

Minutes of the Regular Meeting of the Morris Plains Planning Board held on April 18, 2016 at 7:30 P.M. in the Council Chambers, 531 Speedwell Avenue. The following members were present:

Present: Mr. George Coogan, Vice Chair  
Mr. Salvatore Cortese  
Mrs. Sydney Leach  
Mr. Ralph Lopez, Chair  
Mr. Leo Nichols  
Mr. Vincent Novak  
Mr. Hank Sawoski  
Mayor Frank Druetzler  
Leon Hall, Borough Engineer  
William Denzler, Borough Planner  
Christopher Falcon, Board Attorney

Absent: Mr. Andre Jensen

### **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 portion of the meeting to the public.

### **APPROVAL OF MINUTES**

Mr. Lopez requested a motion for the approval of the meeting minutes of the Board's Regular Meeting held on March 21, 2016.

Mr. Nichols moved that the minutes as circulated be approved, seconded by Mr. Cortese.

### **Roll Call**

Yeas: Mr. Coogan, Mr. Cortese, Mrs. Leach, Mr. Lopez, Mr. Nichols,  
Mr. Sawoski,  
Nays: None  
Abstain: Mr. Novak, Mayor Druetzler  
Absent: Mr. Jensen

**Motion carried.**

### **CORRESPONDENCE AND BILLS**

Mr. Nichols read the vouchers for approval.

**Maraziti Falcon LLP**

**P. O. #100067**

**\$ 875.00**

For Professional Services rendered to the Planning Board, General Legal Services – Retainer – March 2016

**Maraziti Falcon LLP** P. O. #100068 \$2,222.50

For Professional Services rendered to the Pl. Bd., January 2016 *M & M at Morris Plains v. Borough of Morris Plains*, Docket No.: MRS-L-296-13 PW

**Clark Caton Hintz** P. O. #100071 \$ 775.00

For Professional Services rendered to the Planning Board, February 2016 Court-Appointed Master, *M & M at Morris Plains, LLC v. Borough of Morris Plains & PB of Morris Plains* Docket #MRS-L-296-13

Mr. Nichols moved that these vouchers as read be approved, seconded by Mrs. Leach.

#### **Roll Call**

Yeas: Mr. Coogan, Mr. Cortese, Mrs. Leach, Mr. Lopez,  
Mr. Nichols, Mr. Novak, Mr. Sawoski, Mayor Druetzler

Nays: None

Abstain: None

Absent: Mr. Jensen

**Motion carried.**

#### **APPLICATIONS**

**PB-1-16 Morris Plains Holdings UE LLC – Blocks: 161, 161.05 Lots: 1, 3, 3.01  
1701-1705-1711 Route 10 East & Littleton Road**

Mr. Lopez stated that this matter is on the agenda for memorialization of the Resolution in this matter.

Mr. Falcon provided information relating to the Resolution and revisions that have been made and an attachment that indicates the changes that were made. He then the Resolution.

Mr. Coogan commented on Condition #6 on Page 7. This condition relates to noise standards. In part it states, “. . . the Borough Engineer demonstrating the noise levels proposed on the roof shall meet applicable standards, but limited to 50 decibels . . . the issuance of a construction permit is based on what the Engineer does and that the test should be constructed with all the equipment under full load conditions . . .” He pointed out that the equipment would not be in place unless a construction permit has been issued.

Mr. Falcon referred to an offer that was made by the Applicant to have the equipment in question brought on site and tested. He stated that he believes they would place it on some kind of lift to do the test so the height would approximately match what it would be if on the roof.

Mr. Hall advised that the HVAC equipment would emit the greatest level of noise under full load conditions. The A/C unit would need to be running under a maximum full load

since as the compressor speeds up it will run somewhat higher. The purpose of a full-load test relates to the issue of the 50 decibels.

Cross discussion about the issue of conducting this noise level test and how necessary is it that the permit already have been issued, including existing data that may be available that would provide greater information on the operation of this equipment in connection with decibel levels; that the Applicant is insistent that this equipment can be appropriately tested; that the question as to what the decibel level would be at 100' was not answered; a factory engineer performing testing at the factory that would certify the level is under 50 decibel at 100'; putting a condition on the Certificate of Occupancy (CO) to address this concern; a letter that was to be sent to Mr. Hall; need to upgrade structural integrity of the existing roof since it will not be able to support the weight of the proposed equipment; and continued discussion about what comes first: the testing or the issuance of a permit.

Mr. Falcon stated he was directed to prepare a Resolution for memorialization, not a Resolution of any other kind or for any other purpose. He is comfortable that the current Resolution accurately reflects the testimony presented at the hearing; however, this Resolution can be changed/amended subsequently if necessary. He provided commentary on this matter.

Continued cross discussion as to how to go forward regarding the existing Resolution.

Mrs. Leach expressed her concern about the issue of odor control and smoke impact on the nearby residential area. While the proposed equipment will likely work as promised, if it does not, what recourse will the Board have? There is no way to absolutely know if there will be a need for recourse until the restaurant is operational and cooking.

Mr. Falcon recounted that he (and possibly others) had asked about standards for pollution/odor/smoke control and the answer as he recalls was that there really are no definitive standards that can be applied to conduct such measurements. He reminded that Mr. Denzler had advised that in a Denville application hearing he had a similar situation; this equipment was used at the Denville site and everything worked out fine. He also remembers that this Board appeared to be satisfied with portion of the testimony.

A Board member commented that he agreed with Mr. Coogan's position in that how can this equipment possibly be tested by being lifted in the air before any installation on the roof. He believes the equipment should be installed first and then tested. If there is a problem/concern at this point, then the CO can be withheld until the issue is rectified. It is not likely that pre-testing will produce a true result.

Continued cross discussion about the issue of the noise level/decibels testing, when to do it, how to do it, New Jersey Department of Environmental Protection (NJDEP) enforcement, recourse if there is a problem and related commentary.

Mr. Falcon stated that this Resolution has been reviewed and approved by the Applicant. He provided brief commentary on the issue at hand of the equipment testing.

Mr. Hall cautioned against using the wording “in-field testing” and offered several other alternate ways of addressing the situation of the equipment testing. He spoke about “mounted on top of this roof “test/in-place testing.

Mr. Falcon indicated he will change the phrase “test/(factory-test)” to “on-site test”.

Mr. Hall offered additional suggestions for the testing.

Mr. Falcon reviewed that several revisions that were agreed to.

Mrs. Leach asked who will contact the Chipolte Applicant about the discussion tonight about the revision(s) made to the Resolution regarding the testing that will be done.

Mayor Druetzler suggested that Mr. Denzler contact the attorney for the Applicant.

Mr. Coogan moved the approval of this Resolution with the recommendation(s) made by Mr. Falcon, seconded by Mr. Cortese.

**Roll Call**

Yeas: Mr. Coogan, Mr. Cortese, Mrs. Leach, Mr. Lopez,  
Mr. Nichols, Mr. Sawoski

Nays: None

Abstain: Mr. Novak, Mayor Druetzler

Absent: Mr. Jensen

**Motion carried.**

A copy of the Resolution is attached and on file in the Board Secretary’s office in the Planning Board’s Resolution Book.

**NEW BUSINESS**

**Borough School – Capital Improvement – Courtesy Review**

Mr. George Kopek introduced himself to those present at this meeting stating he is a senior project architect with a firm in Red Bank, New Jersey. He stated he has been a licensed architect since 1983. He advised of the various municipal bodies in the State he has appeared before. He described the work project for the Borough School that will result in a new secure entry to the building. This is a capital improvement project. When the documentation for this project was received in Trenton, it was recommended that they appear before the Borough’s Planning Board. He provided information on how the existing entry to the school is constructed and where it is located. Once inside this entry, a person can travel anywhere within the school structure. In today’s world, this presents a safety issue to the school. He described how the space will be obtained for the proposed secure vestibule. He also provided details on how the staff would enter the school, a buzzer and a camera to allow a person in the office to see who is

outside and buzz the person in if appropriate. Once inside the secure vestibule, there is another level of security with a bank teller like window being what the person sees. There will be more cameras at this point and the person would not be able to get anywhere else in the building at this point. To be allowed entry, the person would need to present documentation explaining why there and if approved, the person will be buzzed into the main office and be able to drop off homework, lunch and the like.

Mr. Kopek provided information and details concerning re-stripping that would be done in the parking lot, a handicapped parking spot, curbing, an aisle, a canopy, and the sidewalk. He displayed a rendition of what the finished product will look like.

Mr. Hall commented on the proposed size of the aisle near the handicapped space. The architect's plan shows a 5' wide access aisle; ADA requirements state it must be a van accessible space and the access aisle needs to be 8'. This will result in changes to the curb line. He also made a recommendation relating to another ADA requirement in connection with surfacing. He asked if any trees will be impacted.

Mr. Kopek stated he did not know if trees would be impacted. He also thought that perhaps changes needed pointed out by Mr. Hall perhaps could be addressed through re-stripping.

Mr. Hall did not believe re-stripping would adequately address the situation.

Cross discussion between Mr. Hall and Mr. Kopek, including handicapped and van accessible signage.

Mr. Kopek believes the issues raised by Mr. Hall can be addressed.

Mr. Denzler asked if any new exterior lighting is proposed for the new canopy.

Mr. Kopek replied there will be two wall sconces under the canopy; these will not cause any glare issues. He does not know the cost of this project. The plan is that this work will be done over the summer and be operational by the end of August.

Mr. Lopez requested that Mr. Hall and Mr. Denzler indicate any conditions for the Board Secretary and anyone else who needs to be aware.

Mayor Druetzler moved to accept the recommendations for this project, seconded by Mrs. Leach.

**Roll Call**

Yeas:	Mr. Coogan, Mr. Cortese, Mrs. Leach, Mr. Lopez, Mr. Nichols, Mr. Novak, Mr. Sawoski, Mayor Druetzler
Nays:	None
Abstain:	None
Absent:	Mr. Jensen

**Motion carried.**

**Ordinance #7-2016 – Review**

Mr. Denzler provided commentary in connection with Ordinance #7-2016, providing details and explanations for why it is needed at this time. It relates to the I Zone in regard to FAR and off-street parking, changing building height from 35' to 40', and provisions for certain walls in relation to design criteria. Another major change addresses off-street parking in the I Zone. It also relates to variances when there really is no need to be addressing it. He provided several other details of this ordinance.

Mr. Hall also provided commentary in connection with this Ordinance and the parking issues that are being addressed in this Ordinance.

Mr. Cortese moved to accept this Resolution, seconded by Mr. Coogan.

**Roll Call**

Yeas: Mr. Coogan, Mr. Cortese, Mrs. Leach, Mr. Lopez,  
Mr. Nichols, Mr. Novak, Mr. Sawoski, Mayor Druetzler

Nays: None

Abstain: None

Absent: Mr. Jensen

**Motion carried.**

Mayor Druetzler updated the Board on Council on Affordable Housing (COAH) and Fair Share issues. He commented on certain information relating to Monmouth County. He referred to a "gap" being zero stating that not everyone in New Jersey has a zero gap. He used the term "filtering" to explain an aspect he was advising the Board on; it relates to issues of house prices and also relates to how the economic downturn in real estate in 2008 and 2009 and to some degree beyond affected the prices of houses. He does not expect any further news in this matter until perhaps some time in May.

Cross discussion about a variety of subjects.

Mr. Coogan raised the subject of the Davenport Village, Morris Plains, NJ affordable housing application being available on various websites, in the Borough Clerk's office and at the Borough Library. He provided copies of the application for the Board members. He advised the anticipated occupancy date is October 1, 2016. The application is a preliminary one. He also advised of two public meetings that will be held at the Community Center – one during the day and one at night. The night meeting is on Thursday, April 28, 2016 (7:00 p.m.), while the day meeting is on Wednesday, May 11, 2016 (2:00 p.m.).

Additional cross discussion about various matters.

**COMMITTEE REPORTS**

**Minor Site Plan Committee**

No report was presented at this meeting.

**Master Plan Review Committee**

No report was presented at this meeting.

**OLD BUSINESS**

None.

**EXECUTIVE SESSION**

None.

**ADJOURNMENT**

Mr. Nichols moved that the Meeting be adjourned, seconded by Mr. Coogan. Voice vote. All in favor. **Motion carried.**

Karen M. Coffey  
Commission Secretary

Maureen Sullivan  
Recording Secretary