (FIRM). Letter of Map Revisions are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the

effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM or FIS report. Because a LOMR officially revises the effective NFIP map, it is a public record that the community must maintain. Any LOMR should be noted on the community's master flood map and filed by panel number in an accessible location.

**LETTER OF MAP REVISION – FILL --** A Letter of Map Revision Based on Fill (LOMR-F) is FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway may be initiated through the Letter of Map Change (LOMC) Process. Because a LOMR-F officially revises the effective Flood Insurance Rate Map (FIRM) map, it is a public record that the community must maintain. Any LOMR-F should be noted on the community's master flood map and filed by panel number in an accessible location.

**LICENSED DESIGN PROFESSIONAL –** Licensed design professional shall refer to either a New Jersey Licensed Professional Engineer, licensed by the New Jersey State Board of Professional Engineers and Land Surveyors or a New Jersey Licensed Architect, licensed by the New Jersey State Board of Architects.

**LICENSED PROFESSIONAL ENGINEER -** A licensed professional engineer shall refer to individuals licensed by the New Jersey State Board of Professional Engineers and Land Surveyors.

**LIMIT OF MODERATE WAVE ACTION (LiMWA) –** Inland limit of the area affected by waves greater than 1.5 feet during the Base Flood. Base Flood conditions between the VE Zone and the LiMWA will be similar to, but less severe than those in the VE Zone.

**LOCAL DESIGN FLOOD ELEVATION (LDFE) –** The elevation reflective of the most recent available preliminary flood elevation guidance FEMA has provided as depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM which is also inclusive of freeboard specified by the New Jersey Flood Hazard Area Control Act and Uniform Construction Codes and any additional freeboard specified in a community's ordinance. In no circumstances shall a project's LDFE be lower than a permit-specified Flood Hazard Area Design Flood Elevation or a valid NJDEP Flood Hazard Area Verification Letter plus the freeboard as required in ASCE 24 and the effective FEMA Base Flood Elevation.

**LOWEST ADJACENT GRADE –** The lowest point of ground, patio, or sidewalk slab immediately next a structure, except in AO Zones where it is the natural grade elevation.

**LOWEST FLOOR –** In A Zones, the lowest floor is the top surface of the lowest floor of the lowest enclosed area (including basement). In V Zones and coastal A Zones, the bottom of the lowest horizontal structural member of a building is the lowest floor. An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other

than a basement is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of other applicable non-elevation design requirements of these regulations.

**LOWEST HORIZONTAL STRUCTURAL MEMBER** - In an elevated building in a Coastal A or Coastal High Hazard Zone, the lowest beam, joist, or other horizontal member that supports the building is the lowest horizontal structural member. Grade beams installed to support vertical foundation members where they enter the ground are not considered lowest horizontal members.

**MANUFACTURED HOME** – A structure that is transportable in one or more sections, eight (8) feet or more in width and greater than four hundred (400) square feet, built on a permanent chassis, designed for use with or without a permanent foundation when attached to the required utilities, and constructed to the Federal Manufactured Home Construction and Safety Standards and rules and regulations promulgated by the U.S. Department of Housing and Urban Development. The term also includes mobile homes, park trailers, travel trailers and similar transportable structures that are placed on a site for 180 consecutive days or longer.

**MANUFACTURED HOME PARK OR SUBDIVISION** – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MARKET VALUE** – The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value shall be determined by one of the following methods (1) Actual Cash Value (replacement cost depreciated for age and quality of construction), (2) tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser, or (3) established by a qualified independent appraiser.

**NEW CONSTRUCTION** – Structures for which the start of construction commenced on or after the effective date of the first floodplain regulation adopted by a community; includes any subsequent improvements to such structures. New construction includes work determined to be a substantial improvement.

**NON-RESIDENTIAL** – Pursuant to ASCE 24, any building or structure or portion thereof that is not classified as residential.

**ORDINARY MAINTENANCE AND MINOR WORK** – This term refers to types of work excluded from construction permitting under N.J.A.C. 5:23 in the March 5, 2018 New Jersey Register. Some of these types of work must be considered in determinations of substantial improvement and substantial damage in regulated floodplains under 44 CFR 59.1. These types of work include but are not limited to replacements of roofing, siding, interior finishes, kitchen cabinets, plumbing fixtures and piping, HVAC and air conditioning equipment, exhaust fans, built in appliances, electrical wiring, etc. Improvements necessary to correct existing violations of State or local

health, sanitation, or code enforcement officials which are the minimum necessary to assure safe living conditions and improvements of historic structures as discussed in 44 CFR 59.1 shall not be included in the determination of ordinary maintenance and minor work.

**RECREATIONAL VEHICLE** – A vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light-duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

**RESIDENTIAL** – Pursuant to the ASCE 24:

- (a) Buildings and structures and portions thereof where people live or that are used for sleeping purposes on a transient or non-transient basis;
- (b) Structures including but not limited to one- and two-family dwellings, townhouses, condominiums, multi-family dwellings, apartments, congregate residences, boarding houses, lodging houses, rooming houses, hotels, motels, apartment buildings, convents, monasteries, dormitories, fraternity houses, sorority houses, vacation time-share properties; and
- (c) institutional facilities where people are cared for or live on a 24-hour basis in a supervised environment, including but not limited to board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug centers, convalescent facilities, hospitals, nursing homes, mental hospitals, detoxification facilities, prisons, jails, reformatories, detention centers, correctional centers, and prerelease centers.

**SOLID WASTE DISPOSAL** – “Solid Waste Disposal” shall mean the storage, treatment, utilization, processing or final disposition of solid waste as described in N.J.A.C. 7:26-1.6 or the storage of unsecured materials as described in N.J.A.C. 7:13-2.3 for a period of greater than 6 months as specified in N.J.A.C. 7:26 which have been discharged, deposited, injected, dumped, spilled, leaked, or placed into any land or water such that such solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

**SPECIAL FLOOD HAZARD AREA** – The greater of the following: (1) Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, shown on the FIRM as Zone V, VE, V1-3-, A, AO, A1-30, AE, A99, or AH; (2) Land and the space above that land, which lies below the peak water surface elevation of the flood hazard area design flood for a particular water, as determined using the methods set forth in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13; (3) Riparian Buffers as determined in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13. Also referred to as the AREA OF SPECIAL FLOOD HAZARD.

**START OF CONSTRUCTION** – The Start of Construction is as follows:

- (a) For other than new construction or substantial improvements, under the Coastal Barrier

Resources Act (CBRA), this is the date the building permit was issued, provided that the actual start of construction, repair, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a building on site, such as the pouring of a slab or footing, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured (mobile) home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- (b) For the purposes of determining whether proposed construction must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and Base Flood Elevation's (BFEs) increase or zones change, the Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. Such development must also be permitted and must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and Base Flood Elevation's (BFEs) increase or zones change.

For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

For determining if new construction and substantial improvements within the Coastal Barrier Resources System (CBRS) can obtain flood insurance, a different definition applies.

**STRUCTURE** – A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

**SUBSTANTIAL DAMAGE** – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** – Any reconstruction, rehabilitation, addition, or other improvement of a structure taking place over a number of 10-year period (leading up to the date of the permit application), the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**UTILITY AND MISCELLANEOUS GROUP U BUILDINGS AND STRUCTURES** – Buildings and structures of an accessory character and miscellaneous structures not classified in any special occupancy, as described in ASCE 24.

**V ZONE CERTIFICATE** - A certificate that contains a certification signed by a licensed design professional certifying that the designs, plans, and specifications and the methods of construction in V Zones and Coastal A Zones are in accordance with accepted standards of practice. This certificate also includes an optional Breakaway Wall Design Certification for enclosures in these zones below the Best Available Flood Hazard Data Elevation. A completed certification is required at permit application.

**V ZONES** – Areas of Special Flood Hazard in which the elevation of the surface water resulting from a flood that has a 1% annual chance of equaling or exceeding the Base Flood Elevation in any given year shown on the Flood Insurance Rate Map (FIRM) zones V1-V30 and VE and is referred to as the Coastal High Hazard Area.

**VARIANCE** – A grant of relief from the requirements of this section which permits construction in a manner otherwise prohibited by this section where specific enforcement would result in unnecessary hardship.

**VIOLATION** – A development that is not fully compliant with these regulations or the flood provisions of the building code. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE ELEVATION** – the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.



**WATERCOURSE.** A river, creek, stream, channel, or other topographic feature in, on, through, or over which water flows at least periodically.

**WET FLOODPROOFING** – Floodproofing method that relies on the use of flood damage resistant materials and construction techniques in areas of a structure that are below the Local Design Flood Elevation by intentionally allowing them to flood. The application of wet floodproofing as a flood protection technique under the National Flood Insurance Program (NFIP) is limited to enclosures below elevated residential and non-residential structures and to accessory and agricultural structures that have been issued variances by the community.

## **21-118 SUBDIVISIONS AND OTHER DEVELOPMENTS**

**21-118.1 General.** Any subdivision proposal, including proposals for manufactured home parks and subdivisions, or other proposed new development in a flood hazard area shall be reviewed to assure that:

- (1) All such proposals are consistent with the need to minimize flood damage.
- (2) All public utilities and facilities, such as sewer, gas, electric and water systems are located and constructed to minimize or eliminate flood damage.
- (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwater around and away from structures.

**21-118.2 Subdivision requirements.** Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

- (1) The flood hazard area, including floodways, coastal high hazard areas, and Coastal A Zones, and base flood elevations, as appropriate, shall be delineated on tentative subdivision plats.
- (2) Residential building lots shall be provided with adequate buildable area outside the floodway.
- (3) The design criteria for utilities and facilities set forth in these regulations and appropriate codes shall be met.

## **21-119 SITE IMPROVEMENT**

**21-119.1 Encroachment in floodways.** Development, land disturbing activity, and encroachments in floodways shall not be authorized unless it has been demonstrated through hydrologic and hydraulic analyses required in accordance with Section 21-113.3(1) of these regulations, that the proposed encroachment will not result in any increase in the base flood level during occurrence of the base flood discharge. If Section 21-113.3(1) is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also

be in accordance with Section 21-123.2 of this ordinance and the floodway requirements of N.J.A.C. 7:13.

**21-119.1.1 Prohibited in floodways.** The following are prohibited activities:

- (1) The storage of unsecured materials is prohibited within a floodway pursuant to N.J.A.C. 7:13.
- (2) Fill and new structures are prohibited in floodways per N.J.A.C. 7:13.

**21-119.2 Coastal High Hazard Areas (V Zones) and Coastal A Zones.** In Coastal High Hazard Areas and Coastal A Zones:

- (1) New buildings shall only be authorized landward of the reach of mean high tide.
- (2) The placement of manufactured homes shall be prohibited except in an existing manufactured home park or subdivision.
- (3) Basements or enclosures that are below grade on all sides are prohibited.
- (4) The use of fill for structural support of buildings is prohibited.

**21-119.3 Sewer facilities.** All new and replaced sanitary sewer facilities, private sewage treatment plants (including all pumping stations and collector systems) and on-site waste disposal systems shall be designed in accordance with the New Jersey septic system regulations contained in N.J.A.C. 14A and N.J.A.C. 7:9A, the UCC Plumbing Subcode (N.J.A.C. 5:23) and Chapter 7, ASCE 24, to minimize or eliminate infiltration of floodwater into the facilities and discharge from the facilities into flood waters, or impairment of the facilities and systems.

**21-119.4 Water facilities.** All new and replacement water facilities shall be designed in accordance with the New Jersey Safe Drinking Water Act (N.J.A.C. 7:10) and the provisions of Chapter 7 ASCE 24, to minimize or eliminate infiltration of floodwater into the systems.

**21-119.5 Storm drainage.** Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.

**21-119.6 Streets and sidewalks.** Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.

**21-119.7 Limitations on placement of fill.** Subject to the limitations of these regulations, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwater, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, when intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the UCC (N.J.A.C. 5:23). Proposed fill and encroachments in flood hazard areas shall comply with the flood storage displacement limitations of N.J.A.C. 7:13.

**21-119.8 Limitations on sites in coastal high hazard areas (V Zones) and Coastal A Zones.** In coastal high hazard areas and Coastal A Zones, alteration of sand dunes shall be permitted only when the engineering analysis required by Section 21-113.3(4) of these regulations demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with Section 21-123.9(3) of these regulations and as permitted under the NJ Coastal Zone Management Rules (N.J.A.C. 7:7).

**21-119.9 Hazardous Materials.** The placement or storage of any containers holding hazardous substances in a flood hazard area is prohibited unless the provisions of N.J.A.C. 7:13 which cover the placement of hazardous substances and solid waste is met.

## **21-120 MANUFACTURED HOMES**

**21-120.1 General.** All manufactured homes installed in flood hazard areas shall be installed pursuant to the Nationally Preemptive Manufactured Home Construction and Safety Standards Program (24 CFR 3280).

**21-120.2 Elevation.** All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be elevated such that the bottom of the frame is elevated to or above the elevation specified in Section 21-123.2.

**21-120.3 Foundations.** All new, relocated, and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on permanent, reinforced foundations that are designed in accordance with Section R322 of the Residential Code.

**21-120.4 Anchoring.** All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

**21-120.5 Enclosures.** Fully enclosed areas below elevated manufactured homes shall comply with the requirements of Section 21-123.2.

**21-120.6 Protection of mechanical equipment and outside appliances.** Mechanical equipment and outside appliances shall be elevated to or above the elevation of the bottom of the frame required in Section 21-123.2 of these regulations.

**Exception.** Where such equipment and appliances are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding up to the elevation required by Section 21-123.2, the systems

and equipment shall be permitted to be located below that elevation. Electrical wiring systems shall be permitted below the design flood elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

## **21-121 RECREATIONAL VEHICLES**

**21-121.1 Placement prohibited.** The placement of recreational vehicles shall not be authorized in coastal high hazard areas and in floodways.

**21-121.2 Temporary placement.** Recreational vehicles in flood hazard areas shall be fully licensed and ready for highway use and shall be placed on a site for less than 180 consecutive days.

**21-121.3 Permanent placement.** Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of Section 21-123.2 for habitable buildings.

## **21-122 TANKS**

**21-122.1 Tanks.** Underground and above-ground tanks shall be designed, constructed, installed, and anchored in accordance with ASCE 24 and N.J.A.C. 7:13.

## **21-123 OTHER DEVELOPMENT AND BUILDING WORK**

**21-123.1 General requirements for other development and building work.** All development and building work, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in these regulations or the Uniform Construction Code (N.J.A.C. 5:23), shall:

- (1) Be located and constructed to minimize flood damage;
- (2) Meet the limitations of Section 21-113.3(1) of this ordinance when located in a regulated floodway;
- (3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic and hydrodynamic loads, including the effects of buoyancy, during the conditions of flooding up to the Local Design Flood Elevation determined according to Section 21-110.3;
- (4) Be constructed of flood damage-resistant materials as described in ASCE 24 Chapter 5;
- (5) Have mechanical, plumbing, and electrical systems above the Local Design Flood Elevation determined according to Section 21-110.3 or meet the requirements of ASCE 24 Chapter 7 which requires that attendant utilities are located above the Local Design

Flood Elevation unless the attendant utilities and equipment are:

- (i) Specifically allowed below the Local Design Flood Elevation; and
  - (ii) Designed, constructed, and installed to prevent floodwaters, including any backflow through the system from entering or accumulating within the components.
- (6) Not exceed the flood storage displacement limitations in fluvial flood hazard areas in accordance with N.J.A.C. 7:13; and
- (7) Not exceed the impacts to frequency or depth of offsite flooding as required by N.J.A.C. 7:13 in floodways.

### **21-123.2 Requirements for Habitable Buildings and Structures.**

- (1) Construction and Elevation in A Zones not including Coastal A Zones.
- (a) No portion of a building is located within a V Zone.
  - (b) No portion of a building is located within a Coastal A Zone, unless a licensed design professional certifies that the building's foundation is designed in accordance with ASCE 24, Chapter 4.
  - (c) All new construction and substantial improvement of any habitable building (as defined in Section 21-117) located in flood hazard areas shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 21-110.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate.
  - (d) All new construction and substantial improvements of non-residential structures shall:
    - (i) Have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 21-110.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate; or
    - (ii) Together with the attendant utility and sanitary facilities, be designed so that below the Local Design Flood Elevation, the structure:
      - (1) Meets the requirements of ASCE 24 Chapters 2 and 7; and
      - (2) Is constructed according to the design plans and specifications provided at permit application and signed by a licensed design professional, is

certified by that individual in a Floodproofing Certificate, and is confirmed by an Elevation Certificate.

(e) All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:

- (i) For habitable structures, be situated at or above the adjoining exterior grade along at least one entire exterior wall, in order to provide positive drainage of the enclosed area in accordance with N.J.A.C. 7:13; enclosures (including crawlspaces and basements) which are below grade on all sides are prohibited;
- (ii) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is non-residential and the requirements of 21-123.2(1)(d)ii are met;
- (iii) Be constructed to meet the requirements of ASCE 24 Chapter 2;
- (iv) Have openings documented on an Elevation Certificate; and
- (v) Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the Office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C.7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act permit or prior to the start of any site disturbance (including pre-construction earth movement, removal of vegetation and structures, or construction of the project), whichever is sooner. Deed restrictions must explain and disclose that:

- (1) The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
- (2) The depth of flooding that the enclosure would experience to the Flood Hazard Area Design Flood Elevation;
- (3) The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;

(2) Construction and Elevation in V Zones and Coastal A Zones.

- (a) All new construction and substantial improvements shall be constructed according to structural designs, plans and specifications conforming with ASCE 24 Chapter 4 which are signed by a licensed design professional and certified by that individual in a V Zone Certificate.
- (b) All new construction and substantial improvement of any habitable building (as defined in Section 21-117) located in coastal high hazard areas shall have the lowest horizontal structural member, together with the attendant utilities (including all

electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to the Local Design Flood Elevation as determined in Section 21-110.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate.

- (c) All new construction and substantial improvements of non-residential structures shall:
- (i) Have the lowest horizontal structural member, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 21-110.3, be in conformance with ASCE 24 Chapter 7, and be confirmed by an Elevation Certificate; or
  - (ii) Together with the attendant utility and sanitary facilities, be designed so that below the Local Design Flood Elevation, the structure:
    - (1) Meets the requirements of ASCE 24 Chapters 4 and 7; and
    - (2) Is constructed according to the design plans and specifications provided at permit application and signed by a licensed design professional, is certified by that individual in a Floodproofing Certificate, and is confirmed by an Elevation Certificate.
- (d) All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. All breakaway walls shall be constructed according to structural designs, plans and specifications conforming with ASCE 24 Chapter 4, signed by a licensed design professional, and certified by that individual in a Breakaway Wall Certificate.
- (e) All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:
- (i) Be situated at or above the adjoining exterior grade along at least one entire exterior wall, in order to provide positive drainage of the enclosed area in accordance with N.J.A.C. 7:13; enclosures (including crawlspaces and basements) which are below grade on all sides are prohibited.
  - (ii) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is non-residential and the requirements of 21-123.2(2)(c)ii are met;
  - (iii) Be constructed to meet the requirements of ASCE 24 Chapter 4;

- (iv) Have openings documented on an Elevation Certificate and have breakaway wall construction documented on a Breakaway Wall Certificate unless the requirements of 21-123.2(2)(c)ii are met for a non-residential structure; and
- (v) Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the Office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C.7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act permit or prior to the start of any site disturbance (including pre-construction earth movement, removal of vegetation and structures, or construction of the project), whichever is sooner. Deed restrictions must explain and disclose that:
  - (1) The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
  - (2) The depth of flooding that the enclosure would experience to the Flood Hazard Area Design Flood Elevation;
  - (3) The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;
- (f) For new construction or substantial improvements, enclosures shall be less than 295 square feet in size.

**21-123.3 Garages and accessory storage structures.** Garages and accessory storage structures shall be designed and constructed in accordance with the Uniform Construction Code.

**21-123.4 Fences.** Fences in floodways that have the potential to block the passage of floodwater, such as stockade fences and wire mesh fences, shall meet the requirements of Section 21-113.3(1) of these regulations. Pursuant to N.J.A.C. 7:13, any fence located in a floodway shall have sufficiently large openings so as not to catch debris during a flood and thereby obstruct floodwaters, such as barbed-wire, split-rail, or strand fence. A fence with little or no open area, such as a chain link, lattice, or picket fence, does not meet this requirement. Foundations for fences greater than 6 feet in height must conform with the Uniform Construction Code. Fences for pool enclosures having openings not in conformance with this section but in conformance with the Uniform Construction Code to limit climbing require a variance as described in Section 21-115 of this ordinance.

**21-123.5 Retaining walls, sidewalks, and driveways.** Retaining walls, sidewalks and driveways that involve placement of fill in floodways shall meet the requirements of Section 21-113.3(1) of these regulations and N.J.A.C. 7:13.



**21-123.6 Swimming pools.** Swimming pools shall be designed and constructed in accordance with the Uniform Construction Code. Above-ground swimming pools and below-ground swimming pools that involve placement of fill in floodways shall also meet the requirements of Section 21-113.3(1) of these regulations. Above-ground swimming pools are prohibited in floodways by N.J.A.C. 7:13.

**21-123.7 Roads and watercourse crossings.**

- (1) For any railroad, roadway, or parking area proposed in a flood hazard area, the travel surface shall be constructed at least one foot above the Flood Hazard Area Design Elevation in accordance with N.J.A.C. 7:13.
- (2) Roads and watercourse crossings that encroach into regulated floodways or riverine waterways with base flood elevations where floodways have not been designated, including roads, bridges, culverts, low- water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, shall meet the requirements of Section 21-113.3(1) of these regulations.

**21-123.8 Other development in coastal high hazard areas (Zone V) and Coastal A Zones.** In Coastal High Hazard Areas (V Zones) and Coastal A Zones, development activities other than buildings and structures shall be permitted only when also authorized by the appropriate Federal, State or local authority; when located outside the footprint of, and not structurally attached to, buildings and structures; and when analyses prepared by a licensed professional engineer demonstrates no harmful diversion of floodwater or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

- (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
- (2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the base flood or otherwise function to avoid obstruction of floodwater; and
- (3) On-site filled or mound sewage systems.

**21-123.9 Nonstructural fill in coastal high hazard areas (Zone V) and Coastal A Zones.** In coastal high hazard areas and Coastal A Zones:

- (1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
- (2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only when an analysis prepared by a licensed professional engineer demonstrates no harmful diversion of floodwater or wave runup and wave reflection that would increase damage to adjacent buildings and structures.
- (3) Sand dune construction and restoration of sand dunes under or around elevated

buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection where the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

## **21-124 TEMPORARY STRUCTURES AND TEMPORARY STORAGE**

**21-124.1 Temporary structures.** Temporary structures shall be erected for a period of less than 180 days. Temporary structures shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood. Fully enclosed temporary structures shall have flood openings that are in accordance with ASCE 24 to allow for the automatic entry and exit of flood waters.

**21-124.2 Temporary storage.** Temporary storage includes storage of goods and materials for a period of less than 180 days. Stored materials shall not include hazardous materials.

**21-124.3 Floodway encroachment.** Temporary structures and temporary storage in floodways shall meet the requirements of Section 21-113.3(1) of these regulations.

## **21-125 UTILITY AND MISCELLANEOUS GROUP U**

**21-125.1 Utility and Miscellaneous Group U.** In accordance with Section 312 of the International Building Code, Utility and Miscellaneous Group U includes buildings and structures that are accessory in character and miscellaneous structures not classified in any specific occupancy in the Building Code, including, but not limited to, agricultural buildings, aircraft hangars (accessory to a one- or two-family residence), barns, carports, communication equipment structures (gross floor area less than 1,500 sq. ft.), fences more than 6 feet (1829 mm) high, grain silos (accessory to a residential occupancy), livestock shelters, private garages, retaining walls, sheds, stables, tanks and towers.

**21-125.2 Flood loads.** Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be anchored to prevent flotation, collapse or lateral movement resulting from flood loads, including the effects of buoyancy, during conditions up to the Local Design Flood Elevation as determined in Section 21-110.3.

**21-125.3 Elevation.** Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be elevated such that the lowest floor, including basement, is elevated to or above the Local Design Flood Elevation as determined in Section 21-110.3 and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.

**21-125.4 Enclosures below base flood elevation.** Fully enclosed areas below the design flood elevation shall be constructed in accordance with 21-123.2 and with ASCE 24 for new construction and substantial improvements. Existing enclosures such as a basement or crawlspace having a floor that is below grade along all adjoining exterior walls shall be abandoned, filled-in, and/or otherwise modified to conform with the requirements of N.J.A.C. 7:13 when the project has been determined to be a substantial improvement by the Floodplain Administrator.

**21-125.5 Flood-damage resistant materials.** Flood-damage-resistant materials shall be used below the Local Design Flood Elevation determined in Section 21-110.3.

**21-125.6 Protection of mechanical, plumbing, and electrical systems.** Mechanical, plumbing, and electrical systems, equipment and components, heating, ventilation, air conditioning, plumbing fixtures, duct systems, and other service equipment, shall be elevated to or above the Local Design Flood Elevation determined in Section 21-110.3.

**Exception:** Electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall be permitted to be located below the Local Design Flood Elevation provided that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the Local Design Flood Elevation in compliance with the flood-resistant construction requirements of ASCE 24. Electrical wiring systems shall be permitted to be located below the Local Design Flood Elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

### **SECTION III. SEVERABILITY.**

Where any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

### **SECTION IV. REPEALER.**

All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

### **SECTION V. EFFECTIVE DATE.**

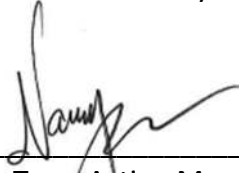
This ordinance shall take effect upon adoption and publication according to law.

First Reading and Set Hearing Date for O-22-11:

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
CERVANTES			X			
CHELAK			X			
MELNYK			X			
OLSZEWSKI		X	X			
BROULLON	X		X			

This is a Certified True copy of the Original Resolution on file in the Municipal Clerk's Office.

DATE OF VOTE: May 18, 2022



Nancy Tran, Acting Municipal Clerk  
Highlands

Public Hearing and Adoption for O-22-11:

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
CERVANTES						
CHELAK						
MELNYK						
OLSZEWSKI						
BROULLON						

This is a Certified True copy of the Original Resolution on file in the Municipal Clerk's Office.

DATE OF VOTE: June 15, 2022

Nancy Tran, Acting Municipal Clerk  
Highlands

Carolyn Broullon, Mayor



### LAND USE BOARD APPLICATION

**FOR OFFICIAL USE**  
Date Rec'd: 3/14/2022 Application #: LB2022-02 Fee: \$ 150 Escrow: \$ 750

#### 1. APPLICANT

Name: RACHAEL SHWOM  
Address: 342 SHORE DRIVE  
City: HIGHLANDS State: NJ Zip: 07732  
Phone: [REDACTED]  
Email: [REDACTED]  
Relation to property: owner

#### 2. OWNER

Name: Rachael Shwom  
Address: 342 Shore Dr.  
City: Highlands State: NJ Zip: 07732  
Phone: [REDACTED]  
Email: \_\_\_\_\_

#### 3. TYPE OF APPLICATION (Check all that apply)

- Minor Subdivision
- Major Subdivision – Preliminary
- Major Subdivision – Final
- Minor Site Plan
- Major Site Plan – Preliminary
- Major Site Plan – Final
- Variance
- Use Variance
- Appeal – Zoning Denial date \_\_\_\_\_
- Appeal – Land Use Decision date \_\_\_\_\_
- Informal Concept Plan Review
- Extension of Approval
- Revision/Resubmission of Prior Application
- Other \_\_\_\_\_

#### 4. PROPERTY INFORMATION

Block 101 Lot(s) 9 Address: 342 Shore Drive  
Lot size \_\_\_\_\_ # of Existing Lots 1 # of Proposed Lots 1  
Zone R-203 Are there existing Deed Restrictions or Easements?  No  Yes – Please attach copies  
Has the property been subdivided?  No  Yes If yes, when? \_\_\_\_\_  
Attach copies of approved map or approved resolution  
Property taxes paid through 5/2022 Sewer paid through 5/2022

#### 5. ATTORNEY (A corporation, LLC, Limited Partnership, or S-Corp must be represented by a NJ attorney)

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**RECEIVED**

**MAR 14 2022**

**LAND USE BOARD**



**6. APPLICANT'S OTHER PROFESSIONAL(S) – Engineer, Planner, Architect, etc.**

Name: Vin Munkler  
Address: 54 Chapel Hill Rd.  
Red Bank, NJ 07701  
Phone: 908 - 692 - 8412  
Email: [REDACTED]

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**7. LAND USE**

**A. PROPERTY HISTORY** –Describe in detail, nature of prior use(s) on the site, start date of such use, any prior Land Use Board applications for this site (attach copy of resolution, if applicable), history of current ownership, etc.

Owner purchased current home in 2017. It has always been a residential home. House was raised and a second floor added after Sandy in 2013/2014.

**B. PROPOSED PLAN** –Describe in detail, proposed use for property, including, but not limited to: 1) portion to be subdivided; 2) sell lot only; 3) construct house(s) for sale; 4) how trash will be disposed; 5) landscaping; 6) hours of operation; 7) type of goods/services; 8) fire lane. Attach additional sheets if necessary.

Home will remain residential.

**C. ADDITIONAL INFORMATION:**

**Existing**

**Proposed**

<b>Residential:</b>	How many dwelling units?	<u>1</u>	<u>1</u>
	How many bedrooms in each unit?	<u>3</u>	<u>5</u>
	How many on-site parking spaces?	<u>0</u>	<u>0</u>
<b>Commercial:</b>	How many commercial uses on site?	_____	_____
	How many on-site parking spaces?	_____	_____

ZONING AND LAND USE REGULATIONS

BOROUGH OF HIGHLANDS										
Schedule I – Bulk and Area Requirements										
Zone	Minimum							Maximum		
	Lot Size	Lot Frontage/Width	Lot Depth	Front Setback	Side Setback	Rear Setback	Height***	Lot Coverage	Building Coverage	FAR
	sq. feet	feet	feet	feet	feet	feet	feet			
<b>RESIDENTIAL</b>										
R-1.01	5,000	50	100	*35	8/12	25	30	70%	30%	–
R-1.02	7,500	70	100	*35	8/12	25	30	60%	25%	–
R-1.03	14,000	75	200	*35	8/12	25	30	60%	25%	–
Single Family										
R-2.01	3,750	50	75	*20	6/8	20	30	75%	33%	–
R-2.02	4,000	50	75	*20	6/8	20	30	75%	33%	–
R-2.03	5,000	50	100	*20	6/8	20	30	75%	30%	–
PB	5,000	50	100	35	8/12	25	30	70%		–
MF	1 acre	150	200	35	25/25	50	35	65%	22%	0.45
MH	5 acres	–	–	35	15/15	25	30	50%	20%	0.20
<b>NON-RESIDENTIAL</b>										
CBD	–	–	–	0	**	12	36	80%	35%	0.65
B	–	–	–	20	10	10	36	80%	35%	0.65
B	15,000	100	100	50	10	10	36	80%	35%	0.65
HO										
WT-R	See R-1.01									
WT-C	Residential: See R-2.02									
Nonres	–	50	400	20	6/8	–	36	65%	25%	0.60
WT-C/T	Same as WT-C									
WC-1	–	100	150	20	8/8	–	36	65%	25%	0.60
WC-2	–	100	150	20	10/10	–	36	70%	25%	0.60
MXD	See Section 21-96.01									

\*Or the average of the existing front yard setback within two hundred (200) feet in the same block and zone, per Section 21-80.

\*\*See Section 21-91A.4

\*\*\*Where a dwelling is constructed or reconstructed to provide the required parking under the structure, the maximum height shall be increased by two and one-half (2 1/2) feet.

(Ord. No. O-10-8 § 1; Ord. No. O-2018-01; Ord. No. O-2018-06)



**8. VARIANCE REQUESTS** Complete section(s) related to the relief being requested.

	Req'd	Exist.	Prop'd
<b>Minimum Lot Requirements</b>			
Lot Area	5000	2590	unchanged
Frontage	50	27.69	unch.
Lot Depth	700	102.8	unch.
<b>Minimum Yard Requirements</b>			
Front Yard Setback	20	41.6	+1=14.75 via 961 (station 3)
2 <sup>nd</sup> Front Yard Setback			
Rear Yard Setback	20	11	unch.
Side Yard Setback, right	618	1.4	unch.
Side Yard Setback, left	618		
Building Height	30	34.75	unch.

	Req'd	Exist.	Prop'd
<b>Accessory Structures (NA)</b>			
Fence/Wall Height			
Garage/Shed Height			
Garage/Shed Area			
Pool Setback			
<b>Parking Requirements</b>			
On-site Parking Spaces			
<b>Other (please add)</b>			

**9. OTHER RELIEF REQUESTED** Please specify relief(s) and explain below.

The variance requested is 21-86C4a. Building coverage of 30% is permitted. The proposed building coverage would be 51%.

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**10. NOTARIZED SIGNATURE OF APPLICANT**

I certify that the foregoing statements and the materials submitted are true. I further certify that I am the individual Applicant, or that I am an Officer of the Applicant authorized to sign the application for the business organization. Additionally, I certify that the survey or plans submitted with this application shows and discloses the premises in its entirety, and I further certify that no buildings, fences, or other facilities have been constructed, installed, or otherwise located on the premises after the date of the survey with the exception of the structures shown.

SWORN & SUBSCRIBED to before me this  
14 day of March 2022 (year)  
 \_\_\_\_\_ (notary)  
 TILLMATTIE PURAN-DAYGOO  
 Notary Public (Seal) State of New Jersey  
 My Commission Expires May 12, 2024

Rachael Shwom-Evelich 3/14/2022  
 Signature Date

Rachael Shwom - Evelich  
 Print Full Name

**11. NOTARIZED CONSENT OF OWNER**

I certify that I am the Owner of the property which is the subject of this application, hereby consent to the making of this application and approval of the plans submitted herewith. I further consent to the inspection of this property in connection with this application as deemed necessary by the municipal agency (if owned by a corporation, a resolution must be attached authorizing the application and officer signature).

SWORN & SUBSCRIBED to before me this  
14 day of March 2022 (year)  
 \_\_\_\_\_ (notary)  
 TILLMATTIE PURAN-DAYGOO  
 Notary Public (Seal) State of New Jersey  
 My Commission Expires May 12, 2024

Rachael Shwom-Evelich 3/14/2022  
 Signature Date

Rachael Shwom - Evelich  
 Print Full Name

**12A. DISCLOSURE STATEMENT** Circle all that apply.

Pursuant to N.J.S.A. 40:55D-48.1 & 48.2, please answer the following questions:

- Is this application to subdivide a parcel of land into six (6) or more lots? Yes  No
- Is this application to construct a multiple dwelling of 25 or more units? Yes  No
- Is this an application for approval of a site(s) for non-residential purposes? Yes  No
- Is this Applicant a corporation? Yes  No
- Is the Applicant a limited liability corporation? Yes  No
- Is the Applicant a partnership? Yes  No

If you circled YES to any of the above, please complete the following Ownership Discloser Statement (use additional sheets if necessary).



**12B. BUSINESS ORGANIZATION OWNERSHIP DISCLOSURE STATEMENT**

Name of Corporation, Partnership, LLC, LLP, S-Corp:

Listed below are the names and addresses of all owners of 10% or more of the stock/interest\* in the above referenced business organization:

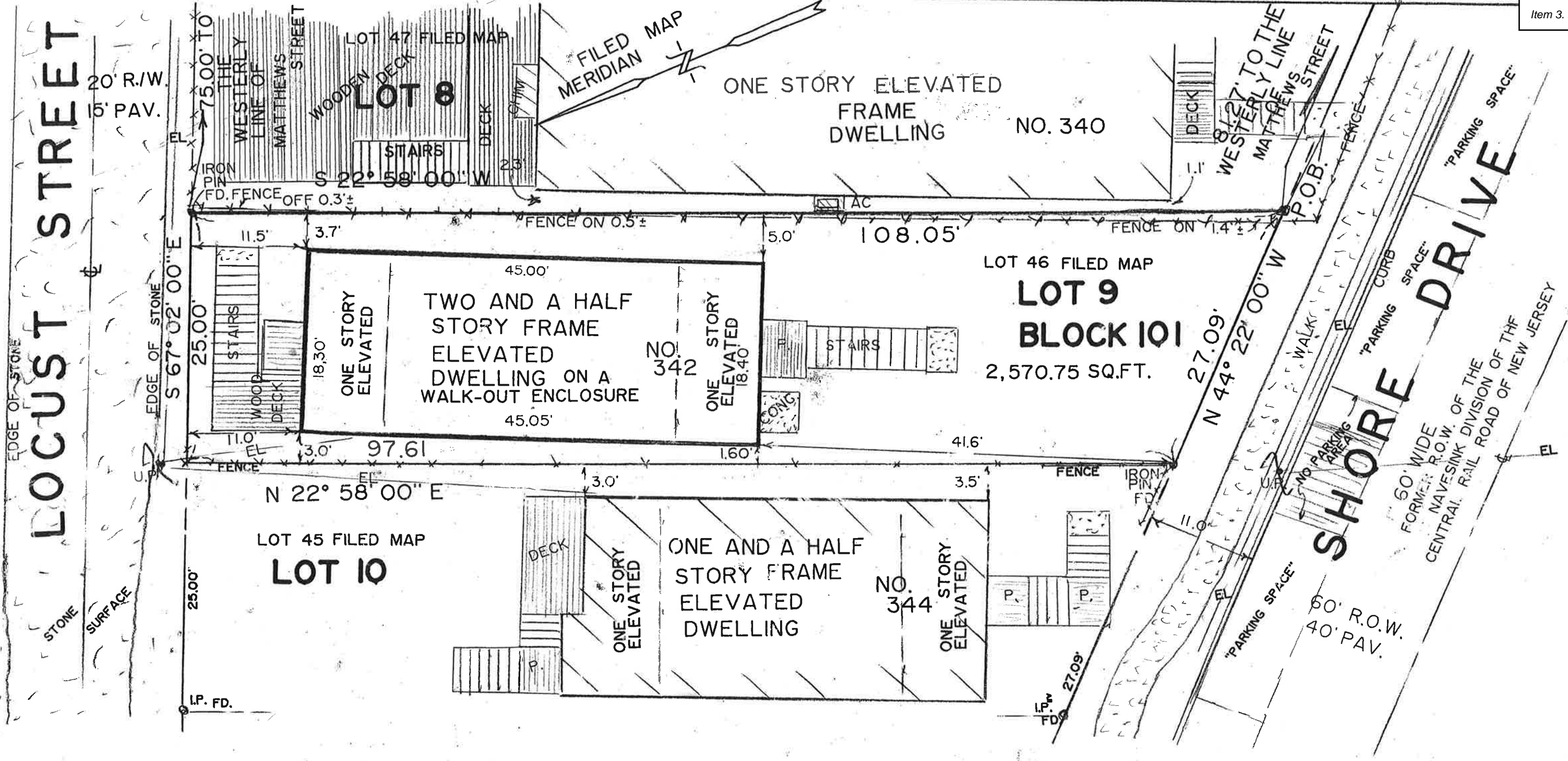
NAME	ADDRESS

\*If a corporation or a partnership owns 10% or more of the stock of a corporation, or 10% or great interest in a partnership, that corporation or partnership shall list the names and address of its stockholders holding 10% or more of its stock or 10% or greater interest in the partnership, and this requirement shall be followed until the names and addresses of the non-corporate stockholders and individual partners, exceeding the 10% owner ship criterion established have been listed.

SWORN & SUBSCRIBED to before me this  
 \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ (year)  
 \_\_\_\_\_ (notary)  
 (Seal)

\_\_\_\_\_  
 Signature (Officer/Partner) Date

\_\_\_\_\_  
 Print Full Name Title



**FILED MAP REFERENCE:**

Being Lot 46 as shown on Map Entitled: Map "C" Map of "NAVESINK PARK" Monmouth County, N.J.  
By Frank Osborn Civil Engineer and Filed in the Monmouth County Clerk's Office on  
May 18, 1916 in case 40-5.

**CERTIFIED TO:**

**RACHAEL SHWOM**

Note: a written waiver and direction not to be  
Set corner markers had been obtained from the  
Ultimate user pursuant to P.L. 2003, c. 14  
(C45:36.2) and N.J.A.C., 13-40-5.1 (d) & 5.2

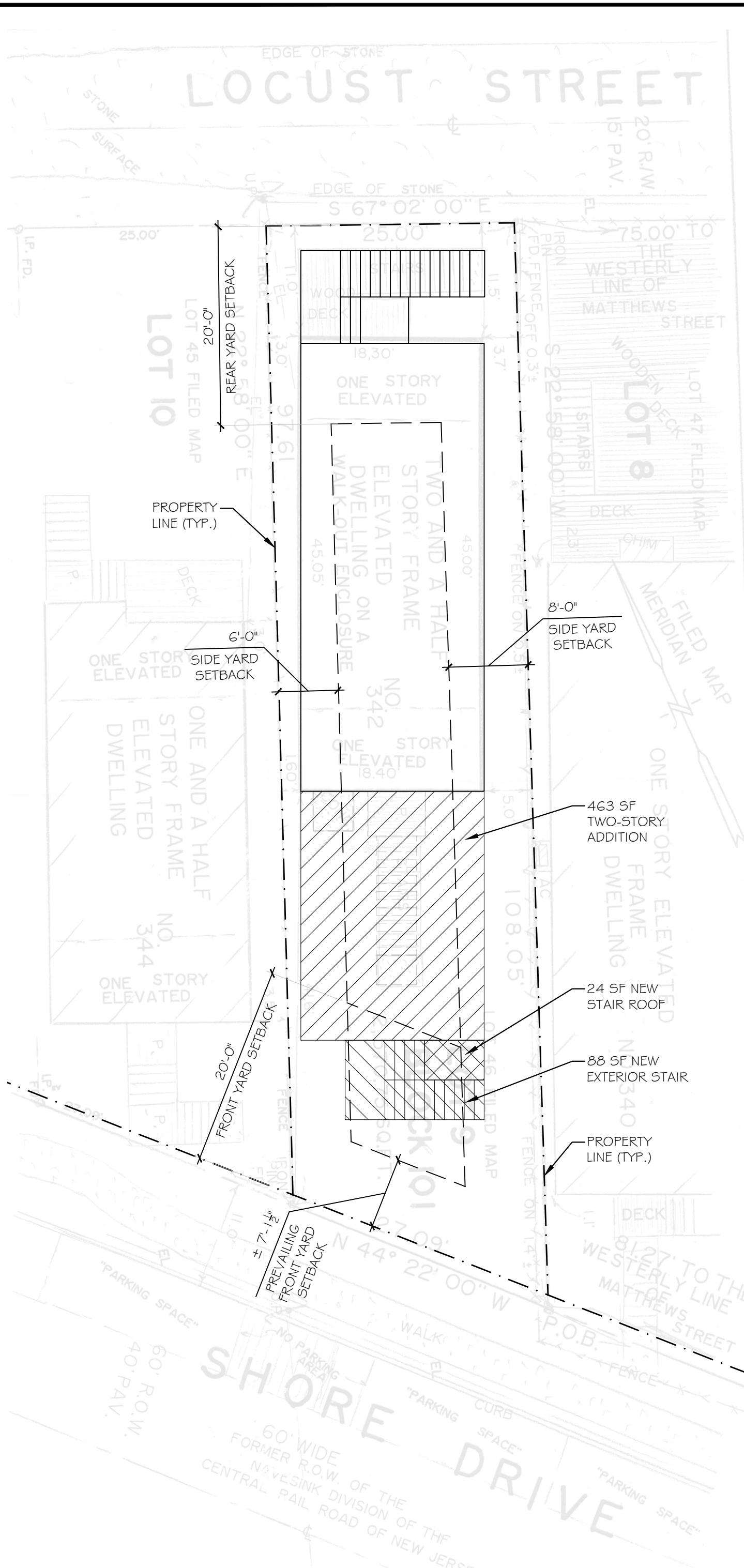
Note: Subject to any easement of record  
Note: building offsets are not to be used in  
Re-establishing property lines

**NO. 342 SHORE DRIVE**

LOCATION LAND SURVEY OF LOT 9 IN BLOCK 101 ON THE OFFICIAL  
TAX MAP OF THE BOROUGH OF HIGHLANDS, MONMOUTH COUNTY, NEW JERSEY  
THOMAS FINNEGAN LAND SURVEYING TAX MAP PAGE 22

*Thomas Craig Finnegan*  
THOMAS CRAIG FINNEGAN P.L.S. LIC. # 38601  
PROFESSIONAL LAND SURVEYOR,  
245 EAST END AVENUE, BELFORD, N.J. 0771  
FAX # 732-787-0318, PH. # 732-787-0318, Cell Ph. 732-856-282  
TFINNS58810@AOL.COM  
SCALE 1" = 10'

OCTOBER 28, 2021



**1 PLOT DIAGRAM**  
SCALE: 1" = 10'-0"

**PROJECT DATA**

**SCOPE OF WORK :**  
INTERIOR ALTERATIONS, TWO STORY ADDITION AT FRONT OF HOME.

**BUILDING INFORMATION**

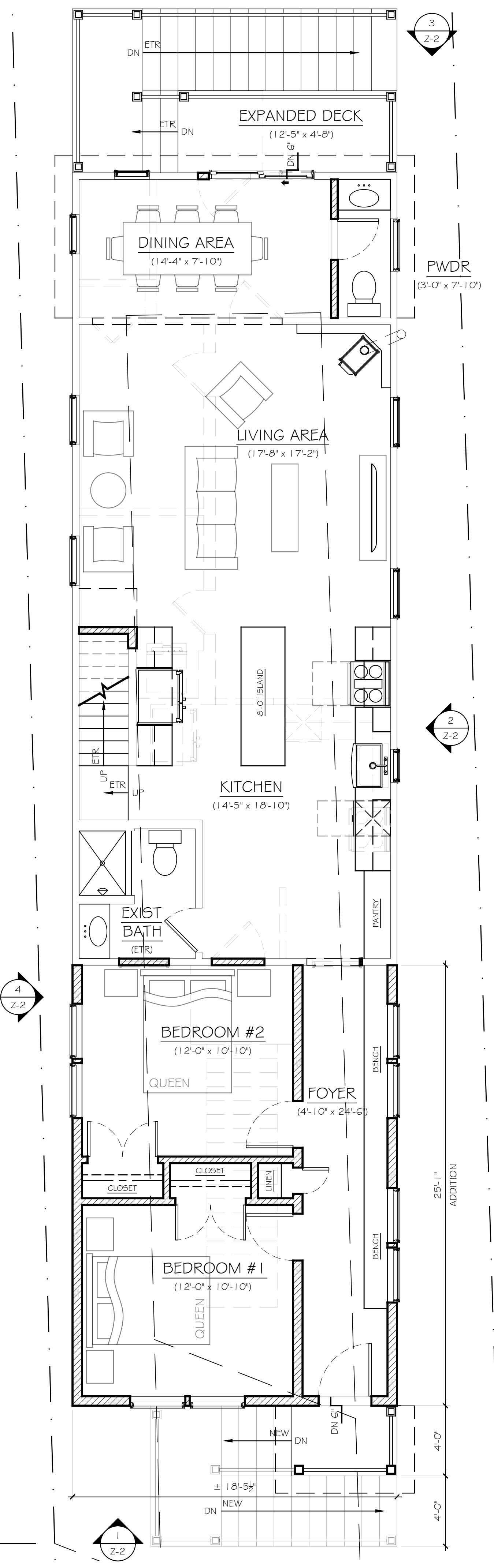
USE GROUP : R5  
CONSTRUCTION TYPE : 5B

NOTE:  
THE ADJACENT DRAWING IS A REPRODUCTION OF AN ORIGINAL SURVEY PROVIDED BY THE HOME OWNER. ORIGINAL SURVEY SHOWN FADED TO CALL ATTENTION TO ANY MARK-UPS BY THIS OFFICE.

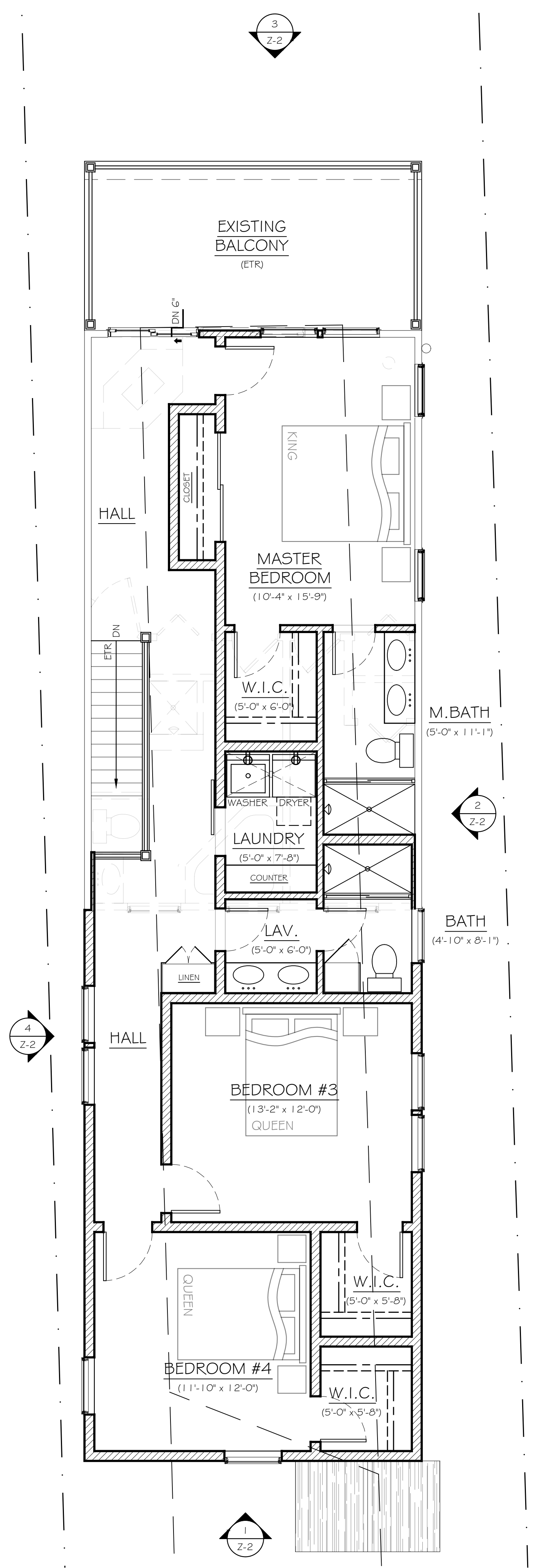
ZONING ANALYSIS					
PROJECT NAME :		THE SHWOM RESIDENCE		DATE OF FIRST CODE RESEARCH :	11/11/2021
STREET ADDRESS :		342 SHORE DRIVE		DATE OF SECOND CODE RESEARCH :	
BLOCK :	101	LOT :	9		
ZONING DISTRICT :	R-2.03				
FLOOD ZONE :	AE (F.E.M.A.)				
BASE FLOOR ELEVATION :		12 FT			
FIRST FLOOR ELEVATION :		? (UNCHANGED)			
LOT REQUIREMENTS :					
LOT AREA :	REQUIRED 5000 SF	EXISTING 2590 SF	PROPOSED UNCHANGED (EXISTING NON-CONFORMING)	VARIANCE REQD	
LOT FRONTAGE :	50 FEET	27.09 FEET	UNCHANGED (EXISTING NON-CONFORMING)		
LOT DEPTH :	100 FEET	102.8 FEET	UNCHANGED		
SETBACKS :					
FRONT :	20 FEET (PRINCIPAL) OR THE AVERAGE EXISTING SETBACK WITHIN 200 FEET (+/- 7.15 FEET)	41.6 FEET	+/- 14.75 FEET (PRINCIPAL) +/- 9 FEET (STAIRS)	NO	
REAR :	20 FEET (PRINCIPAL)	11.0 FEET	UNCHANGED (EXISTING NON-CONFORMING)	NO	
SIDE YARDS :	ONE SIDE : 6 FEET & 8 FEET (PRINCIPAL)	1.6 FEET	UNCHANGED (EXISTING NON-CONFORMING)	YES	
LIST OF AREAS :					
BUILDING FOOTPRINT :		834 SF	834 SF (EXISTING) + 463 SF (PROPOSED ADDITION) = 1297 SF TOTAL		
DECKS (w/ STAIRS) :		75 SF (FRONT STEPS) + 130 SF (REAR STEPS) = 205 SF TOTAL	130 SF (REMAINING) + 88 SF (NEW FRONT STEPS) + 24 SF (NEW STAIR ROOF) = 242 SF TOTAL		
EXISTING CONCRETE :		35 SF	REMOVED 463 SF		
PROPOSED ADDITION :					
MAXIMUM BUILDING COVERAGE :	30% OF LOT AREA (777 SF)	834 SF (32.2% OF LOT AREA)	834 SF (EXISTING) + 463 SF (PROPOSED ADDITION) + 24 SF (NEW STAIR ROOF) = 1321 SF TOTAL (51% OF LOT AREA)	YES	
MAXIMUM IMPERVIOUS LOT COVERAGE :	75% OF LOT AREA (1942.5 SF)	834 SF + 205 SF + 35 SF = 1074 SF TOTAL (41.5% OF LOT AREA)	1297 SF (BUILDING FOOTPRINT) + 24 SF NEW STAIR ROOF + 218 SF (EXTERIOR DECK & STEPS) = 1539 SF TOTAL (60% OF LOT AREA)	YES	
MAXIMUM HEIGHT :	30 FEET	+/- 34.75 FEET	UNCHANGED (EXISTING NON-CONFORMING)	YES	

WALL LEGEND	
DETAIL	DESCRIPTION
	EXISTING WALLS TO BE DEMOLISHED
	EXISTING WALLS TO REMAIN
	NEW 2x WALL STUDS (SEE PLAN FOR SIZE)

**2 PROPOSED FIRST FLOOR PLAN**  
SCALE: 1/4" = 1'-0"



**3 PROPOSED SECOND FLOOR PLAN**  
SCALE: 1/4" = 1'-0"



REVISIONS:

DATE: JANUARY 27, 2022

**MINKLER**  
ARCHITECTURE & DESIGN

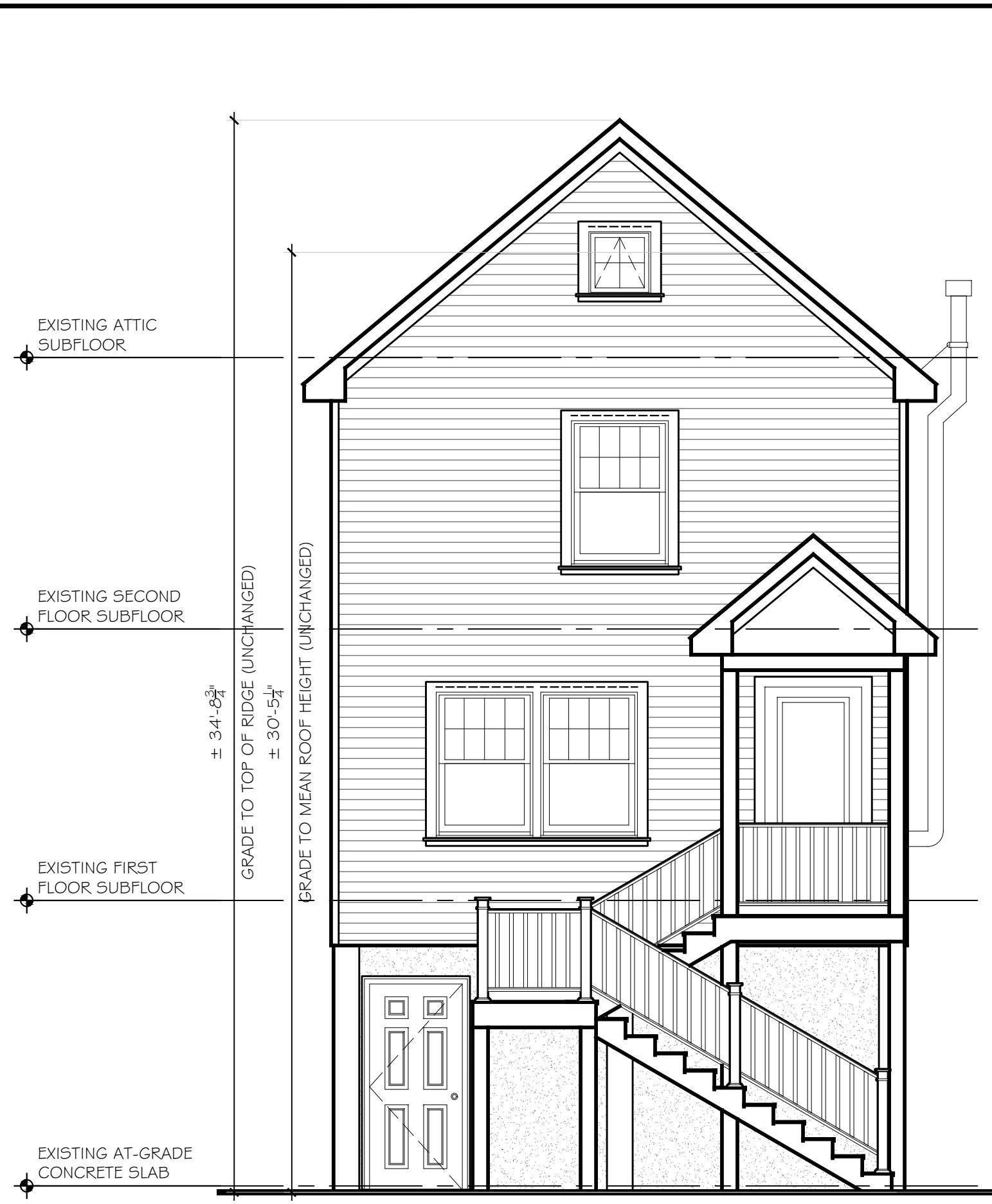
54 CHAPEL HILL RD, RED BANK, NJ 07701  
P: 908-692-8412 Email: vinminkler@gmail.com

PROJECT: ADDITIONS & ALTERATIONS FOR: **THE SHWOM RESIDENCE**

342 SHORE DRIVE  
BLOCK 101, LOT 9  
HIGHLANDS, MONMOUTH COUNTY, NEW JERSEY 07732

A. VINCENT MINKLER  
NJ Lic. No. 21A101978200

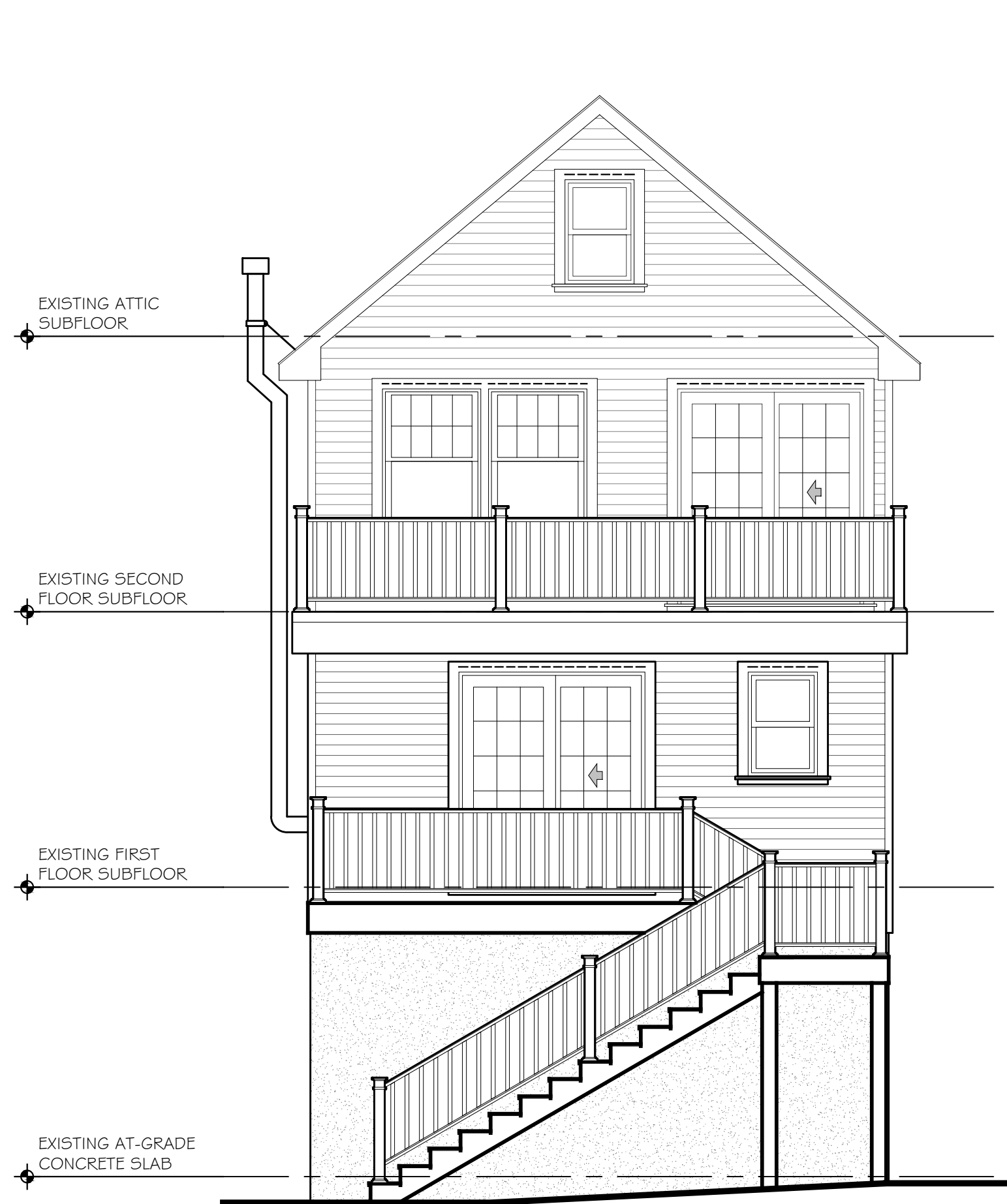
**Z-1**  
SHEET 01 OF 01



1 FRONT ELEVATION  
SCALE: 1/4" = 1'-0"



2 RIGHT SIDE ELEVATION  
SCALE: 1/4" = 1'-0"



3 REAR ELEVATION  
SCALE: 1/4" = 1'-0"



4 LEFT SIDE ELEVATION  
SCALE: 1/4" = 1'-0"

REVISIONS:

**MINKLER**  
ARCHITECTURE & DESIGN

54 CHAPEL HILL RD, RED BANK, NJ 07701  
P: 908-692-8412 Email: vinminkler@gmail.com

DATE: JANUARY 27, 2022

PROJECT:

ADDITIONS & ALTERATIONS FOR:  
**THE SHWOM RESIDENCE**

342 SHORE DRIVE  
BLOCK 101, LOT 9  
HIGHLANDS, MONMOUTH COUNTY, NEW JERSEY 07732

A. VINCENT MINKLER

NJ Lic. No. 21A101978200

**Z-2**  
SHEET 01 OF 01





HGPB- R1910

May 6, 2022

Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board  
42 Shore Drive  
Highlands, New Jersey 07732

Via Email (ntran@highlandsborough.org)

**Re: Shwom Residence  
342 Shore Drive  
Block 101, Lot 9  
Single-Family Residence (R-2.03) Zone  
Variance Relief  
First Engineering Review**

Dear Ms. Tran:

As requested, our office has reviewed the above-referenced application for minor site plan approval. The applicant submitted the following documents in support of this application:

1. Land Use Board Application, dated March 14, 2022.
2. Location Land Survey prepared by Thomas C. Finnegan, P.L.S., dated October 28, 2021, consisting of one (1) sheet.
3. Architectural Plans prepared by Vincent Minkler, A.I.A., of Minkler Architecture and Design, dated January 27, 2022, consisting of two (2) sheets.

Based on our review of the submitted documents, we offer the following comments for the Board’s consideration:

**A. Project Description**

The approximately 2,590 square feet property is currently a developed lot with an 834 square feet footprint elevated two-and-a-half story frame dwelling and elevated deck. The site is located in the Single-Family-Residence (R-2.03) Zone of the Borough with dual frontage along Shore Drive and Locust Drive. With this application, the applicant is seeking bulk variance approval and is proposing to construct an addition with a 463 square feet footprint elevated two-and-a-half story addition along with new elevated deck and expanded existing elevated deck. The property is located in the AE Flood Zone with a flood elevation of 12 feet. The residential use is a permitted use in the R-2.03 Zone.

**B. Planning and Zoning**

In accordance with Section 21-86 of the Ordinance existing/proposed bulk deficiencies are noted as follows:

R-2.03 Zone	Required	Existing	Proposed
Minimum Lot Size (sf)	5,000	2,590 <sup>(E)</sup>	2,590 <sup>(E)</sup>
Minimum Lot Frontage (ft)	50	27.09 <sup>(E)</sup>	27.09 <sup>(E)</sup>



**Le: Nancy Tran, Land Use Board Secretary  
 Borough of Highlands Land Use Board**

**Re: Shwom Residence  
 342 Shore Drive  
 Block 101, Lot 9  
 Single-Family Residence (R-2.03) Zone  
 Variance Relief  
 First Engineering Review**

R-2.03 Zone	Required	Existing	Proposed
Minimum Lot Depth (ft)	100	102.8	102.8
Minimum Front Yard Setback* – <i>Shore Drive</i> (ft)	20 (*10) <sup>(C)</sup>	41.6	15.6
Minimum Front Yard Setback* – <i>Locust Drive</i> (ft)	20 (*35.8) <sup>(C)</sup>	11 <sup>(E)</sup>	<b>11</b> <sup>(V)</sup>
Minimum Side Yard Setback (ft)	6 / 8	1.6 <sup>(E)</sup> / 3.7 <sup>(E)</sup>	<b>1.2</b> <sup>(C)</sup> <sup>(V)</sup> / <b>3.7</b> <sup>(V)</sup>
Maximum Building Height (ft)	30	23.4 <sup>(E)(C)</sup>	23.4 <sup>(E)(C)</sup>
Lot Coverage	75%	41.5%	60%
Building Coverage	30%	32.2% <sup>(E)</sup>	<b>51%</b> <sup>(V)</sup>

(E) – Existing Non-conformity  
 (C) – Calculated  
 (V) – Variance

\* Or the average of the existing front yard setback within two hundred (200) feet in the same block and zone, per Ordinance Section 21-79. The prevailing setback shall be the average setback of buildings on the same block in the same zone, but not less than the average of the setbacks of the buildings on the two (2) nearest adjacent lots and in no case, less than half the required setback.

Shore Drive prevailing setback – approximately 10 feet on average between the average of the setbacks of the buildings on the two (2) nearest adjacent lots.

Locust Drive prevailing setback – approximately 35.8 feet on average between the average of the setbacks of the buildings on the two (2) nearest adjacent lots.

1. The Borough Ordinance defines building height as “The vertical distance as measured from the grade plane to the average height of the highest roof surface. In the case of sloped roofs, the average height is the mid-point between the lowest roof eave of the top floor and the roof ridge. In the case of a building that has multiple roof levels, the highest roof levels must be used to determine the building height. Chimney, elevator equipment and mechanical utility equipment and any associated screening or enclosures may exceed the permitted "building height" by up to ten (10) feet, or up to ten (10%) percent above the permitted building height, whichever is less.” The grade plane is defined as the base flood elevation plus one foot. We have calculated the building height accordingly to be approximately 23.4’, which does not require variance relief.
2. The proposed addition decreases the existing side yard setback to the west from 1.6’ to approximately 1.2’ due to the skew of the building as related to the property line.
3. To be entitled to bulk variance relief, the applicant must provide proof to satisfy the positive and negative criteria pursuant to N.J.S.A. 40: 55D-70c for the bulk variances:





**Le: Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board**

**Re: Shwom Residence  
342 Shore Drive  
Block 101, Lot 9  
Single-Family Residence (R-2.03) Zone  
Variance Relief  
First Engineering Review**

- a. Positive Criteria. The applicant must prove either a hardship in developing the site in conformance to the zone standards due to exceptional narrowness, shallowness, or shape of the property; or due to exceptional topographic conditions or physical features uniquely affecting the property; or due to an extraordinary and exceptional situation affecting the property or its lawful existing structures. Alternatively, the applicant may satisfy the positive criteria by demonstrating that the variance relief will promote a public purpose as set forth in the Municipal Land Use Law (N.J.S.A. 40:55D-2) and thereby provide improved community planning that benefits the public and the benefits of the variance substantially outweigh any detriment.
- b. Negative Criteria. The applicant must also show that the bulk variances can be granted without substantial detriment to the public good or substantially impairing the intent and purpose of the zone plan. This requires consideration of the impact of the proposed variances on surrounding properties and a determination as to whether or not the variance would cause such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.

**C. Technical Engineering Review**

1. Table 4.4 of Section 5:21-4.14 of R.S.I.S. requires three (3) off-street parking spaces for a five-bedroom single family whereas no off-street parking spaces have been provided. The applicant shall provide testimony on the existing parking conditions of dwelling. A design waiver may be required.
2. The proposed development will not disturb an area exceeding 1 acre, nor will it create more than a quarter acre of new impervious surfaces. Therefore, the project is not considered a “major development” as defined by NJAC. 7:8 and is not subject to the NJDEP Stormwater Management stormwater quantity, quality and recharge requirements of a major development.
3. While the project is not considered a major development, the applicant is proposing to increase impervious coverage by approximately 465 square feet. The applicant shall provide testimony on how the increase from pre- to post-development stormwater runoff will not have a negative impact on the site and downstream off-site stability affected by stormwater runoff.
4. The applicant shall provide a grading plan showing existing and proposed contours along with corner spot shot elevations of the proposed addition and the finished floor elevation.
5. The applicant shall provide testimony on any adverse drainage impacts to the adjacent properties as a result of the proposed improvements.
6. Roof leader locations and/or downspout discharge locations shall be shown on the plans.
7. The applicant shall provide testimony regarding the suitability of existing utility connections and/or additional utility connections or improvements necessitated by the subject application.



**Le: Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board**

**Re: Shwom Residence  
342 Shore Drive  
Block 101, Lot 9  
Single-Family Residence (R-2.03) Zone  
Variance Relief  
First Engineering Review**

- All proposed utility improvements shall be shown on the plans including proper trench restoration.
8. Section 21-65.10A of the Ordinance indicates that all areas not devoted to structures, paving, or other required uses shall be appropriately graded, landscaped and maintained in accordance with a landscaping plan approved by the Board. No landscaping has been provided as part of this application. The Board should determine if a landscaping plan is required.
  9. Section 21-65.10B of the Ordinance indicates that if feasible in residential zones, street trees of at least two (2) to two and one-half (2-1/2) inch caliper will be required, planted a distance on center equivalent to no more than the width of their mature diameter. Where street trees are not appropriate because of views, existing vegetation, or other reason, the equivalent number of trees shall be located elsewhere on the lot. The Board should determine if street trees are required for this application.
  10. The Survey indicates the lot area as 2,570.75, whereas the Zoning Table indicates 2,590 square feet. This discrepancy shall be addressed, and the appropriate area revised.
  11. The Zoning Table shall be revised to indicate multiple front yard areas and correctly show existing and proposed conditions.
  12. It should be noted that this property is located within the AE flood zone with a Base Flood Elevation (BFE) of 12'. The applicant shall confirm the existing and proposed finished floor elevation. Additionally, it is recommended that the applicant obtains an Elevation Certificate for the subject property.  
  
We defer further review to the Flood Plain Administrator and Construction Official for any applicable building requirements accordingly.
  13. The project site is located in the Coastal Area Facilities Review Act (CAFRA) Zone. The applicant shall comply with any applicable NJDEP requirements and should confirm any specific restrictions and/or permitting requirements accordingly. We recommend a jurisdictional determination be provided. We defer further review to NJDEP.
  14. A note shall be added to the plans stating that any/all existing curb, sidewalk, roadway, and other off-site objects damaged by construction should be repaired and/or replaced to the satisfaction of the Borough Engineer.
  15. The applicant shall provide testimony regarding any mechanical equipment proposed as well as any requirements for electric and other meters, including any required platforms.
  16. Approvals or waivers should be obtained from any agencies having jurisdiction.



**Le: Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board**

**Re: Shwom Residence  
342 Shore Drive  
Block 101, Lot 9  
Single-Family Residence (R-2.03) Zone  
Variance Relief  
First Engineering Review**

We reserve the opportunity to further review and comment on this application and all pertinent documentation, pursuant to testimony presented at the public hearing. If you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,

T&M ASSOCIATES

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EDWARD W. HERRMAN, P.E., P.P., C.M.E., C.F.M.  
LAND USE BOARD ENGINEER

EWH:KJO:DV

cc: Michael Muscillo, Borough Administrator (mmuscillo@highlandsborough.org)  
Ron Cucchiaro, Esq., Land Use Board Attorney (RCucchiaro@weiner.law)  
Marianne Dunn, Zoning Officer (mdunn@middletownnj.org)  
Rob Knox, Land Use Board Chairman (rknox@highlandsborough.org)  
Annemarie Tierney, Land Use Board Vice Chairman (annemarie@liquidadvisors.com)  
Rachel Shwom, Applicant (shwomrac@gmail.com)

\\tandmassociates.local\Public\Projects\HGPB\R1910\Correspondence\Tran\_EWH\_Shwom\_342 Shore Drive\_First Engineering Review.docx



HGPB- R1910

April 27, 2022

Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board  
42 Shore Drive  
Highlands, New Jersey 07732

*Via Email (ntran@highlandsborough.org)*

**Re: Shwom Residence  
342 Shore Drive  
Block 101, Lot 9  
Single Family Residential (R-2.03) Zone  
First Completeness Review**

Dear Ms. Tran:

As requested, we have reviewed the above-referenced application in accordance with the Borough of Highlands Zoning and Land Use Regulations section entitled Part 3, Subdivision and Site Plan Review, Article VI, Application Procedure, and Article VIII, Plat and Plan Details, section 21-58D – Minor Site Plan.

The applicant submitted the following documents in support of this application:

1. Land Use Board Application, dated March 14, 2022.
2. Location Land Survey prepared by Thomas C. Finnegan, P.L.S., dated October 28, 2021, consisting of one (1) sheet.
3. Architectural Plans prepared by Vincent Minkler, A.I.A., of Minkler Architecture and Design, dated January 27, 2022, consisting of two (2) sheets.

The above information was reviewed for completeness purposes as follows:

**Preliminary Site Plan (Minor):** The preliminary site plan shall be drawn at a scale of not more than one hundred (100) feet to the inch and shall include such details as may be necessary to properly evaluate the application and determine compliance with this chapter. The site plan shall be drawn by a licensed New Jersey professional engineer and land surveyor and, where applicable to the proposed use or construction, the following information shall be clearly shown.

1. Date, name, location of site, name of owner, scale and reference meridian. **Provided.**
2. Area of the lot and all lot line dimensions and bearings. **Provided.**
3. The location of all existing watercourses, wooded areas, easements, rights-of-way, streets, roads, highways, rivers, buildings, structures and any other feature on the property and within seventy-five (75) feet of the property line. **Provided.**
4. Location, use and ground floor area of all existing and proposed buildings, with the building setback, side line and rear yard distance. **Provided.**
5. Elevations at the corners of all proposed buildings and paved areas and at property corners if new buildings or paved areas are proposed. **Not provided.**



**Le:** Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board

**Re:** Shwom Residence  
342 Shore Drive  
Block 101, Lot 9  
Single Family Residential (R-2.03) Zone  
First Completeness Review

6. The location and widths of existing and proposed streets servicing the site plan. **Partially provided. Width of existing street is not shown on the plans.**
7. Specifications for and location of proposed surface paving and curbing. **Not applicable.**
8. Location of all structures within seventy-five (75) feet of the property. **Partially provided.**
9. Location of off-street parking areas, with dimensions, showing proposed parking and loading spaces, with dimensions, width of proposed access drives and aisles and traffic circulation. **Not applicable.**
10. Storm water management and sanitary sewer reports, including proposed storm drainage and sanitary disposal facilities; specifically, the location, type and size of all existing and proposed catch basins, storm drainage facilities, utilities plus all required design data supporting the adequacy of the existing or proposed facilities to handle future storm flows. **Not applicable.**
11. Existing and proposed contours of the property and for seventy-five (75) feet outside the property at one (1) foot intervals when new buildings or parking areas are proposed. Spot elevations for any development in a flood hazard area. **Not provided.**
12. The location and treatment of proposed entrances and exits to the public rights-of-way, including the possible utilization of traffic signals, channelization, acceleration, and deceleration lanes, additional widths and any other devices necessary to traffic safety and/or convenience. **Not applicable.**
13. The location and identification of proposed open space, parks or other recreation areas. **Not applicable.**
14. The location and design of landscaping, buffer areas and screening areas showing size, species and spacing of trees and plants and treatment of unpaved areas. **Not provided.**
15. The location of sidewalks, walkways, traffic islands and all other areas proposed to be devoted to pedestrian use. **Not applicable.**
16. The nature and location of public and private utilities, including maintenance and solid waste disposal, recycling and/or storage facilities. **Not provided.**
17. Specific location and design of traffic control devices, signs and lighting fixtures. The Board may require of the applicant expert testimony concerning the adequacy of proposed traffic control devices, signs and lighting fixtures. **Not applicable.**
18. Preliminary architectural plans for the proposed buildings or structures indicating typical floor plans, elevations, heights and general design or architectural styling. **Partially provided. The first floor elevation is not specified. The proposed structure is located within flood zone AE-12. Therefore, the plans should be designed in accordance with FEMA standards and the Borough**



**Le: Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board**

**Re: Shwom Residence  
342 Shore Drive  
Block 101, Lot 9  
Single Family Residential (R-2.03) Zone  
First Completeness Review**

**of Highlands Flood Damage Prevention Ordinance requirements. I defer to the Borough Floodplain Manager for further review.**

- 19. The present and past status and use and contemplated use of the property and all existing buildings on the property. A cleanup plan where such is necessary because of the past or present use of the site. **Not applicable.**
- 20. A soil erosion and sediment control plan is required. Said plan shall be submitted to the Soil Conservation District and approval of the application shall be conditioned upon certification of the soil erosion and sediment control plan by the District. **Not applicable.**
- 21. Soil Borings, when required by the Board Engineer. **Not required.**
- 22. Certification statement for the required municipal signatures, stating: **Not provided.**
  - o Application No. \_\_\_\_\_ approved/disapproved by the Highlands Land Use Board as a Minor Site Plan on \_\_\_\_\_.

(date)

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

- 23. Certification statement for the County Planning Board approval / disapproval, if required. **Not applicable.**
- 24. The Board may require any additional information which is reasonably necessary to ascertain compliance with the provisions of this chapter.

Although numerous items noted above have not been submitted to the Board, adequate information has been provided in order to perform a technical review of the application. **Upon payment of the balance of the fees required, the application can be deemed COMPLETE and can be referred to the Board Chairman for consideration of scheduling the public hearing.**

The application fee and escrow fee calculation letter will be provided under separate cover. **We will commence our technical review letter upon confirmation from the Board Secretary that the balance of fees due has been properly posted.**



**Le: Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board**

**Re: Shwom Residence  
342 Shore Drive  
Block 101, Lot 9  
Single Family Residential (R-2.03) Zone  
First Completeness Review**

Should you have any questions or require any additional information, please call.

Very truly yours,

T&M ASSOCIATES

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EDWARD W. HERRMAN, P.E., P.P., C.M.E., C.F.M.  
LAND USE BOARD ENGINEER

EWH:KJO:DV

cc: Michael Muscillo, Borough Administrator (mmuscillo@highlandsborough.org)  
Ron Cucchiaro, Esq., Land Use Board Attorney (RCucchiaro@weiner.law)  
Marianne Dunn, Zoning Officer (mdunn@middletownnj.org)  
Rachel Shwom, Applicant (shwomrac@gmail.com)

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YOUR GOALS. OUR MISSION.

HGPB- R1910

April 27, 2022

Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board  
42 Shore Drive  
Highlands, New Jersey 07732

*Via Email (ntran@highlandsborough.org)*

**Re: Shwom Residence  
342 Shore Drive  
Block 101, Lot 9  
Single Family Residential (R-2.03) Zone  
Fee and Escrow Calculation**

Dear Ms. Tran:

As requested, we have reviewed the above-referenced application in accordance with the Borough of Highlands Land Use Regulations Part 6 - Fee Schedule.

The applicant submitted the following documents in support of this application:

1. Land Use Board Application, dated March 14, 2022.
2. Location Land Survey prepared by Thomas C. Finnegan, P.L.S., dated October 28, 2021, consisting of one (1) sheet.
3. Architectural Plans prepared by Vincent Minkler, A.I.A., of Minkler Architecture and Design, dated January 27, 2022, consisting of two (2) sheets.

Please note the following fee calculations:

- |                            |                   |
|----------------------------|-------------------|
| <b>1. Application fee:</b> | <b>\$1,025.00</b> |
| <b>2. Escrow fee:</b>      | <b>\$2,050.00</b> |

Please note that the initial application deposits shall be deducted from the total fees shown.

Should you have any questions or require any additional information, please call.

Very truly yours,

T&M ASSOCIATES

EDWARD W. HERRMAN, P.E., P.P., C.M.E., C.F.M.  
LAND USE BOARD ENGINEER

EWH:KJO:DV

cc: Michael Muscillo, Borough Administrator (mmuscillo@highlandsborough.org)  
Ron Cucchiaro, Esq., Land Use Board Attorney (RCucchiaro@weiner.law)  
Marianne Dunn, Zoning Officer (mdunn@middletownnj.org)  
Rachel Shwom, Applicant (shwomrac@gmail.com)





HGPB-R1910

DETERMINATION OF FEES  
342 Shore Drive  
Block 101 Lot 9

**A. APPLICATION FEES (Ord. 21-107)**

A. Variances

3. Residential "c" (maximum building coverage)	1	EA	\$	125.00	\$	125.00
Residential "c" (maximum impervious coverage)	1	EA	\$	125.00	\$	125.00
Residential "c" (minimum side yard setback)	2	EA	\$	125.00	\$	250.00
Residential "c" (minimum front yard setback)	1	EA	\$	125.00	\$	125.00

B. Site Plans

2. Minor	1	EA	\$	400.00	\$	400.00
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**B. ESCROW FEES (Ord. 21-108)**

B. Escrow Deposits (twice Application Fee; Minimum \$750)	1	LS	\$	2,050.00	\$	2,050.00
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**Application fees subtotal** \$ 1,025.00

**Escrow fee subtotal** \$ 2,050.00

**Total** \$ 3,075.00

The Two River Times  
75 West Front Street  
Red Bank, NJ 07701

Affidavit of Publication

State of New Jersey} ss.  
Monmouth County

Personally appeared Stephen Appezzato

of The Two River Times, a newspaper published in Red Bank, in said County and sta  
being duly sworn, deposes and saith that the advertisement of which the annexed  
copy, has been published in the said newspaper 1 time, once in each issue, as follow

May 19, 2022

*Stephen Appezzato*

(Employee Signature)

Sworn and subscribed before me this day 19 of May 2022

Notary Public of New Jersey

Fees: \$26-16 Ad: 22332  
Advertisement (attached)

*Nicholas Stefanelli*  
**NICHOLAS STEFANELLI**  
**NOTARY PUBLIC OF NEW JERSEY**  
**Commission # 2407103**  
**My Commission Expires 04/06/2026**

NOTICE OF  
LAND USE BOARD

TAKE NOTICE that on Thurs-

Item 3.

day evening at 7:00  
9th day of June 2022, a hearing  
will be held before the Borough  
of Highlands Land Use Board in  
the Community Center, 22 Snug  
Harbor, Highlands New Jersey  
on the application of the under-  
signed that has been made to the  
Borough of Highlands Land Use  
Board, at which time and place all  
interested persons will be given  
an opportunity to be heard.

The property in question is lo-  
cated at 342 Shore Drive. Also  
known as Block 101, Lot 9, on the  
Highlands Tax Map. The proper-  
ty is located in the R-203 zone.

The applicant is seeking #21-  
86C4a variance for building cov-  
erage (30% is permitted; 51% is  
proposed). This variance is for  
the purpose of: Renovating the  
existing dwelling; constructing a  
2-story 926 s.f. addition; and ex-  
panding the front deck.

A copy of the application and doc-  
uments are on file with the Board  
Secretary, and may be inspected  
Monday through Friday, 9:00  
a.m. to 4:00 p.m.

Rachael Shwom  
May 19, 2022  
Ad #22332 \$26.16



RECEIVED  
MAY 4 2022  
LAND USE BOARD

Item 4.

Borough of Highlands  
42 Shore Drive  
Highlands, NJ 07732  
(732) 872-1224  
www.highlandsborough.org

### LAND USE BOARD APPLICATION

**FOR OFFICIAL USE**  
Date Rec'd: \_\_\_\_\_ Application #: \_\_\_\_\_ Fee: \_\_\_\_\_ Escrow: \_\_\_\_\_

#### 1. APPLICANT

Name: B-Four Enterprises, Inc.  
Address: 1 Atlantic Street  
City: Highlands State: NJ Zip: 07732  
Phone: 732-522-2207  
Email: david@rbaker.com  
Relation to property: Operating entity

#### 2. OWNER

Name: Baker's Marina on the Bay, LLC & B-Four Enterprises, Inc.  
Address: 1 Atlantic Street  
City: Highlands State: NJ Zip: 07732  
Phone: 732-522-2207  
Email: david@rbaker.com (related entity)

\*Baker's Marina on the Bay, LLC & B-Four Enterprises are related entities.

#### 3. TYPE OF APPLICATION (Check all that apply)

- Minor Subdivision
- Major Subdivision – Preliminary
- Major Subdivision – Final
- Minor Site Plan
- Major Site Plan – Preliminary
- Major Site Plan – Final
- Variance
- Use Variance
- Appeal – Zoning Denial date \_\_\_\_\_
- Appeal – Land Use Decision date \_\_\_\_\_
- Informal Concept Plan Review
- Extension of Approval
- Revision/Resubmission of Prior Application
- Other Amended Site Plan Approval

#### 4. PROPERTY INFORMATION

Block 69 Lot(s) 13 & 13.01 Address: Marina Bay Court; 1 Atlantic Street  
Block 72 Lot(s) 8, 8.01, 9.001, 9.011 & 9.012  
Lot size 176,443 SF # of Existing Lots 7 # of Proposed Lots 7  
Zone WC-2 Are there existing Deed Restrictions or Easements?  No  Yes – Please attach copies  
Has the property been subdivided?  No  Yes If yes, when? \_\_\_\_\_  
Attach copies of approved map or approved resolution  
Property taxes paid through 1st quarter 2022 Sewer paid through 1st quarter 2022

#### 5. ATTORNEY (A corporation, LLC, Limited Partnership, or S-Corp must be represented by a NJ attorney)

Name: Steven J. Tripp, Esq./Wilentz, Goldman & Spitzer, P.A.  
Address: 90 Woodbridge Center Drive, Suite 900, Box 10, Woodbridge, NJ 07095  
Phone: 732-855-6076 Email: stripp@wilentz.com



Borough of Highlands  
42 Shore Drive  
Highlands, NJ 07732  
(732) 872-1224  
www.highlandsborough.org

**6. APPLICANT'S OTHER PROFESSIONAL(S) – Engineer, Planner, Architect, etc.**

Name: Michael James Monroe Architect  
Address: 12 Broad Street  
Red Bank, NJ  
Phone: 732-219-9227  
Email: mjm��ervicesinc@yahoo.com

Name: N/A  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**7. LAND USE**

**A. PROPERTY HISTORY** –Describe in detail, nature of prior use(s) on the site, start date of such use, any prior Land Use Board applications for this site (attach copy of resolution, if applicable), history of current ownership, etc.

The property operates as a boat marina and tiki bar known as the Seafarer. The tiki bar was approved in 2015. See Rider for details.  
\_\_\_\_\_  
\_\_\_\_\_

**B. PROPOSED PLAN** –Describe in detail, proposed use for property, including, but not limited to: 1) portion to be subdivided; 2) sell lot only; 3) construct house(s) for sale; 4) how trash will be disposed; 5) landscaping; 6) hours of operation; 7) type of goods/services; 8) fire lane. Attach additional sheets if necessary.

Applicant is seeking Amended Site Plan Approval to locate an approximately 1,500 square foot river paddle boat at the southern dock. The river paddle boat will be used in conjunction with the Seafarer Tiki Bar and will also be available for private parties. See Rider for details.  
\_\_\_\_\_  
\_\_\_\_\_

**C. ADDITIONAL INFORMATION:**

	Existing	Proposed
<b>Residential:</b>	How many dwelling units?	<u>N/A</u>
	How many bedrooms in each unit?	<u>N/A</u>
	How many on-site parking spaces?	<u>N/A</u>
<b>Commercial:</b>	How many commercial uses on site?	<u>2</u>
	How many on-site parking spaces?	<u>2</u>



Borough of Highlands  
 42 Shore Drive  
 Highlands, NJ 07732  
 (732) 872-1224  
 www.highlandsborough.org

**8. VARIANCE REQUESTS** Complete section(s) related to the relief being requested.

	Req'd	Exist.	Prop'd
<b>Minimum Lot Requirements</b> N/A			
Lot Area			
Frontage			
Lot Depth			
<b>Minimum Yard Requirements</b>			
Front Yard Setback			
2 <sup>nd</sup> Front Yard Setback			
Rear Yard Setback			
Side Yard Setback, right			
Side Yard Setback, left			
Building Height			

	Req'd	Exist.	Prop'd
<b>Accessory Structures</b> N/A			
Fence/Wall Height			
Garage/Shed Height			
Garage/Shed Area			
Pool Setback			
<b>Parking Requirements</b>			
On-site Parking Spaces			
<b>Other (please add)</b>			

**9. OTHER RELIEF REQUESTED** Please specify relief(s) and explain below.

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N/A

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Borough of Highlands  
42 Shore Drive  
Highlands, NJ 07732  
(732) 872-1224  
www.highlandsborough.org

**10. NOTARIZED SIGNATURE OF APPLICANT**

I certify that the foregoing statements and the materials submitted are true. I further certify that I am the individual Applicant, or that I am an Officer of the Applicant authorized to sign the application for the business organization. Additionally, I certify that the survey or plans submitted with this application shows and discloses the premises in its entirety, and I further certify that no buildings, fences, or other facilities have been constructed, installed, or otherwise located on the premises after the date of the survey with the exception of the structures shown.

Wilentz, Goldman & Spitzer, PA on behalf of Applicant:

SWORN & SUBSCRIBED to before me this  
3<sup>rd</sup> day of May 2022 (year)  
Pilar M. Kwiatkowski (notary)  
**PILAR M. KWIATKOWSKI**  
 Commission #50133974 (Seal)  
 A Notary Public of New Jersey  
 My Commission Expires on August 17, 2025

[Signature] 5/3/22  
 Signature Date

By: Steven J. Tripp, Esq.  
 Print Full Name

**11. NOTARIZED CONSENT OF OWNER**

I certify that I am the Owner of the property which is the subject of this application, hereby consent to the making of this application and approval of the plans submitted herewith. I further consent to the inspection of this property in connection with this application as deemed necessary by the municipal agency (if owned by a corporation, a resolution must be attached authorizing the application and officer signature).

Wilentz, Goldman & Spitzer, PA on behalf of Owner

SWORN & SUBSCRIBED to before me this  
3<sup>rd</sup> day of May 2022 (year)  
Pilar M. Kwiatkowski (notary)  
**PILAR M. KWIATKOWSKI**  
 Commission #50133974 (Seal)  
 A Notary Public of New Jersey  
 My Commission Expires on August 17, 2025

[Signature] 5/3/22  
 Signature Date

By: Steven J. Tripp, Esq.  
 Print Full Name

**12A. DISCLOSURE STATEMENT** Circle all that apply.

Pursuant to N.J.S.A. 40:55D-48.1 & 48.2, please answer the following questions:

- Is this application to subdivide a parcel of land into six (6) or more lots? Yes  No
- Is this application to construct a multiple dwelling of 25 or more units? Yes  No
- Is this an application for approval of a site(s) for non-residential purposes? Yes  No
- Is this Applicant a corporation? Yes  No
- Is the Applicant a limited liability corporation? Yes  No
- Is the Applicant a partnership? Yes  No

If you circled YES to any of the above, please complete the following Ownership Discloser Statement (use additional sheets if necessary).



Borough of Highlands  
42 Shore Drive  
Highlands, NJ 07732  
(732) 872-1224  
www.highlandsborough.org

**12B. BUSINESS ORGANIZATION OWNERSHIP DISCLOSURE STATEMENT**

Name of Corporation, Partnership, LLC, LLP, S-Corp:

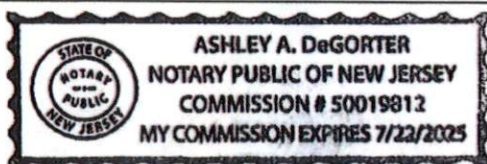
B-Four Enterprises, Inc.

Listed below are the names and addresses of all owners of 10% or more of the stock/interest\* in the above referenced business organization:

NAME	ADDRESS
David Baker	190 Boundary Road, Marlboro, NJ
Mark Baker	9 Scotto Farm Lane, Millstone, NJ

\*If a corporation or a partnership owns 10% or more of the stock of a corporation, or 10% or great interest in a partnership, that corporation or partnership shall list the names and address of its stockholders holding 10% or more of its stock or 10% or greater interest in the partnership, and this requirement shall be followed until the names and addresses of the non-corporate stockholders and individual partners, exceeding the 10% owner ship criterion established have been listed.

SWORN & SUBSCRIBED to before me this  
14<sup>th</sup> day of February 2022 (year)  
Ashley A. DeGorter (notary)  
 (Seal)



[Signature] 2/14/2022  
 Signature (Officer/Partner) Date  
David Baker, managing member  
 Print Full Name Title

**RIDER**  
**B-Four Enterprises, Inc.**  
**Amended Site Plan Approval**

B-Four Enterprises, Inc., (the “Applicant”), is seeking Amended Site Plan Approval to make modifications to the approved site plan for the Seafarer Tiki Bar and utilize a river paddle boat to be located at the southern dock along the property, as an additional area for patrons of the Seafarer.

The subject property is located at 1 Marina Court and 1 Atlantic Street, and also identified as Lots 8, 8.01, 9.001, 9.011 and 9.012 in Block 72 and Lots 13 and 13.01 in Block 69 (the “Property”). The Property is developed with a marina, boat yard and the Seafarer and located in WC-2 Zone, where the proposed uses are permitted.

The Seafarer operates from mid-May to mid-September, (the “summer season” or in-season”), 7 days a week from 11:00 AM to 11:00 PM. It approved by resolution adopted by the Planning Board September 10, 2015 (the “Resolution”), a copy of which is attached as Exhibit A. The approval permits the following: (1) 130 boat slips; (2) 12 boats stored on the Property during the summer season; (3) 26 seats at the center tiki bar; and (4) 29 tables of 4 on the deck and around the center bar. The approval also permits a food truck to be used in-season.

The Applicant is seeking to modify the prior approval in the following manor: (1) store approximately 10 boats on the property in-season, rather than the 12 as previously approved; (2) remove approximately 14 seats from the center tiki bar for a total of 12 seats at this location; (3) utilize 1,500 square-foot river boat with approximately 8 tables of 4 each seats for use by patrons of the tiki bar and to utilize the river boat paddle for private parties. The 29 tables of 4 seats located on the deck and around the center bar, food truck and lavatories will remain as previously approved.

RECEIVED

MAY 4 2022

LAND USE BOARD



No changes are proposed to the existing marina or Seafarer operations. With the addition of the river paddle boat, 176 parking spaces are required, where 186 are provided. No variances triggered by this application.

**EXHIBIT A**

**MARTIN A. McGANN, JR.**

**Attorney at Law  
125 State Highway 35  
Red Bank, NJ 07701  
732-741-5757  
FAX: 732-530-0183**

FedEx. & UPS etc.  
125 State Highway 35  
Middletown, NJ 07748

September 25, 2015

Mr. David Baker  
B-Four Enterprises, LLC  
1 Globe Circle  
Red Bank, NJ 07701

**RE: Site Plan for Tiki Bar  
Block 69, Lots 13 & 13.01  
Block 72, Lots 8 & 8.01  
Borough of Highlands**

Dear Dave:

I enclose herewith Amending Resolution Approving the Preliminary and Final Major Site Plan and Design Waiver Application of B-Four Enterprises, LLC for the property in the Borough of Highlands.

As you are aware, we have attempted to negotiate this Resolution for several months. Some of our negotiations have been successful, and other aspects of it have not been due to a rather arbitrary assessment of the situation, particularly in reference to Page 4, Paragraph 19.

Therefore, I would request that you do the following:

1. As to Page 3, Paragraph 6 – please refer same onto Andy Raichle for his attention.
2. As to Page 3, Paragraph 7 - I suspect since you had a sanitary sewer connection for the former restaurant, there should not be an issue reconnecting to same. Please check with the Borough Administrator Tim Hill regarding this issue. They should not charge you for another connection fee since one already exists.
3. As to Page 3, Paragraph 9 – we have already submitted the Cross Easement, you have signed same, and it has been recorded and submitted to Carolyn Cummins.
4. As to Page 3, Paragraph 10 – please note the requirements regarding repair and the striping in the parking areas, and signage as required by the Borough Engineer. Please note the removal of the existing "Private Property – No Trespassing" sign at the site.

Mr. David Baker  
September 25, 2015  
Page 2

5. Please have the surveyor with Page 3, Paragraph 12.
6. I suggest you have your surveyor speak directly with the Borough Engineer, Robert Keady, of T&M Associates to discuss exactly what he wants to be done.
7. Page 4, Paragraph 14 – you can contact Mr. Keady's office and review the lighting situation on the site to determine if light shields are necessary.
8. Page 4, Paragraph 16 – I will forward the Tax Assessor copies of the current Lot and Block numbers for the subject properties so that he can review same and correct any lot and block numbers that need to be corrected, and then subsequently be placed on the revised plans.
9. Michael Monroe, R.A. can review Page 4, Paragraph 17 and number all of the parking spaces on the plans so that there is a complete count; bearing in mind that approximately 12 boats will be dry docked in the summer; therefore, provide for an area for those boats on the Site Plan, less those parking spaces which the boats will take up.
10. Page 4, Paragraphs 18 and 19 – please refer those issues to Andy Raichle.

When all of the above has been accomplished, please submit your Plans to the Board for a review and final signoff by the Borough Officials.

At your earliest convenience would you kindly look into my outstanding invoice due. A copy of same is enclosed for your ready reference.

Thank you for your kind attention.

Very truly yours,



MARTIN A. MCGANN, JR.

MAM/cl  
Enclosure

cc: Michael J. Monroe, AIA  
Andrew Raichle, P.E., Principal  
Val Braginsky, PLS

# BOROUGH OF HIGHLANDS, N.J.

INCORPORATED 1900

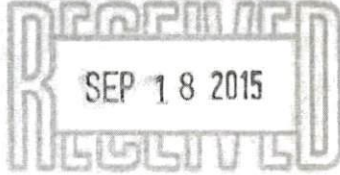
171 BAY AVENUE  
07732  
COUNTY OF MONMOUTH  
PHONE: 732-872-1224  
FAX: 732-872-0670



HISTORIC "TWIN LIGHTS"

FRANK L. NOLAN  
MAYOR  
CAROLYN M. CUMMINS  
BOROUGH CLERK  
TIMOTHY HILL  
BOROUGH ADMINISTRATOR

WWW.HIGHLANDSNJ.COM



## LETTER OF TRANSMITTAL

TO: Martin McGann, Esq.  
125 Highway 35  
Red Bank, NJ 07701

Date: September 15, 2015

**ATTENTION:**

**RE: Planning Board Resolution  
Approving B-Four Ent., LLC Block 69 Lots 13 & 13.01  
Block 72 Lots 8 & 8.01 and Block 72 Lots 9.001, 9.011, 9.012**

WE ARE SENDING YOU THE ATTACHED LISTED BELOW:

COPIES	DATE	DESCRIPTION
1	09/10/15	Certified Copy of Resolution for B-Four Ent

**NOTE:** After you publish notice of this resolution please forward me the affidavit of public.

cc: D. Leubner, Zoning/Flood Officer  
C. Heck, Tax Assessor  
R. Keady, P.E., Borough/Board Engineer

Carolyn Cummins, Borough Clerk

Mr. Wells offered the following Resolution and moved on its adoption:

**AMENDING RESOLUTION APPROVING THE PRELIMINARY  
AND FINAL MAJOR SITE PLAN AND DESIGN WAIVER  
APPLICATION OF B-FOUR ENTERPRISES, LLC FOR, BLOCK  
72, LOTS 8 & 8.01; BLOCK 69, LOTS 13 & 13.01; BLOCK 72,  
LOTS 9.001, 9.011 & 9.012**

WHEREAS, the applicant B-Four Enterprises, LLC (hereinafter referred to as the "applicant") is the owner of the above captioned lots, which lots are located in the WC-2 Zone in the Borough of Highlands, New Jersey; and

WHEREAS, the applicant has applied for preliminary and final major site plan approval with a design waiver for the purpose of operating a tiki bar and restaurant on the site previously occupied by the Clam Hut Restaurant in the Borough. The applicant intends to use the existing structures at the site for lavatory purposes and the tiki bar and the existing parking lot areas. All of the details of the proposed new and existing structures and proposed parking areas are set forth on the plans and maps submitted with the application, and submitted into evidence at the public hearing of the application by the Board held on May 14, 2015. All of the foregoing are incorporated herein by reference thereto. The applicant has also applied for a design waiver to permit new light fixtures to be attached to the existing utility poles at the site at an elevation of 24 feet, where the applicable ordinance permits a maximum elevation of 15 feet; and

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

WHEREAS, the Board considered this application at a public hearing held on May 14, 2015; and

WHEREAS, Thomas Morford, a principal of the applicant testified on the operational details and the general layout and uses proposed at the site; and

WHEREAS, Michael James Monroe, a licensed architect in the State of New Jersey testified on the architectural elements and addressed the ADA compliance issues; and

WHEREAS, members of the public cross examined the applicant's witnesses and expressed their opinions on the project; and

WHEREAS, the Board makes the following factual findings in connection with this application based on the testimony and plans and maps submitted on behalf of the applicant and the members of the public:

1. The proposed uses at the site are permitted pursuant to the applicable Borough Development and Zoning Ordinances.

2. The applicant intends to operate the tiki bar from mid-May to mid-September and use the area for boat storage during the months in between during the off-season.

3. The applicant will provide cross-easements for ingress, egress, parking and lavatory uses at the subject property.

4. The portable kitchen proposed to be located on the site will be contained in a trailer that will be placed on the site at the beginning of the season in May and be removed at the end of the season in September.

5. The applicant will operate the bar and restaurant seven (7) days per week from 11:00 am to 11:00 pm during the season.

6. The applicant will employ 10-15 employees during the season.

7. The applicant proposes to install two (2) dumpsters at the site that will be emptied at least two (2) times per week and more often if necessary.

8. It is contemplated that deliveries to the Tiki Bar operation will be in a box-type truck or similar type of truck. On occasion the deliveries may be in a different type of truck. Insofar as the marina is concerned there may be occasions where other types of trucks will service and make deliveries to that operation.

9. The applicant will have entertainment that complies with the Borough noise ordinance.

10. There will be two (2) lavatories located in each of the existing structures at the site. Two (2) lavatories will be ADA compliant.

11. The project is located in the CAFRA zone and requires CAFRA approval or a letter from the NJDEP exempting the project from the jurisdiction of the NJDEP.

12. The requested design waiver will be granted so long as the light fixtures are shielded if necessary (as determined by the municipal engineer), to prevent light from shining on the contiguous properties that border the subject site.

13. The Board finds that there is a pre-existing non-conforming lot coverage variance that is not affected by this application.

14. The Board finds that the number of parking spaces proposed meet the requirements of the applicable ordinances and are adequate for the uses proposed at the subject premises; and

WHEREAS, the Board finds that the preliminary and final site plan application can be approved and the design waiver granted so long as the applicant complies with Board imposed conditions set forth hereinafter.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Highlands that the application for preliminary and final major site plan approval and design waiver for the aforementioned lots is hereby approved contingent on the following conditions being met:

1. All testimony, evidence and representations made by the applicant and its witnesses are incorporated herein.
2. Taxes, fees and escrow accounts shall be current.

3. The applicant shall comply with all of the outstanding comments and conditions if any set forth in the Board Engineer's letter dated May 11, 2015, which is incorporated herein in full by reference thereto.
4. The applicant agrees to post performance bonds and/or inspection fees as determined by the Borough Engineer if any.
5. The applicant shall obtain the approval of all outside governmental agencies that have jurisdiction over this project prior to the issuance of any permits for any construction at the site.
6. The applicant shall supply a permit from the NJDEP for the construction of the existing deck, tiki bar and the construction of the remainder of the proposed site improvements and the location of the mobile kitchen including the sink and grease trap at the premises or a letter indicating that the NJDEP has no jurisdiction over the installation of any one or all of these items. In the event the applicant supplies documentation indicating that the deck and tiki bar construction does not require any approval or permitting from NJDEP, the applicant is permitted to use the deck and tiki bar area provided that the structures are built to be compliant with the FEMA coastal construction guidelines and V-Zone Standards. Additionally should the Tiki Bar area receive all permits and/or approvals from all required agencies, it shall be permitted to open for business without the deck area being completed and/or not yet having received necessary approvals.  
In the event any outside agency requires the applicant to make any changes to the plans approved by this Board, the applicant must submit those changes to this Board for its review and approval.
7. The applicant shall obtain the approval of the Highlands Regional Sewerage Authority for the project if required by law.
8. The applicant shall construct the project in accordance with the plans and maps submitted with the application and/or submitted into evidence at the public hearing or any plans or maps hereinafter supplemented to conform to these conditions of approval and/or the representations made by the witnesses for the applicant at the public meeting.
9. The applicant shall submit the proposed cross-easements for ingress, egress, parking and lavatory use to the Board Engineer and Attorney for their review and approval.
10. The applicant shall repair and stripe the parking areas and replace all damaged sidewalk and curbing at the site where necessary at the direction of the municipal engineer. The applicant shall also install adequate traffic and parking signage at site as per the requirements of the Board Engineer and remove the existing "Private Property- No Trespassing" signs at the site.
11. No boats will be permitted to tie-up to the deck area if the applicant uses the deck area for dining and/or drinking purposes.
12. The applicant shall submit amended site plans to the Board (and Board Engineer) depicting the topography of the area (elevations) and flood



zone information requested by the Board Chairman and Board Engineer at the public hearing.

- 13. The applicant is permitted to have a maximum of 12 boats stored on property during the time period that the bar and restaurant are in operation so long as that does not result in a loss of the amount of the approved parking spaces required by Ordinance or approved by this Board.
- 14. The applicant will shield the proposed pole mounted light fixtures to prevent light spillage onto contiguous properties if necessary at the direction of the municipal engineer.
- 15. The applicant shall comply with the Borough sound or noise ordinances.
- 16. The applicant shall confirm with the Borough Tax Assessor the correct (current) lot and block numbers for the subject property and so designate the correct lots and block numbers on revised plans.
- 17. The applicant shall submit revised plans showing the number of parking spaces approved for the site; 130 boat slips; 26 seats at the tiki bar; 29 tables with seating for 4 patrons per table on the deck area and around the tiki bar.
- 18. All construction and equipment shall be compliant with FEMA V-Zone Coastal Construction requirements, NJDEP, CAFRA and Flood Hazard Area construction requirements.
- 19. The applicant shall be required to install backflow prevention valves on all existing storm drainage outfall pipes. .

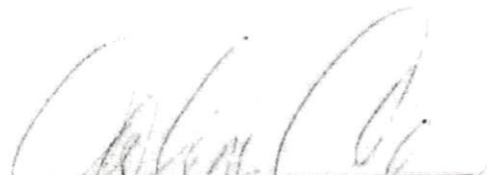
Seconded by Mr. Hill and adopted on the following roll call vote:

Ayes: Mr. Hill, Mr. Redmond, Mr. Wells, Mr. Stockton

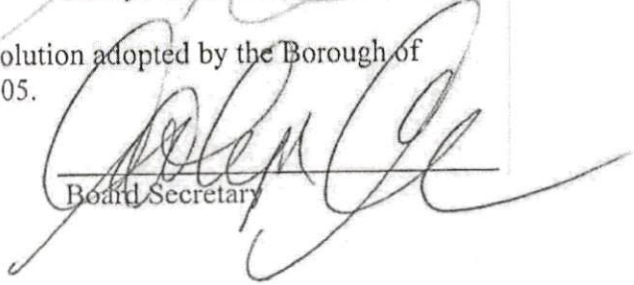
Nays: None

Abstain: None

September 10, 2015.

  
 Carolyn Cummins, Board Secretary

I certify this to be a true copy of the Resolution adopted by the Borough of Highlands Planning Board on September 10, 2105.

  
 Board Secretary

# AMENDED SITE PLAN

BLOCK 72 LOTS 8, 8.01, 9.001, 9.011 & 9.012  
BLOCK 69, LOTS 13 & 13.01

## APPROVALS

CHAIRMAN \_\_\_\_\_ DATE \_\_\_\_\_  
SECRETARY \_\_\_\_\_ DATE \_\_\_\_\_  
ENGINEER \_\_\_\_\_ DATE \_\_\_\_\_

OWNER: B-FOUR ENTERPRISES, INC.  
BAKER'S MARINA  
ON THE BAY LLC

ARCHITECT: MICHAEL JAMES MONROE  
ARCHITECT  
12 BROAD STREET  
RED BANK, NJ 07701

## APPLICABLE CODES

**BUILDING SUBCODE** (NJAC 5:23-3.14)  
International Building Code/2018, NJ ed (IBC w/ NJ edits from 3.14)  
\* Corrected pages (NJ errata)  
\* Corrected sections (ICC errata)  
Other referenced I-Codes (IFC/2018, ISPS/2018, etc.)  
Other referenced ICC Standards (ICC/ANSI A117.1-2009, ICC 300-2017, etc.)/Sept. 03, 2019

**PLUMBING SUBCODE** (NJAC 5:23-3.15)  
National Standard Plumbing Code/2018, NJ ed (NSPC w/ NJ edits from 3.15)/Sept. 03, 2019

**ELECTRICAL SUBCODE** (NJAC 5:23-3.16)  
National Electrical Code (NFPA 70)/2017  
(link provides access to all NFPA standards)/Sept. 03, 2019

**ENERGY SUBCODE** (NJAC 5:23-3.18)  
International Energy Conservation Code/2018 (Low-Rise Residential)  
ASHRAE 90.1-2016 (Commercial & all other Residential)  
Sept. 03, 2019

**MECHANICAL SUBCODE** (NJAC 5:23-3.20)  
International Mechanical Code/2018/Sept. 03, 2019

**ONE- AND TWO-FAMILY DWELLING SUBCODE** (NJAC 5:23-3.21)  
International Residential Code/2018, NJ ed (IRC w/ NJ edits from 3.21)  
\* Corrected pages (NJ errata)  
\* Corrected sections (ICC errata)  
Other referenced I-Codes (ISPS/2018, etc.)/Sept. 03, 2019

**FUEL GAS SUBCODE** (NJAC 5:23-3.22)  
International Fuel Gas Code/2018/Sept. 03, 2019

**REHABILITATION SUBCODE** (NJAC 5:23-6)  
NIJCC, Subchapter 6  
Updated as Necessary  
(current as of 08/20/18)  
2018 I-code update  
coming soon

**BARRIER FREE SUBCODE** (Chapter 11 of IBC/2018 & NJAC 5:23-7)  
ICC/ANSI A117.1-2009  
Sept. 03, 2019

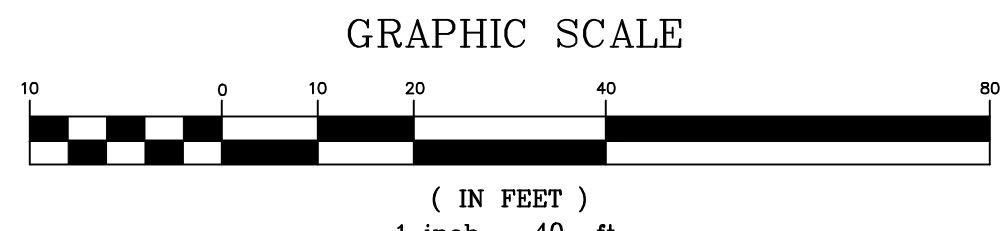
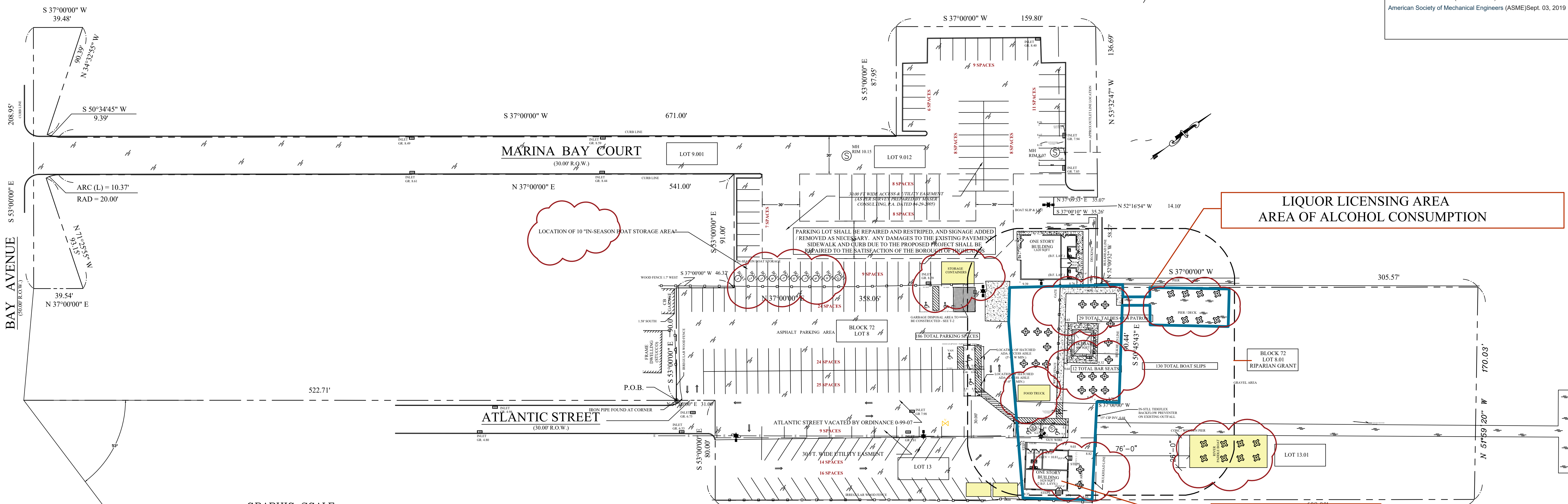
**ELEVATOR SUBCODE** (NJAC 5:23-12)  
American Society of Mechanical Engineers (ASME)/Sept. 03, 2019

## REVISIONS

08/08/19	
01/20/20	
4-18-22	

AMENDED SITE PLAN APPLICATION  
**B-FOUR ENTERPRISES, INC.**  
BLOCK 69, LOTS 13 & 13.01 BLOCK 72 LOTS 8, 8.01, 9.001, 9.011 & 9.012  
1 ATLANTIC STREET  
MONMOUTH COUNTY  
HIGHLANDS, NJ

**MICHAEL JAMES MONROE**  
• A R C H I T E C T •  
788 SHREWSBURY AVE. TINTON FALLS, NJ



### 1 SITE PLAN T-1 SCALE: 1"=40'-0"

SITE PLAN INFORMATION TAKEN FROM SURVEY DONE BY BRAGINSKY SURVEYING, INC., PROFESSIONAL LAND SURVEYORS INC. 2 AUSTIN AVENUE, ISELIN, NJ 08830 732-326-9090 FAX 866-464-8910 VALERY BRAGINSKY PLS. NJ LIC # 43217 1/16/15 REV JOB # 1302-12

#### TRASH PICK UP NOTES

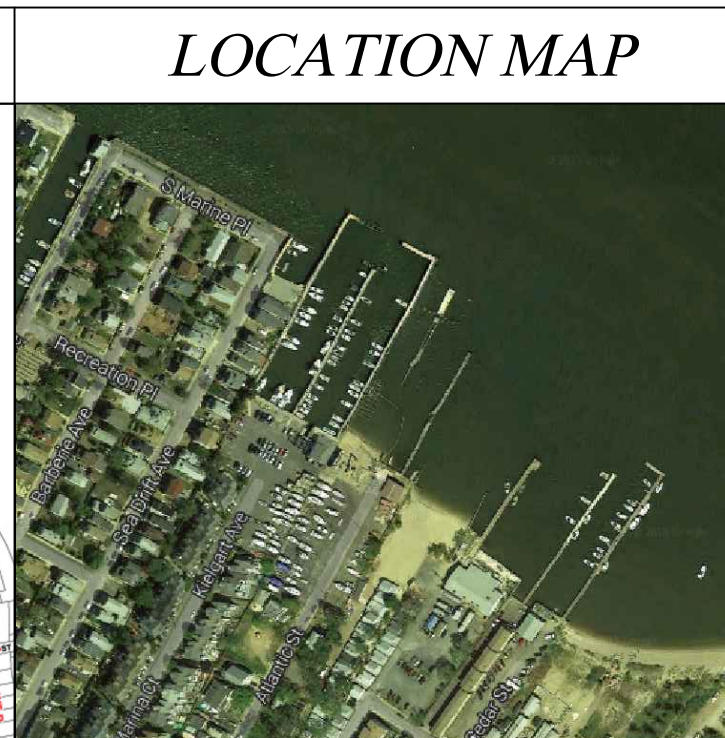
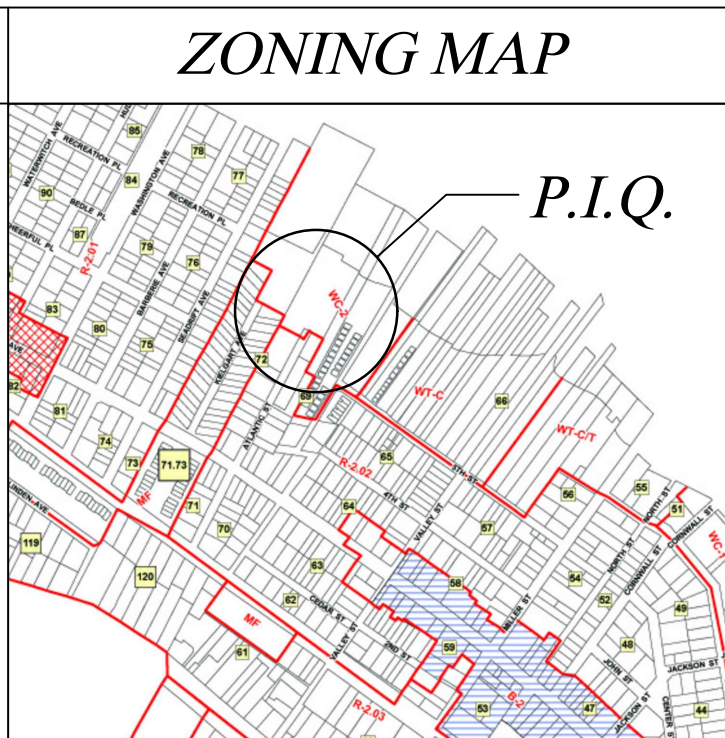
- EXISTING TRASH PICK UP IN REAR TO REMAIN.
- TRASH PICK UP WILL BE DAILY RECYCLING & CARDBOARD PICK UP WILL BE TWICE A WEEK.
- ALL CONTAINERS TO BE SEALED W/FLIP TOP LIDS.
- ALL TRASH CONTAINERS TO BE PLASTIC 22" X 24" X 36" & SEALED W/ATTACHED FLIP TOP LID.
- TRASH REMOVAL SHALL BE DAILY BY PRIVATE CARTAGE AND THE REAR ALLEYWAY SHALL NOT BE BLOCKED.

**TRASH CALCULATIONS**

TRASH - (3) 55 GAL BAGS /DAY	
RECYCLING - (2) CU.FT/DAY	
CARD BOARD - (3) CU.FT/DAY	

#### PARKING SCHEDULE

USE	REQUIREMENT	SPACES
MARINA	1/PER BOAT SLIP	130
BOAT YARD	BOAT STORAGE STORED BOATS 1/3 BOATS	4
RESTAURANT	1/PER 4 SEATS 160 SEATS 12 TIKI = 3 116 TABLES = 29 32 PADDLE BOAT = 8	40
	TOTAL REQUIRED	174
	TOTAL PROVIDED	186



#### ZONING DATA

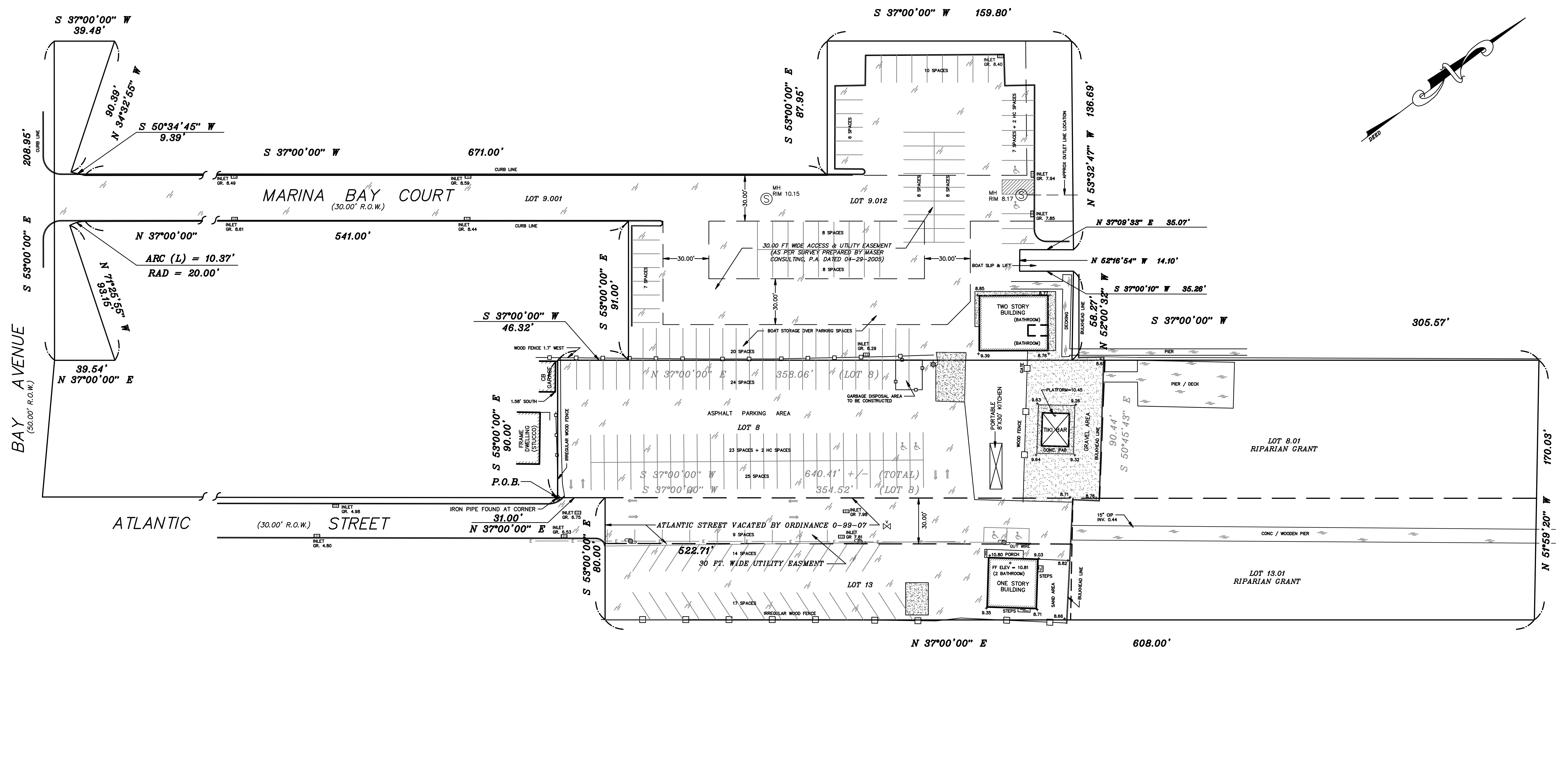
DESCRIPTION	EXISTING	REQUIRED	PROPOSED	VARIANCE
ZONE	WC-2	WC-2	WC-2	-
LOT AREA	176,443 sqft	176,443 sqft	176,443 sqft	-
LOT FRONTAGE / WIDTH	100	100	-	-
LOT DEPTH / CIRCLE	150	150	-	-
FRONT SETBACK	20	20	-	-
MIN. DIST. C.L STREET	-	-	-	-
REAR SETBACK	N/A	N/A	N/A	-
SIDE SETBACK	8.71/166	10/10	8.71/166	-
MIN. G.F.A.	-	-	-	-
MAX. BLDG COVERAGE	2,644 sqft 1.4%	44,110 sqft 25%	3,364 sqft 1.9%	-
MAX. BLDG HEIGHT	+ 22'	36'	+ 22'	-
F.A.R.	.014	0.60	.091	-
LOT COVERAGE	+98%	70%	+98%	EXISTING
PARKING SPACES	186	174	186	-
LOADING SPACES	-	-	-	-
B.F. SPACES REQ'D.	7	6	7	-
((A.D.A.) 4.12 (5)(A))	N/A	N/A	N/A	-
SIGN AREA (BLDG.)	-	-	-	-
1/FACE 10% AREA	-	-	-	-
STREET SIGN HEIGHT	EXISTING	EXISTING	-	-
STREET SIGN SETBACK	EXISTING	EXISTING	-	-

#### DRAWING INDEX

T-1	COVER SHEET - PROJECT DATA, SYMBOL SCHEDULE, LOCATION MAP, DRAWING INDEX, SITE PLAN, APPLICABLE NOTES, SIGNAGE SCHEDULE, PARKING SCHEDULE, BUILDING ELEVATION
-----	---

DATE	1-20-20
SCALE	AS NOTED
DWN BY	MJS
ISSUE	

PROJ # 1945-14  
**T-1**  
SH 1 OF 1



**LEGEND**

- PROJECT BOUNDARY LINE
- OVERHEAD WIRES
- CURB LINE
- DROP CURB
- MANHOLE (SEWER)
- INLET
- SIGN POST
- UTILITY POLE
- UTILITY POLE WITH LIGHT
- SPOT ELEVATION
- FENCE (METAL)
- FENCE (WOOD OR VINYL)
- ASPHALT
- CONCRETE
- WOOD DECKING
- GRAVEL AREA

**THIS SURVEY IS CERTIFIED TO:**  
 THOMAS MORFORD  
 B-FOUR ENTERPRISES, LLC  
 ACRES LAND TITLE AGENCY, INC.  
 MICHAEL L. OSTROWSKY, ESQ.  
 KEYPORT LANDING, LLC

**THIS CERTIFICATION IS MADE ONLY TO THE NAMED PARTIES FOR PURPOSE OF MUNICIPALITY SUBMITTAL, PURCHASE AND/OR MORTGAGE FROM LENDER AS NAMED. NO RESPONSIBILITY OR LIABILITY IS ASSUMED BY SURVEYOR FOR USE OF SURVEY FOR ANY OTHER PURPOSE INCLUDING, BUT NOT LIMITED TO, USE OF SURVEY FOR SURVEY AFFIDAVIT, RESALE OF PROPERTY, OR TO ANY OTHER PERSON NOT LISTED IN CERTIFICATION, EITHER DIRECTLY OR INDIRECTLY. THIS SURVEY IS INVALID WITHOUT THE EMBOSSED SEAL OF THE SURVEYOR, SUBJECT TO ALL EASEMENTS OR RIGHT-OF-WAY OF RECORD.**

**NOTES**

1. THIS MAP DOES NOT CONSTITUTE A SURVEY OF THE ENTIRE PROPERTY BUT IS INTENDED TO REFLECT THE IMPROVEMENTS MADE TO THE PROPERTY AS OF THE PREVIOUS SURVEY PREPARED ON FEBRUARY 18, 2013 BY BRAGINSKY SURVEYING, LLC AS WELL AS THE PARKING SPACE AVAILABILITY ACCESSIBLE TO THE NEW IMPROVEMENTS REFERENCED.
2. LOCATIONS AND TYPES OF UTILITIES SHOWN HEREON ARE DERIVED FROM FIELD LOCATION OF ABOVE GROUND UTILITY STRUCTURES AND MARKOUTS IF ANY EXIST.
3. DRAINAGE SHOWN WITHIN LOTS 9.001 AND 9.012 AS PER SURVEY PREPARED BY MASER CONSULTING, P.A., DATED APRIL 29, 2005.
4. ALL ELEVATIONS AND CONTOURS SHOWN ARE EXISTING AND ARE BASED ON NAVD1988.
5. THIS SURVEY IS SUBJECT TO THE FACTS AND FINDINGS OF A COMPLETE TITLE SEARCH AND MAY NOT SHOW ALL EASEMENTS INCLUDING SUBSURFACE UTILITY EASEMENTS.
6. THIS SURVEY IS NOT VALID UNLESS SIGNED AND SEALED BY THE LICENSED SURVEYOR.

**AREA OF LOTS LISTED**  
 176,443 SQ. FT. OR 4.05 ACRES

NO.	DATE	DESCRIPTION	BY
1	01/16/2015	ADDITIONAL DRAINAGE SHOWN	VB

**GRAPHIC SCALE**  
 ( IN FEET )  
 1 inch = 30 ft.

**METES & BOUNDS SURVEY**  
 OF  
 "MARINA ON THE BAY"  
 LOTS 9, 8, 8.01, 13 & 13.01 IN BLOCK 72 ON TAX MAPS OF  
 BOROUGH OF HIGHLANDS MONMOUTH COUNTY NEW JERSEY

PREPARED FOR  
**THOMAS MORFORD**

**BRAGINSKY SURVEYING, LLC**  
 PROFESSIONAL LAND SURVEYORS

**VALERY BRAGINSKY PLS**  
 NJ LICENSE NO. 45217  
 2 AUSTIN AVENUE  
 ISELIN, NJ 08830  
 TEL: (732) 326-9090 FAX: (866) 464-8910  
 DRAWN BY: VB CHECKED BY: VB  
 DATE: FEBRUARY 18, 2013 SCALE: 1" = 30'  
 JOB NO.: 1302-12



RECEIVED  
MAY 4 2022  
LAND USE BOARD



1

February 24, 2022

Atlantic Street Innkeepers LLC  
Sent via email

RE: 1 Atlantic Street  
Block 72, Lots 8.01 & 8.02

Please be advised that the above referenced application to utilize a paddle boat for interior space for use by patrons of the bar/restaurant has been reviewed for compliance with the Borough of Highlands Zoning Ordinance. The property is located in the WC-2 zone.

The following approvals will be necessary:

**#21-55 Amended site plan approval**

**The comments of the Borough Engineer's email of 2/24/2022 should be addressed upon Engineering review.**

To proceed with an application/appeal of this decision to the Land Use Board, please contact the Nancy Tran, Board Secretary at 732-872-1224. Should you have any questions, feel free to contact me at 732-615-2278.

Sincerely,  
  
Marianne Dunn  
Zoning Officer

C: Land Use Board

RECEIVED  
MAY 4 2022  
LAND USE BOARD

**WILENTZ**

—ATTORNEYS AT LAW—

**STEVEN J. TRIPP, ESQ.**

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 Woodbridge, NJ 07095-0958  
 732.636.8000

**RECEIVED**  
**MAY 4 2022**  
**LAND USE BOARD**

May 3, 2022

**VIA UPS OVERNIGHT DELIVERY**

Nancy Tran, Land Use Secretary  
 Borough of Highlands  
 Administrative Offices  
 42 Shore Drive, Highlands, NJ 07732

**Re: B-Four Enterprises, Inc.**  
**Blocks 69/70 Lots 13 & 13.01/ 8, 8.01, 9.001, 9.011, 9.012**  
**Application for Amended Site Plan Approval**

Dear Ms. Tran:

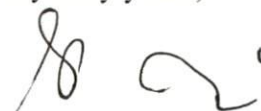
This firm represents B-Four Enterprises, Inc., ( the “Applicant”) in the above captioned matter. Enclosed, for filing, please find the following:

1. Check in the amount of \$100.00, payable to “Borough of Highlands,” representing payment of the application fee.
2. Check in the amount of \$750.00, payable to “Borough of Highlands,” representing payment of the escrow fee.
3. Original and seventeen (17) copies of Application for Development.
4. Eighteen (18) copies of the Application Rider.
5. Eighteen (18) copies of Zoning Denial, dated February 24, 2022.
6. Eighteen (18) sets of photographs of the proposed river paddle boat.
7. Proof of Payment of Taxes and Assessments for Lot 13, 13.01, 9.001, 9.011 and 9.012. Please note, the Borough has no tax records as to Lots 8 & 8.01.
8. Certified 200’ Property Owners’ List, dated April 27, 2022.

9. Completed W-9 form.
10. Eighteen (18) sets of the Metes and Bounds Survey, consisting of one (1) sheet, prepared by Braginsky Surveying, LLC, and dated February 18, 2013.
11. Four (4) full-size sets of plan entitled, "Amended Site Plan, Block 72 Lots 8, 8.01, 9.001, 9.011 & 9.012 Block 69, Lots 13 & 13.01," consisting of one (1) sheet, prepared by Michael James Monroe Architect, and revised April 18, 2022.
12. Fourteen (14) half-size sets of the plan entitled "Amended Site Plan, Block 72 Lots 8, 8.01, 9.001, 9.011 & 9.012 Block 69, Lots 13 & 13.01," consisting of one (1) sheet, prepared by Michael James Monroe Architect, and revised April 18, 2022.

Kindly schedule this matter for hearing at the next available Land Use Board meeting. Should you have any questions or need any additional information, please do not hesitate to contact me .

Very truly yours,



STEVEN J. TRIPP, ESQ.

Enclosures

**cc: VIA EMAIL**

Mr. David Baker

Michael Monroe, AIA

RECEIVED

MAY 4 2022

LAND USE BOARD





HGPB- R1920

June 7, 2022

Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board  
42 Shore Drive  
Highlands, New Jersey 07732

*Via Email (ntran@highlandsborough.org)*

**Re: B-4 Enterprises, Inc.  
Baker's Marina on the Bay, LLC  
1 Atlantic Street  
Marina Bay Court  
Block 72, Lots 8, 8.01, 9.001, 9.011, 9.012  
Block 69, Lots 13 & 13.01  
Waterfront Commercial (WC-2) Zone  
Amended Minor Site Plan  
First Engineering Review**

Dear Ms. Tran:

As requested, our office has reviewed the above-referenced application for minor site plan approval. The applicant submitted the following documents in support of this application:

1. Land Use Board Application, undated.
2. Metes and Bounds Survey prepared by Braginsky Surveying, LLC, dated February 18, 2013, last revised January 16, 2015, consisting of one (1) sheet.
3. Amended Site Plans prepared by Michael Monroe, A.I.A, dated January 20, 2020, last revised April 18, 2022, consisting of one (1) sheet.

Based on our review of the submitted documents, we offer the following comments for the Board's consideration:

**A. Project Description**

The 176,443 square feet (4.05 acre) property is currently developed as the Seafarer Tiki Bar with associated dock and parking lot area. The site is located in the Waterfront Commercial (WC-2) Zone with frontage along Atlantic Street. The applicant previously received preliminary and final major site plan approval for the establishment of the Seafarer Tiki Bar in May 2015. With this proposal, the applicant is seeking amended minor site plan approval to utilize a 1,500 square-foot river paddle boat for public and private use, along with boat storage adjustments reducing space from twelve (12) to ten (10) boats on the property and removal of fourteen (14) seats from the tiki bar for a total of twelve (12) seats.



**Le: Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board**

**Re: B-4 Enterprises, Inc.  
Baker’s Marina on the Bay, LLC  
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Block 72, Lots 8, 8.01, 9.001, 9.011, 9.012  
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**B. Planning and Zoning**

In accordance with Section 21-96 of the Ordinance existing/proposed bulk requirements are noted as follows:

WC-2 Zone	Required	Existing	Proposed
Minimum Lot Area (sf)	NA	176,443	176,443
Minimum Lot Frontage (ft)	100	170	170
Minimum Lot Depth (ft)	150	>150	>150
Minimum Front Yard Setback (ft)	20	>20	>20
Minimum Rear Yard Setback (ft)	NA	NA	NA
Minimum Side Yard Setback (ft)	10/10	>10/10	>10/10
Maximum Building Height (stories/ft)	36	<36	<36
Lot Coverage	70%	98% (E)	98% (E)
Building Coverage	25%	1.4%	1.9%
Maximum Floor Area Ratio (FAR)	0.60	0.014	0.019

- (E) – Existing Non-conformity
- (C) – Calculated
- (W) – Waiver
- (V) – Variance
- NA – Not Applicable
- NS – Not Specified, the applicant shall confirm this dimension

**C. Site Requirements & Layout**

1. The applicant does not propose any off-site improvements as part of this application.
2. The property in question is 4.05 acres in size and is currently developed with Seafarer Tiki Bar with associated dock and parking lot area. The applicant proposes to utilize a 1,500 square-foot river paddle boat, along with boat storage adjustments reducing space from twelve (12) to ten (10) boats on the property and removal of fourteen (14) seats from the tiki bar for a total of twelve (12) seats. The river paddle boat will be located along the southern dock and consist of eight (8) tables of four (4) seats, a total of 32 seats, for use by patrons of the tiki bar and to utilize the river boat for private parties. The existing 29 tables of four (4) seats, a total of 116



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Borough of Highlands Land Use Board**

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Amended Minor Site Plan  
First Engineering Review**

seats, located on the deck and around the center bar, food truck, and lavatories will remain in place.

3. The applicant shall provide testimony on the general site modifications with the amended site plan.
4. The applicant shall provide testimony on the adequacy of the current parking conditions. The plans indicate that the parking lot shall be repaired and restriped. A parking lot improvements plan shall be provided.
5. The applicant shall provide testimony on the existing use of the facility and need for proposed improvements, as well as any impacts to prior approvals.
6. For the marina, boat yard, and restaurant uses, Section 21-65.14 of the Ordinance requires 1 off-street parking space for every marina boat slip, 1 off-street parking space for every 3 boat storage spaces, and 1 off-street parking space per every 4 seats. The following is a summary of the required off-street parking spaces:

Marina:	1 space per marina boat slip @ 130 marina boat slips	130 spaces
Boat Yard:	1 space per 3 boat storage spaces @ 10 storage spaces	3.33 spaces
Restaurant:	1 space per 4 seats @ 160 seats	<u>40 spaces</u>

Total Required Spaces: 174 spaces

A total of 174 parking spaces are required, whereas 186 parking spaces are proposed. The applicant shall provide testimony on the anticipated parking demand and adequacy of the proposed number of parking spaces, and any specific allocations or signage amongst the various uses on the site.

7. Table 208.2 of the 2010 ADA standards indicates that six (6) ADA accessible parking spaces are to be provided when there are between 151 and 200 parking spaces, whereas seven (7) ADA accessible parking spaces are provided.
8. The applicant shall provide testimony on how the boat storage spaces are delineated from standard parking spaces. Additional striping or signage may be required.
9. The applicant shall provide testimony on location and permanence of the river paddle boat including but not limited to how this structure will be secured to the dock and ADA access. Similarly, if cooking facilities and restrooms will be available on the boat.
10. The applicant shall provide testimony on any other site improvements or relocation of facilities including storage containers and/or food trucks.



**Le: Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board**

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11. The applicant shall provide testimony as to the frequency and type of trucks that will access the entire site including those providing deliveries and garbage collection.
12. The applicant shall provide testimony on the trash and recyclables to be generated with the proposed use, along with the process, times, and frequency of refuse pickup.

**D. Technical Engineering Review**

1. The applicant shall confirm that no new lighting or drainage improvements are proposed as part of this application.
2. Pursuant to Ordinance Section 21-65.10A (Landscaping and Street Trees), "All areas not devoted to structures, paving, or other required uses shall be appropriately graded, landscaped and maintained in accordance with a landscaping plan approved by the Board". The Board should determine if a landscaping plan is required.
3. The subject property is located within a mix of flood zones including the "VE" Flood Zone with a Base Flood Elevation (BFE) of 14 feet, "AE" Flood Zone with a BFE of 12 feet, and "AE" Flood Zone with a BFE of 11. It is also noted that this property is within the Limit of Moderate Wave Action (LimWA), which requires "V" Zone construction standards. We defer further review to the Floodplain Administrator.
4. The project site is located in the Coastal Area Facilities Review Act (CAFRA) Zone. The applicant shall comply with any applicable NJDEP requirements and should confirm any specific restrictions and/or permitting requirements accordingly. We recommend a jurisdictional determination be provided. We defer further review to NJDEP.
5. All existing and proposed easements, along with metes and bounds descriptions, shall be clearly shown on the plans. Metes and bounds descriptions shall be submitted to the Borough Attorney and this office for review and approval.
6. A note shall be added to the plans indicating that all improvements are to be ADA compliant, where applicable.
7. Testimony shall be provided regarding the proposed use. The applicant shall be prepared to discuss the following:
  - a. Security and access.
  - b. Hours of operation.
  - c. Operations of facility concerning customers during construction/installation.
  - d. Any change in hours of operation.



**Le: Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board**

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- e. Any additional employees (total and maximum per shift).
- 8. Approvals or waivers should be obtained from any agencies or departments having jurisdiction.

We reserve the opportunity to further review and comment on this application and all pertinent documentation, pursuant to testimony presented at the public hearing. If you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,

T&M ASSOCIATES

EDWARD W. HERRMAN, P.E., P.P., C.M.E., C.F.M.  
LAND USE BOARD ENGINEER

EWH:KJO:DV

cc: Michael Muscillo, Borough Administrator (mmuscillo@highlandsborough.org)  
Ron Cucchiaro, Esq., Land Use Board Attorney (RCucchiaro@weiner.law)  
Brian O'Callahan, Zoning Officer (bocallahan@middletownnj.org)  
Rob Knox, Land Use Board Chairman (rknox@highlandsborough.org)  
Annemarie Tierney, Land Use Board Vice Chairman (annemarie@liquidadvisors.com)  
B-4 Enterprises Inc., Applicant (david@rbaker.com)  
Steven J. Tripp, Esq., Applicant's Attorney (stripp@wilentz.com)  
Michael J. Monroe, Applicant's Architect (mjmservicesinc@yahoo.com)

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HGPB- R1920

June 7, 2022

Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board  
42 Shore Drive  
Highlands, New Jersey 07732

*Via Email (ntran@highlandsborough.org)*

**Re: B-4 Enterprises, Inc.  
1 Atlantic Street  
Block 72, Lots 8, 8.01, 9.001, 9.011, 9.012  
Block 69, Lots 13 & 13.01  
Waterfront Commercial (WC-2) Zone  
First Completeness Review**

Dear Ms. Tran:

As requested, we have reviewed the above-referenced application in accordance with the Borough of Highlands Zoning and Land Use Regulations section entitled Part 3, Subdivision and Site Plan Review, Article VI, Application Procedure, and Article VIII, Plat and Plan Details, section 21-58D – Minor Site Plan.

The applicant submitted the following documents in support of this application:

1. Land Use Board Application, undated.
2. Metes and Bounds Survey prepared by Braginsky Surveying, LLC, dated February 18, 2013, last revised January 16, 2015, consisting of one (1) sheet.
3. Amended Site Plans prepared by Michael Monroe, A.I.A, dated January 20, 2020, last revised April 18, 2022, consisting of one (1) sheet.

The above information was reviewed for completeness purposes as follows:

**Preliminary Site Plan (Minor):** The preliminary site plan shall be drawn at a scale of not more than one hundred (100) feet to the inch and shall include such details as may be necessary to properly evaluate the application and determine compliance with this chapter. The site plan shall be drawn by a licensed New Jersey professional engineer and land surveyor and, where applicable to the proposed use or construction, the following information shall be clearly shown.

1. Date, name, location of site, name of owner, scale and reference meridian. **Provided.**
2. Area of the lot and all lot line dimensions and bearings. **Provided.**
3. The location of all existing watercourses, wooded areas, easements, rights-of-way, streets, roads, highways, rivers, buildings, structures and any other feature on the property and within seventy-five (75) feet of the property line. **Provided.**
4. Location, use and ground floor area of all existing and proposed buildings, with the building setback, side line and rear yard distance. **Provided.**
5. Elevations at the corners of all proposed buildings and paved areas and at property corners if new buildings or paved areas are proposed. **Not applicable.**



**Le: Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board**

**Re: B-4 Enterprises, Inc.  
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First Completeness Review**

6. The location and widths of existing and proposed streets servicing the site plan. **Provided.**
7. Specifications for and location of proposed surface paving and curbing. **Not applicable.**
8. Location of all structures within seventy-five (75) feet of the property. **Provided.**
9. Location of off-street parking areas, with dimensions, showing proposed parking and loading spaces, with dimensions, width of proposed access drives and aisles and traffic circulation. **Not applicable.**
10. Storm water management and sanitary sewer reports, including proposed storm drainage and sanitary disposal facilities; specifically, the location, type and size of all existing and proposed catch basins, storm drainage facilities, utilities plus all required design data supporting the adequacy of the existing or proposed facilities to handle future storm flows. **Not applicable.**
11. Existing and proposed contours of the property and for seventy-five (75) feet outside the property at one (1) foot intervals when new buildings or parking areas are proposed. Spot elevations for any development in a flood hazard area. **Not applicable.**
12. The location and treatment of proposed entrances and exits to the public rights-of-way, including the possible utilization of traffic signals, channelization, acceleration, and deceleration lanes, additional widths and any other devices necessary to traffic safety and/or convenience. **Not applicable.**
13. The location and identification of proposed open space, parks or other recreation areas. **Not applicable.**
14. The location and design of landscaping, buffer areas and screening areas showing size, species and spacing of trees and plants and treatment of unpaved areas. **Not provided.**
15. The location of sidewalks, walkways, traffic islands and all other areas proposed to be devoted to pedestrian use. **Provided.**
16. The nature and location of public and private utilities, including maintenance and solid waste disposal, recycling and/or storage facilities. **Partially provided.**
17. Specific location and design of traffic control devices, signs and lighting fixtures. The Board may require of the applicant expert testimony concerning the adequacy of proposed traffic control devices, signs and lighting fixtures. **Provided.**
18. Preliminary architectural plans for the proposed buildings or structures indicating typical floor plans, elevations, heights and general design or architectural styling. **Not applicable.**



**Le: Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board**

**Re: B-4 Enterprises, Inc.  
1 Atlantic Street  
Block 72, Lots 8, 8.01, 9.001, 9.011, 9.012  
Block 69, Lots 13 & 13.01  
Waterfront Commercial (WC-2) Zone  
First Completeness Review**

- 19. The present and past status and use and contemplated use of the property and all existing buildings on the property. A cleanup plan where such is necessary because of the past or present use of the site. **Not applicable.**
- 20. A soil erosion and sediment control plan is required. Said plan shall be submitted to the Soil Conservation District and approval of the application shall be conditioned upon certification of the soil erosion and sediment control plan by the District. **Not applicable.**
- 21. Soil Borings, when required by the Board Engineer. **Not required.**
- 22. Certification statement for the required municipal signatures, stating: **Not provided.**
  - o Application No. \_\_\_\_\_ approved/disapproved by the Highlands Land Use Board as a Minor Site Plan on \_\_\_\_\_.

(date)

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

- 23. Certification statement for the County Planning Board approval / disapproval, if required. **Not applicable.**
- 24. The Board may require any additional information which is reasonably necessary to ascertain compliance with the provisions of this chapter.

Although numerous items noted above have not been submitted to the Board, adequate information has been provided in order to perform a technical review of the application. **Upon payment of the balance of the fees required, the application can be deemed COMPLETE and can be referred to the Board Chairman for consideration of scheduling the public hearing.**

The application fee and escrow fee calculation letter will be provided under separate cover. **We will commence our technical review letter upon confirmation from the Board Secretary that the balance of fees due has been properly posted.**





**Le: Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board**

**Re: B-4 Enterprises, Inc.  
1 Atlantic Street  
Block 72, Lots 8, 8.01, 9.001, 9.011, 9.012  
Block 69, Lots 13 & 13.01  
Waterfront Commercial (WC-2) Zone  
First Completeness Review**

Should you have any questions or require any additional information, please call.

Very truly yours,

T&M ASSOCIATES

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EDWARD W. HERRMAN, P.E., P.P., C.M.E., C.F.M.  
LAND USE BOARD ENGINEER

EWH:KJO:DV

cc: Michael Muscillo, Borough Administrator (mmuscillo@highlandsborough.org)  
Ron Cucchiaro, Esq., Land Use Board Attorney (RCucchiaro@weiner.law)  
B-4 Enterprises Inc., Applicant (david@rbaker.com)

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HGPB- R1920

June 7, 2022

Nancy Tran, Land Use Board Secretary  
Borough of Highlands Land Use Board  
42 Shore Drive  
Highlands, New Jersey 07732

*Via Email (ntran@highlandsborough.org)*

**Re: B-4 Enterprises, Inc.  
1 Atlantic Street  
Block 72, Lots 8, 8.01, 9.001, 9.011, 9.012  
Block 69, Lots 13 & 13.01  
Waterfront Commercial (WC-2) Zone  
Fee and Escrow Calculation**

Dear Ms. Tran:

As requested, we have reviewed the above-referenced application in accordance with the Borough of Highlands Land Use Regulations Part 6 - Fee Schedule.

The applicant submitted the following documents in support of this application:

1. Land Use Board Application, undated.
2. Metes and Bounds Survey prepared by Braginsky Surveying, LLC, dated February 18, 2013, last revised January 16, 2015, consisting of one (1) sheet.
3. Amended Site Plans prepared by Michael Monroe, A.I.A, dated January 20, 2020, last revised April 18, 2022, consisting of one (1) sheet.

Please note the following fee calculations:

- |                            |                 |
|----------------------------|-----------------|
| <b>1. Application fee:</b> | <b>\$100.00</b> |
| <b>2. Escrow fee:</b>      | <b>\$750.00</b> |

Please note that the initial application deposits shall be deducted from the total fees shown.

Should you have any questions or require any additional information, please call.

Very truly yours,

T&M ASSOCIATES

EDWARD W. HERRMAN, P.E., P.P., C.M.E., C.F.M.  
LAND USE BOARD ENGINEER

EWH:KJO:DV

cc: Michael Muscillo, Borough Administrator (mmuscillo@highlandsborough.org)  
Ron Cucchiaro, Esq., Land Use Board Attorney (RCucchiaro@weiner.law)  
B-4 Enterprises Inc., Applicant (david@rbaker.com)



HGPB-R1920

DETERMINATION OF FEES  
B-4 Enterprises, Inc.  
Block 72, Lots 8, 8.01, 9.001, 9.011, 9.012  
Block 69, Lots 13 & 13.01

**A. APPLICATION FEES (Ord. 21-107)**

B. Site Plans

3. Application for revised approval of site plan	1	EA	\$	100.00	\$	100.00
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**B. ESCROW FEES (Ord. 21-108)**

B. Escrow Deposits (twice Application Fee; Minimum \$750)	1	LS	\$	750.00	\$	750.00
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**Application fees subtotal** \$ 100.00

**Escrow fee subtotal** \$ 750.00

**Total** \$ 850.00