

Minutes of the Regular Schedule Meeting of the Morris Plains Planning Board held on held on July 21, 2014 at 7:30 P.M. in the Council Chambers, 531 Speedwell Avenue. The following members were present:

Present: Mr. Andre Jensen  
Mrs. Sydney Leach, Vice Chair  
Mr. Ralph Lopez, Chair  
Ms. Suzanne McCluskey  
Mr. Leo Nichols  
Mr. Vincent Novak  
Mr. Hank Sawoski  
Mr. Donald Underhill  
Mayor Frank Druetzler

Leon Hall, Borough Engineer  
Christopher Falcon, Esq., Board Attorney

Absent: William Denzler, Borough Planner

### **PLEDGE OF ALLEGIANCE**

The meeting was called to order by Mr. Lopez. Mr. Lopez made the statement that adequate notice of this meeting has been published and posted in accordance with Chapter 231 of the Public Law of 1975, "Open Public Meetings Act."

### **COMMENTS FROM THE PUBLIC**

Mr. Lopez opened the meeting to the public to speak on matters other than those on the agenda. Seeing no one, he closed this public portion of the meeting.

### **APPROVAL OF MINUTES**

Mr. Lopez requested a motion for the approval of the meeting minutes of the Board's Regular Meeting held on June 16, 2014.

Mr. Nichols moved that the minutes be approved as distributed, seconded by Mr. Jensen.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Lopez, Mrs. McCluskey, Mr. Nichols,  
Mr. Novak, Mr. Sawoski, Mr. Underhill, Mayor Druetzler

Abstain: None

Absent: None

Nays: None

**Motion carried.**

### **CORRESPONDENCE AND BILLS**

Mr. Nichols read the vouchers for payment.

**Maraziti, Falcon & Healey**

**P. O. #94166\$ 893.40**

For Professional Services rendered to the Planning Board, June 2014

**Clarke Caton Hintz**

**P. O. #94176 \$1,996.35**

For Professional Services rendered in the matter of M&M at Morris Plains v. Borough of Morris Plains and Pl. Bd. of Morris Plains (Court-Appointed Master) )

**Clarke Caton Hintz**

**P.O. #94165 \$4,835.35**

For Professional Services rendered in the matter of M&M at Morris Plains v. Borough of Morris Plains and Pl. Bd. of Morris Plains (Court-Appointed Master)

**Norton Conservation Company, Inc.**

**P.O. #94150 \$1,459.72**

For Professional Services Rendered - Honeywell International soil disturbance application

Mr. Nichols moved that these vouchers be approved, seconded by Mr. Underhill.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Lopez, Mrs. McCluskey, Mr. Nichols, Mr. Novak, Mr. Sawoski, Mr. Underhill, Mayor Druetzler

Abstain: None

Absent: None

Nays: None

**Motion carried.**

**COMMITTEE REPORTS**

**Minor Site Plan Committee**

No report was presented.

**Master Plan Review Committee**

No report was presented.

**NEW BUSINESS**

Mayor Druetzler reminded the Planning Board members that there will be a joint meeting with the Governing Body on August 5, 2014 at 7:00 p.m. relating to Roseland Properties.

**OLD BUSINESS**

None.

**EXECUTIVE SESSION**

Mr. Falcon read the resolution authorizing a closed session pursuant to the Open Public Meetings Law. He advised this closed Executive Session was being held to discuss the *M&M at Morris Plains, LLC v. Borough of Morris Plains and Planning Board of the Borough of Morris Plains* and the *JMF at Morris Plains, LLC v. Borough of Morris Plains and Planning Board of the Borough of Morris Plains* litigation.

Mr. Underhill moved to accept this resolution, seconded by Mayor Druetzler.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Lopez, Mrs. McCluskey, Mr. Nichols, Mr. Novak, Mr. Sawoski, Mr. Underhill, Mayor Druetzler

Abstain: None  
Absent: None  
Nays: None

**Motion carried.**

Mayor Druetzler moved to close the Executive Session and re-re-open the Regular Meeting, seconded by Mrs. Leach.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Lopez, Mrs. McCluskey, Mr. Nichols,  
Mr. Novak, Mr. Sawoski, Mr. Underhill, Mayor Druetzler

Abstain: None  
Absent: None  
Nays: None

**Motion carried.**

### **PB-1-14 Madison Affordable Housing Corporation - Block: 101 Lot: 3.02**

It was stated that Mayor Druetzler, Mrs. McCluskey, and Mr. Lopez needed to recuse themselves from this portion of the meeting because they participated on the Committee and/or other reasons.

Mrs. Leach stated that this application is on tonight's agenda for completeness.

Alberto Comacho. Esq. introduced himself advising he is from the firm of Manfredi & Pellechio and stated they are representing the Applicant, the Madison Affordable Housing Corporation.

Mrs. Leach then requested the Borough Engineer review his report.

Mr. Hall reviewed their July 16, 2014 report. He provided information on each of the checklist items that required additional commentary. He recommended the Board grant certain waiver and partial waiver requests. Some of the subject matters were storm water issues, drainage, wetlands, architectural scale issues, proposed signage, soil disturbance, tree removal issues, and the performance guarantee. He stated that from his perspective and thinking he recommends that the Board deem this site plan application(s) complete.

Mr. Hall next made reference to Checklist F and reviewed the information contained on this checklist and made appropriate recommendations and provided related commentary. Issues remarked on included lot area, building setbacks, building coverage, FAR, and related data. He continued his review of additional checklist items including riparian zones.

He reiterated that he is recommending this application be deemed complete.

Mr. Hall advised he will also present Mr. Denzler's July 16, 2014 report. He proceeded to comment on Mr. Denzler's report and stated that Mr. Denzler also recommends that this application be deemed complete.

Mr. Falcon asked about the building height as provided in Checklist F, he thought there was still an outstanding question as to whether the plan depicts the height of the building in such a way that they know whether or not relief would be required from the ordinance standard. Is this still outstanding?

Mr. Hall responded that the number of stories was not on the site plan or on the application. The height of the building in feet complies with the Borough's definition of building height found within the LDL of the Borough.

Mr. Falcon stated he would consider Item 3 unsatisfied if this information has yet to be supplied. He stated he understands that there is no relief being requested, but believes it is another matter as to whether it is required. Isn't this still an open issue?

Mr. Hall cited information from 24G 1-4. He also commented on issues related to the height of the building.

Mr. Falcon stated that related to variance relief, Mr. Hall and Mr. Denzler have listed four variances that are required. The last, D, having to do with the 15' wide landscape buffer was treated as a design waiver in the application initially. He believes the application needs to be amended to request this variance as opposed to a design waiver since the recently adopted ordinance reflecting this zone makes it a variance item.

Mr. Hall commented as to after the ordinance was adopted and the zoning section of the ordinance.

Mr. Falcon still believes the application should be amended to request this variance and to reflect the height so an appropriate evaluation can be done in relation to the Land Development Ordinance.

Mrs. Leach stated it appears that there is still a question mark as to whether this application is indeed complete.

Mr. Falcon stated he believes there is a very limited scope of issues that need to be addressed, not everything.

Cross discussion about whether the application should be deemed complete or incomplete, including that the Board cannot proceed to a public hearing unless the application is deemed complete.

Mr. Falcon recommended the application be declared incomplete for the discussed reasons allowing the Applicant sufficient time to provide the updated data within the

next few weeks and thus permitting the public hearing to be scheduled for the August Board meeting. The application can be declared complete at the August meeting.

Mr. Comacho clarified information about the building height. The Applicant is not requesting nor does he believe they will need to request a variance for this. He anticipates the height will be below the 59' or 58' requirement as to height, complying with the Borough's ordinance requirements. He agreed to amend the application with regard to the other variance.

Mrs. Leach asked if there were any additional questions. Hearing none, she asked for a motion to declare the application incomplete. She wants to schedule both a completeness hearing and a public hearing for the Board's August meeting.

Mr. Falcon advised that the application is to be declared incomplete by reason of the need to amend the application to show the height and to request the additional variance; that the Board grant the waivers as recommended by the Borough Engineer in his July 16, 2014 letter; and that both hearings be tentatively scheduled for the Board's August 18, 2014 meeting, subject to the satisfaction of the outstanding items.

Mrs. Leach moved this application be deemed incomplete based on the recommendations as provided by Mr. Falcon, seconded by Mr. Jensen.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Nichols, Mr. Novak, Mr. Sawoski,  
Mr. Underhill

Abstain: None

Recused: Mr. Lopez, Mrs. McCluskey, Mayor Druetzler

Absent: None

Nays: None

**Motion carried.**

Mr. Comacho thanked the Board for its time and consideration.

Cross discussion that there will be no comments on this application at this meeting; comments will be able to be made during the public hearing phase of this application.

Mr. Nichols asked if the Borough has any ordinance requirements in connection with the Weichert helicopter take-offs and landings and in what direction the helicopter should fly.

Mrs. Leach advised she is not certain if there are any ordinance requirements that would specifically address these questions.

Cross discussion about Borough helicopter activity, including that Mr. Falcon believes the State pre-empts jurisdiction of related issues such as flight paths and take-offs and landings, so the Borough could not have an ordinance that would prevail over that.

Mr. Hall referred to the need for a resolution in such a situation. And, whatever a resolution said it is possible it would be pre-empted by the Federal Aviation Administration (FAA).

Cross discussion about applications that have addressed helicopter activity, including that the Borough's ordinances have addressed number of flights permitted per day and similar matters and also that persons with complaints about helicopter activity should contact the Zoning Officer. If a permit has been issued by the State, that permit will provide information as to permitted directions as well as any limitations and related data.

Mr. Hall stated that it is his understanding that enforcement of the helicopter operating conditions is under the authority of the Zoning Officer, not the Board.

There being no further business, Mr. Jensen moved the meeting be adjourned, seconded by Mr. Underhill. Voice vote. All in favor. **Motion carried.**

Karen M. Coffey  
Commission Secretary

Maureen Sullivan  
Recording Secretary