

Borough Administrator's Presentation Regarding Ordinance 25-12, a Zoning Overlay for 160 Main Street

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Read at the June 3, 2025 Borough of Matawan Council Meeting

I'd like to take a few moments to speak about 160 Main Street and the proposed zoning overlay ordinance that is before us. This issue has generated understandable concern, some confusion, and a great deal of discussion in our community. So I want to walk through what brought us to this point, what's at stake, and what the proposed settlement actually means for Matawan.

Let me begin by saying this: I don't believe anyone on this dais considers this a moment of celebration. What's before us was never part of our plan. But it is a response to a situation that has been developing over the course of many years.

Legal Context and the Builder's Remedy Lawsuit

Back in 2021 the borough submitted its plan for affordable housing in the borough, the Borough was sued by the property owner of 160 Main Street under what's known as a "builder's remedy" lawsuit. This is a specific type of legal action available to developers when a municipality is alleged to have fallen short of its affordable housing obligations under the New Jersey Constitution.

Here's how it works:

- The developer offers to include affordable housing units in their project.
- In doing so, they gain the ability to challenge and override local zoning laws that would otherwise prohibit or restrict the development.
- Courts have consistently ruled in favor of these plaintiffs, because New Jersey municipalities are legally and constitutionally obligated to provide opportunities for affordable housing.

This is not a Matawan issue. It's a statewide reality, one that every New Jersey town must navigate.

Why the Borough Chose to Settle

In light of that legal framework, we were faced with a difficult choice: Litigate and almost certainly lose(as most legal and planning professionals are hard pressed to find a single case where a town has won in NJ), In other words If we do not adopt the overlay and follow through with this process, we face two serious consequences:

First, the settlement could be voided by the court, sending us back to square one.

Second, we could once again be subject to a larger, denser, and more intrusive court-imposed development, potentially the original four-story 54-unit proposal or larger.

And with that comes the additional burden of continued legal fees, expert costs, and the loss of any local control.

Or negotiate and retain some control over the outcome, which is what we are doing here tonight.

We chose to settle and we did so to protect the Borough.

This proposed settlement is not something we rushed into. It is the result of:

- Three years of litigation
- Negotiation with the developer and their legal counsel
- Extensive consultation with our own legal team, planners, and engineers

It reflects a pragmatic compromise. Not a perfect outcome, but a much better one than the alternative.

What the Settlement Achieves

Let's talk specifics.

The developer's original proposal called for 54 units in a four-story building.

Under the terms of the proposed settlement:

- The project is reduced to 46 units, 8 of which MUST be affordable
- The building height is reduced to three stories
- Parking is partially underground with some exposure from Jackson St
- Enforceable architectural and design standards have been incorporated to ensure the project fits into the character of the surrounding neighborhood

The Zoning Overlay: What It Is and What It Isn't

What's before us tonight is not final project approval. It is the first reading of an ordinance to create a zoning overlay that implements the terms of the settlement.

If it's introduced tonight:

- It will go to the Planning and Zoning Board for review and analysis
- It will come back to this body for a potential second reading and final vote

Then after this process, the site plan itself will go to the planning and zoning board and undergo the full development review process, with all the scrutiny and oversight that entails, traffic, parking, stormwater, neighborhood impact, community input, and more.

Affordable Housing Is a Constitutional Mandate

While we understand and respect the desire to preserve the historic character of Matawan's Main Street, it is essential to recognize that the right to affordable housing is a constitutional obligation in New Jersey, rooted in the landmark Mount Laurel decisions.

Courts have consistently ruled that municipalities must provide realistic opportunities for the development of affordable housing and cannot use restrictive zoning to exclude lower-income residents.

In this legal hierarchy, the obligation to meet affordable housing mandates takes precedence over local zoning preferences, even those based on aesthetics or preservation goals. The Borough's settlement is a lawful, court-sanctioned response to this constitutional mandate.

Addressing Community Concerns: Historic Status and Character

We've heard concerns about historic preservation, and I want to address them directly.

The property at 160 Main Street is not a state or federally designated historic site. While it sits within our Downtown Preservation District, that is a local zoning classification, not a formal historic protection.

That said, after years of negotiation, the design standards built into the settlement aim match the architectural rhythm of nearby buildings, just as has been done with other developments downtown. The intent is to integrate the project visually and functionally with its surroundings.

Transparency and Legal Limitations

We've also heard criticism about a perceived lack of transparency.

Let me be clear: We take transparency seriously.

But we are also legally constrained. Because the settlement has not yet been finalized by the court, the Borough must preserve its legal posture. We cannot publicly respond to every allegation, rumor, or misstatement without jeopardizing our standing.

That's frustrating. We understand. But these are the limitations of an ongoing legal process. We regret any confusion it has caused.

Who Benefits from the Settlement Protections

We've heard that the current property owner has listed the land for auction.

That's true. But the protections in the settlement run with the land. That means any future buyer or developer must comply with the same limitations, unit count, building height, architectural style, and the public review process.

This is important because we've seen this before. While we are not saying this will occur in this instance, "soft developers" secure favorable zoning, then sell to larger firms who may not share our values or priorities.

By approving the overlay and finalizing the settlement, we ensure that no matter who owns the site, the rules are locked in.

Closing Thoughts

This is not an easy decision. But it is a necessary and responsible one.

We are not rubber-stamping a development. We are not surrendering to a developer. We are navigating a complex legal and constitutional landscape in a way that minimizes harm, preserves community character, and protects Matawan from greater risk.

To walk away from this settlement is to roll the dice—with millions of dollars, the integrity of our zoning code, and the fabric of our downtown at stake.

I hope this overview has helped clarify where we are, how we got here, and why this action is in the best interest of our Borough.

Thank you for your time.