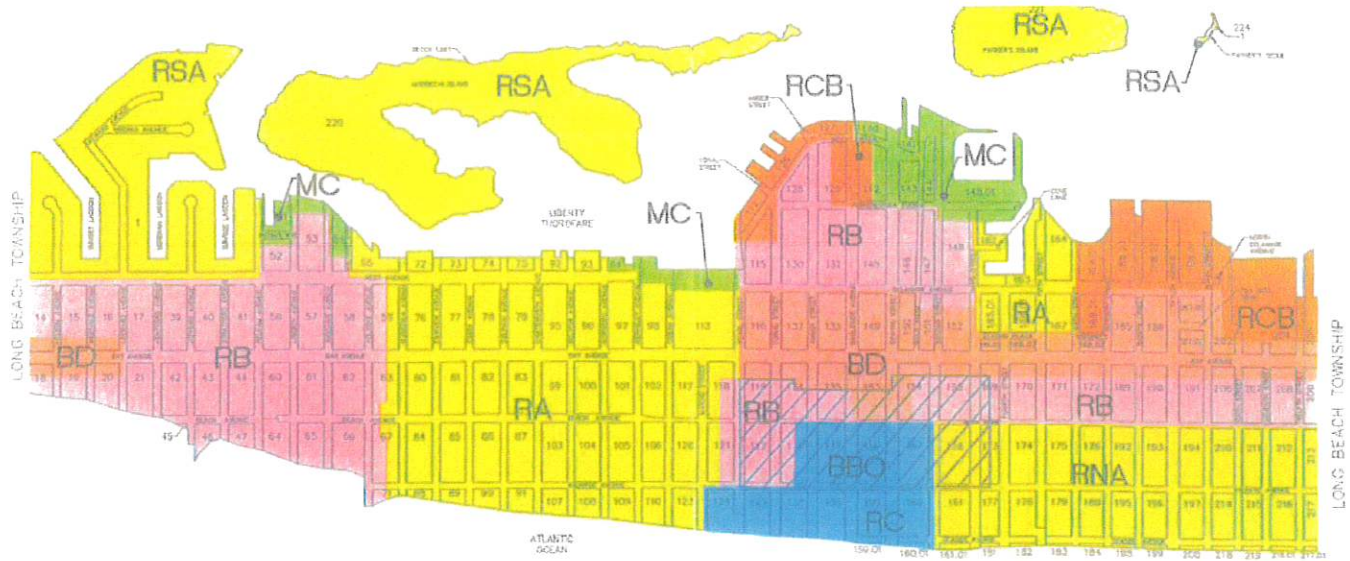


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# Zoning Ordinance Analysis Report

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January 21, 2022

Beach Haven Borough  
Business District



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## **A. Purpose and Scope**

Beach Haven is a small, yet vibrant, barrier island community on Long Beach Island which provides many of the amenities needed for a full time year round resident such as a grade school, post office, restaurants and shops, and a food market but also caters to the vacationer by providing recreational spaces for swimming, playing and relaxing, access to the bay front for fishing, boating and birdwatching as well as a safe, family friendly community that is walkable and easy to navigate for visitors on foot. For these reasons, Beach Haven is increasingly sought-after year after year by home purchasers who realize that property here is prime and to purchase in Beach Haven is not only purchasing a piece of real estate, but a coastal lifestyle. That said, this attractive setting has caused real estate prices to soar over the last decade and older houses are being demolished in favor of larger and more luxurious homes that can accommodate multiple families simultaneously. Also, larger tracts of property, especially those that are at least 100 FT in width, are being subdivided to allow for the construction of two homes. More often, the yard spaces are diminished to the least extent allowable and remaining side and rear yard property is covered with impervious pavers, decking and in-ground swimming pools which has caused an increase in the complaints of inadequate drainage.

The shift to a more affluent second homeowner population as well as the reduction in weekly and seasonal vacation home renters are impacting the town's business district as these owners expect a well-defined and curated town center with upscale shopping opportunities and quality restaurant establishments as well as an abundance of family friendly recreational activities when they are in Beach Haven. To be economically viable, merchants need a steady flow of patrons that includes not only vacationers but also full-time residents utilizing their business instead of seeking the convenience of internet shopping or leaving the island altogether. In addition, recent years have spurred a dramatic increase in the commercial rents for available business along Bay Avenue. These high rents combined with the changing demographic and shorter shopping season for second homeowners and vacationers have left numerous storefronts vacant as the Borough's stakeholders diligently attempt to incorporate strategies and changes which are aimed at redefining the business district and encouraging businesses to launch in Beach Haven.

New Jersey Municipal Land Use Law (MLUL) 40:55D-62(a) provides a governing body the power to zone and amend a zoning ordinance relating to the nature and extent of the uses of land and of buildings and structures thereon and notes that the zoning ordinance shall be drawn with reasonable consideration to the character of the district and its peculiar suitability for particular uses and to encourage the most appropriate use of land.

Based on the above, the Borough Council is considering a proposed zoning change to Borough Code 212-14 which will modify the permitted uses within the Business District as well as establish an associated density for accessory apartments to encourage mixed-use development and amend the maximum allowable impervious coverage onsite.

## **B. Description of the Study Area**

The Study Area under consideration is comprised entirely of the segmented BD (Business) District which comprises various blocks and lots from the Long Beach Township municipal boundary/Twelfth Street south to Pearl Street and Leeward Avenue South to the Long Beach Township (Holgate) municipal boundary.

The BD (Business) District is located mainly along Bay Avenue and allows retail shopping facilities or service establishments which supply commodities or perform a service primarily for residents of the surrounding neighborhood, such as grocery stores, delicatessens, meat markets, drugstores, variety stores, antique stores and gift shops, furniture stores, bakery shops, restaurants, luncheonettes, barbershops, beauty shops, clothes cleaning and laundry pickup establishments, banks, real estate offices, business or professional offices. Gasoline stations and public garages may be permitted as conditional uses.

The BD (Business) District also permits mixed use buildings, single family dwellings, churches, public and parochial schools, public playgrounds, conservation areas and parks, public museums and public libraries, as well as customary home occupations and professional occupations.

Presently, the development of dwellings and principal structures in the Business District are required to meet the following area and yard requirements as well as density requirements:

| <b>Single Family Homes within the BD- Business District</b> |                       |
|---|-----------------------|
| Minimum Lot Width   | 40 Feet               |
| New Subdivisions Exception                                  | 50 Feet               |
| Minimum Lot Area  | 4000 SF               |
| New Subdivisions Exception                                  | 5000 SF               |
| Minimum Habitable Area                                      | 720 SF / 50% FAR      |
| New Subdivisions Exception                                  | 816 SF/ 50% FAR       |
| Minimum Front Yard Setback                                  | 15 Feet               |
| Minimum Rear Yard Setback                                   | 8 Feet                |
| Minimum Side Yard Setback                                   | 5 FT/16 Feet combined |
| Maximum Building Coverage                                   | 35%                   |
| Maximum Impervious Coverage                                 | 60%                   |

| <b>Two Family Homes within the BD- Business District</b> |                            |
|--|----------------------------|
| Minimum Lot Width  | 60 Feet                    |
| Minimum Lot Area   | 6000 SF                    |
| Minimum Habitable Area                                   | 720 SF Each unit / 50% FAR |
| New Subdivisions Exception                               | 816 SF Each unit/ 50% FAR  |
| Minimum Front Yard Setback                               | 15 Feet                    |
| Minimum Rear Yard Setback                                | 8 Feet                     |
| Minimum Side Yard Setback                                | 5 FT/16 Feet combined      |
| Maximum Building Coverage                                | 35%                        |
| Maximum Impervious Coverage                              | 60%                        |

| <b>Multi Family Homes within the BD- Business District</b>  |                            |
|---|----------------------------|
| Minimum Lot Width   | 60 Feet                    |
| Minimum Lot Frontage  | 40 Feet                    |
| Minimum Lot Area  | 3600 SF                    |
| Minimum Lot Area (south of Leeward Ave)   | 4000 SF                    |
| Minimum Habitable Area  | 720 SF Each unit / 50% FAR |
| New Subdivisions Exception  | 816 SF Each unit/ 50% FAR  |
| Minimum Front Yard Setback  | 15 Feet                    |
| Minimum Rear Yard Setback   | 25 Feet                    |
| Minimum Side Yard Setback   | 5 Feet each side **        |
| Maximum Building Coverage (Motels/ Hotels)  | 35%                        |
| Maximum Building Coverage (Apartments & Multifamily)  | 30%                        |
| Maximum Impervious Coverage   | 60%                        |
| ** Buildings may be attached and may be built to the interior side line(s) in order to be attached. |                            |

| <b>Principal Building within the BD- Business District</b>  |         |
|---|---------|
| Minimum Lot Width   | 40 Feet |
| Minimum Lot Area  | 3600 SF |
| Minimum Lot Frontage  | 40 Feet |
| Minimum Rear Yard Setback   | 25 Feet |
| Minimum Side Yard Setback   | **      |
| Maximum Building Coverage   | 60%     |
| ** Buildings may be attached and may be built to the interior side line(s) in order to be attached. |         |

| <b>Density for Apartments and other Multi Family Construction</b>   |   |
|---|---|
| One-Bedroom Unit  | Minimum habitable area of 16.2 square feet per 100 square feet of land, provided that there shall be not more than one unit per 5,000 square feet of land |
| Two-Bedroom Unit  | Minimum habitable area of 19.5 square feet per 100 square feet of land, provided that there shall be not more than one unit per 5,000 square feet of land |
| Three-Bedroom Unit  | Minimum habitable area of 23.4 square feet per 100 square feet of land, provided that there shall be not more than one unit per 5,000 square feet of land |
| In no event shall the total habitable area in the apartment or other multifamily construction exceed 50% of the total land area of the lot on which the project is situate. |   |

### C. Goals and Objectives

The purpose of the proposed zoning change is to re-energize Beach Haven's town center and promote uninterrupted commercial development by eliminating proposed residential uses that are without a business or mixed use building as well as hotels and motels while allowing present existing residential development to remain as a permitted legal use. Downtown areas and business centers are important community assets that are both vital to the local economy and the community. The traditional feel of a main street in town presents a unique opportunity for the area to fulfill a dual role as a social district for community gatherings and hub of activity for commerce and residential living which can be accomplished through both new public and private investment. The underlying objective of this zoning change is to guide revitalization and redevelopment of the Borough's Business District, thereby re-igniting its importance as a community asset, especially for small business.

A study completed by Stockton University for the Southern Ocean Chamber of Commerce in 2017 entitled "A Profile of the Long Beach Island Visitor" notes that within the LBI (Long Beach Island) region, Beach Haven was the primary destination for 29% of the respondents with Tuckerton and Long Beach Township following behind with 21% and 13% respectively and 27% of the LBI visitors were on a day trip to the destination which is 4% higher than the average New Jersey visitors who are day trippers. This data supports the continuing need for Beach Haven to focus efforts on promoting new businesses and retaining existing ones while providing the residential component needed to allow for an economically prudent investment in this seasonal community.

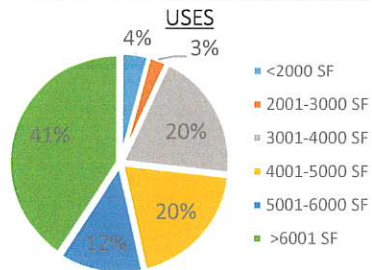


## D. Current Conditions

In the past year, several commercial site plans were approved by the Borough's Land Use Board including a restaurant expansion, a new two-story mixed-use building, the addition of apartments to an existing one-story building and construction of a rooftop restaurant seating area. These proposed improvements demonstrate that the climate of the Business District is stable and that business owners are willing to make investments in this area, however, this stability could quickly deteriorate should more commercial developments transition to detached residential dwellings.

As of January 2022, the Business District consists of approximately seventy-four (74) parcels of various sizes that are developed with a commercial use while one hundred three (103) parcels are

CURRENT LOT SIZES OF COMMERCIAL



presently a residential use. We note that there are 71 commercial sites and 22 residential sites that front Bay Avenue between 12<sup>th</sup> Street and Pearl Street. With over half of the business district presently developed with residential uses, it is critical to establish more stringent zoning requirements to preserve the remaining commercial uses primarily along Bay Avenue between 12<sup>th</sup> Street and Pearl Street. Lot sizes within the Business District vary from under 2000 SF to over an acre and therefore, to encourage the addition of apartments above commercial units, a

modification should be made to existing density requirements for mixed uses that include apartment units.

Based on the existing lot sizes within the Business District and considering the current zoning requirements for new single-family construction (4000 SF lot area minimum) and the potential for subdivisions (5000 SF lot area minimum), a build out analysis indicates that more than 120 new single-family dwellings could be constructed within the Business District thereby eliminating commercial uses in this area.

Also, the BD Business District presently allows for maximum building coverage of 75% which contradicts the maximum permitted impervious coverage of 60% within Borough Code 212-27(B)(3) and should therefore be amended to align with the Borough's need for additional onsite parking and to incentivize new commercial development.

## E. Recommendations

Based on the above analyses, we recommend the following modifications to the Borough's Code:

1. Code Section 212-14(A)(1) – Permitted principal uses and buildings within the BD District should be amended to allow residential apartments above commercial units along with density requirements for apartments.

Specifically, all residential apartment uses should be permitted and the total density, regardless of the number of bedrooms within the unit, shall be one (1) unit per 2000 SF of land. The requirement for the apartments to be above commercial units which occupy at least the entire first floor shall remain. This minimum density will allow for 91% of the lots within the Business District to accommodate at least two (2) apartment units without the need for variance relief.

In addition, the existing reference to total habitable area, within the code, not exceeding 50% of the total land area of the lot does not apply with mixed use developments and should therefore be eliminated to maintain consistency with existing code section 212-21(C) – *Permitted Modifications and Exceptions*.

2. Code Section 212-14(B) – This section should be amended to further designate prohibited uses, buildings and structures to include Single Family detached dwellings, Multi-Family detached dwellings, Two-Family detached dwellings and Hotels/Motels. Existing Single Family detached dwellings, Multi-Family detached dwellings, and Two-Family detached dwellings should be considered legal non-conforming uses.
3. Code Section 212-7 – This section should clarify that the prohibition of Single Family detached dwellings, Multi-Family detached dwellings, and Two-Family detached dwellings is relative to new residential construction only. Any commercial lot or lot that is traversed by a split commercial and residential zone upon which the use is Single Family, Multi-Family, or Two-Family at the time of prohibition shall be permitted to continue the residential use of the property in compliance with the closest residential zone district requirements until the lot use is affirmatively changed to non-residential by the owner. However, a property whose use is affirmatively changed from residential cannot later return to residential without use variance approval. For clarity, an existing residential structure that is destroyed by natural forces may be reconstructed, however, per the Municipal Land Use Law, a residential structure that is willingly demolished cannot be reconstructed as a residential structure without a Use Variance approval.
4. Code Section 212-27 and 212-4 – These sections should be amended to note that 75% maximum impervious is permitted for commercial uses only within the BD Business District and that an additional 15% coverage is permitted for porous hardscape while 10% shall remain landscaped area.
5. Zoning Boundaries- As a result of the residential character of the neighborhood between Pearl Street and Second Street, the Borough should consider revisions to the Zoning Districts/Map for those residential properties not fronting Bay Avenue.
6. Code Section 212-23A – Off-Street Parking – It has been determined, based on the intensity of use, that restaurants, bars and other public eating establishments require more parking than a retail or business use. As a result, it is recommended that the following section be added:

*“(6) All restaurants, bars and other public eating establishments shall provide One (1) off-street parking space per six (6) seats”*

## **F. Policy Analysis**

### **1. Consistency with the Borough’s 2018 Comprehensive Master Plan**

Review of the Borough’s Comprehensive Master Plan indicates that the zoning changes, proposed herein, are consistent with the plan specifically as follows:

#### Vision Statement

The residents of Beach Haven strive to provide a unique and vibrant coastal community and vacation coastal community and vacation destination that focuses on an exceptional quality of life, *a well-planned and thriving town center*, valued natural resources and recreational offerings that support all of its citizens and visitors.

#### Statement of Objectives (Land Use)

To maintain the use of planning techniques and zoning regulations that *preserve the integrity of the existing residential districts and preserve Beach Haven's overall character and small-town charm.*

#### Statement of Objectives (Economic Element)

Beach Haven should promote economic vitality while protecting and maintain a coastal lifestyle and *balancing business and residential development* with environmental protection.

Create a *comprehensive and recognizable* tourist destination offering a wide array of attraction for visitors.

#### Statement of Objectives (Sustainability Element)

*Promote mixed use developments* to encourage residents to shop locally and reduce overall vehicle miles.

#### Land Use (Major Trends and Issues)

Second homeowners *expect a well-defined and curated town center* with upscale shopping opportunities and quality restaurant establishments as well as an abundance of family friendly recreational activities when they are in Beach Haven.

#### Land Use Recommendations (Borough wide)

*The Borough should consider reviewing its current zoning ordinances* and simplifying the language of each where deemed appropriate.