

Minutes of the Regular Schedule Meeting of the Morris Plains Planning Board held on July 15, 2013 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
Mrs. Suzanne McCluskey
Mr. Leo Nichols
Mr. Vincent Novak
Mr. Hank Sawoski
Mr. Donald Underhill
Mayor Frank Druetzler

Leon Hall, Borough Engineer
William Denzler, Borough Planner
Christopher Falcon, Esq., Board Attorney

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. Hearing none, 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 June 17, 2013.

Mr. Nichols moved that the minutes be approved, seconded by Mr. Underhill.

Roll Call

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

Abstain: Mr. Jensen

Absent: None

Nays: None

Motion carried.

CORRESPONDENCE AND BILLS

Mr. Nichols read the vouchers for payment.

Maraziti, Falcon & Healey	PO#92148
Prof. Services rendered to the Pl. Bd. June 2013	
General Work	\$ 875.00
Research and Analysis on Pending Matters	\$ 940.60
Maraziti, Falcon & Healey	PO#92160
Prof. Services rendered to the Pl. Bd. June 2013	
General Work	\$ 944.75
Research and Analysis on Pending Matters	\$ 962.50
William Denzler & Associates	PO#92156
Prof. Services rendered to the Pl. Bd. June 2013	\$1,824.66
Anderson & Denzler Associates, Inc.	PO#92159
Prof. Services rendered to the Pl. Bd. June 2013	\$ 447.70

Mr. Nichols moved that the vouchers as read be approved for payment, 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

Absent: None

Nays: None

Motion carried.

**PB-4-13 Francesca Ecker – Malapardis Road and Schoolview Drive
Block: 185 Lots: 3.01 and 7.01**

Mr. Lopez advised this matter is on tonight's agenda for completeness.

Mayor Druetzler stated he has a conflict and needs to recuse himself.

Mr. Hall presented his report dated July 11, 2013. He commented on a number of minor subdivision checklist items: (1) #1 – a complete application form was not submitted and the Applicant did not provide copies of all past resolutions applicable to this property; (2) Checklist #31 and #32 – copies of all existing easements and covenants on the property – there is an existing conservation easement and no copy was provided; (3) Checklist #41 – no stormwater management control measures and devices needed for a major development as required; and (4) Checklist #42 – steep slope issues; this parcel does have steep slopes. He also discussed Checklist F, the variance checklist, commenting on several items that still require action. He continued commentary on several other checklist subjects. He stated that based on the ten items he commented upon, he recommends finding both the minor subdivision application and the variance application incomplete from an engineering perspective.

Mr. Denzler referred to their July 11, 2013 memorandum in which they recommend this application be deemed incomplete. Their findings included the same as those highlighted in Mr. Hall's report. In addition, they also noted certain planned waivers that must be addressed by the Applicant through text and testimony – removal of trees 4" or

more, no alteration of the site elevation in excess of 1' within 5' of the property line and one or two other items.

Mr. Lopez asked about the completeness deadline being August 16, 2013. The next Planning Board meeting is not until August 19, 2013.

Mr. Denzler provided a response to the question about this deadline.

Mr. Falcon explained that when an application is declared incomplete, it goes back to the Applicant and it is then up to the Applicant to submit any items that must still be provided. The deadline referred to does not create a problem in this case.

Mrs. Leach moved that this application be declared incomplete, seconded by Mr. Novak.

Roll Call

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

Nays: None

Recused: Mayor Druetzler

Absent: None

Motion carried.

PB-2-13 Quick Chek - 6 Stiles Ave./93 W. Hanover Ave.

Block: 34 Lots: 12 & 13

Mr. Lopez advised this application is on tonight's agenda for continuance of the public hearing. .

John Wyciskala, Esq., of the law firm of Inglesino, Pearlman, Wyciskala & Taylor, LLC, introduced himself to the Board and to all others present. He is the attorney for the Applicant. He advised he had reviewed information through an OPRA request relating to prior zoning, the history of approvals in connection with zoning and related issues. This property on the corner has essentially been used for commercial purposes dating back to 1926. Research of correspondence research in the file reflected this. A zone change request was made at some time in the 1950's, but the municipality decided to retain it in a business zone (properties that front/border on Hanover and Stiles Avenues. The first application he found relating to the subject property was filed 1966/1967, and the Applicant was Take Out Food Stores, Inc. (Petrozzo family). This application was actually for a larger sized building than what currently exists and appears to have been a multi-tenanted building. Approval was granted in 1968/1969. The Applicant did not proceed with this project.

Continuing, Mr. Wyciskala advised that Quick Chek – Dean Darling – purchased this property himself. The Darling family is the owner of Quick Chek Corporation, which began as a family farm operation. The family still owns the business and all stores are company owned and operated. Quick Chek's application was submitted in 1971/1972 and in 1972 the resolution of approval was granted. What was approved at that time is

essentially what exists today. He believes some renovations/modifications occurred in the 1980's. It had been determined that site plan approval was not required because there was no expansion/change. The only other application was the 2006 application which was submitted for expansion of both the store and parking lot; this application was ultimately withdrawn. Quick Chek has been a corporate taxpayer in the community for just over 40 years.

Mr. Wyciskala referenced a memo being circulated in connection with what Quick Chek's plans were now and into the future. He spoke with Quick Chek's real estate staff and confirmed there have been no discussions with any property owners in the surrounding area to expand their site any further. The only discussions have been with the property owner whose property Quick Chek is acquiring. Back in 2006 Quick Chek did approach the adjacent property owner (93 West Hanover Avenue) about purchasing this property as well to ease amassing/density, etc. concerns. The property owner was not interested. There is no intention of converting to a mini-mall or adding a gas station with a convenience store at this location. The existing property is 17,000 SF; the property being acquired is about 7,000 SF. Together the total Quick Chek property will then be just over one-half an acre while the average Quick Chek property with a gas station and convenience store is roughly 2-1/2 acres. If Quick Chek wanted to pursue this kind of an development, it would require acquiring eight to ten additional residential properties in this area. In addition it would also require a use variance or re-zoning by the Council. The Borough ordinance does allow for limited improvements in terms of expansion such as parking in a residential zone when it abuts a commercial zone or there is commercial use being presented.

Additionally, Mr. Wyciskala advised he researched the history of deliveries and stated the smallest vehicle they can go with based on how the business operates is the WB-50, a tractor trailer, (the largest is a WB-67) for main store deliveries. The Applicant is willing to a limitation on the hours of deliveries between the hours 6:00 a.m. and 10:00 p.m. -- no nighttime deliveries beyond 10:00 p.m. There is an exception for the newspapers, though, since they do deliver earlier. The Applicant is willing to accept a condition stipulating that the trucks will use the site – the WB-50 will pull onto the site in its entirety. He advised a wall light pack has been replaced since the shield was not operating properly. He provided a few other general comments.

He stated his next witness will be the Applicant's planner, John McDonough, who will address the variances being sought.

Mr. Falcon swore in Mr. McDonough.

Mr. John McDonough introduced himself to the Board stating he is a New Jersey licensed professional planner as well as a landscape architect. He also has an AICP national certification and has testified before many State boards and New Jersey Superior Courts. His office is in Morris Plains and is quite familiar with the site and the area.

Mr. McDonough presented his planning analysis starting with several ground photographs of the subject site, the surrounding area and also an aerial photograph to provide a sense of the established neighborhood pattern. He distributed copies of the photographs to the Board members.

It was marked Exhibit A-4, a three-sheet document dated July 15, 2013.

Mr. McDonough provided commentary on all the photographs as displayed on Exhibit A-4. He also commented in general about the other established business districts within the Borough, referencing their inclusion in the Borough's Master Plan. He also made mention of a provision in the ordinance that allows for extension of commercial uses into adjacent residential lots which is somewhat unique from a planning standpoint. This is an indication that the Governing Body contemplated some degree of evolution of these uses in these sites as time progresses. The existing Quick Chek has been a very stable retail in the community and important from an economic development standpoint. The existing parking lot is currently non conforming (16 spaces). The proposed expansion to 22 parking spaces will result in it conforming with the ordinance. The area is mixed in business character. He referred to a proposed sign which has been pulled from the application. A few trees will be removed, but will be replaced with 250 plants on the property.

Continuing, Mr. McDonough stated the subject zone is split zoned with the existing commercial lot zoned as B-1 and the existing residential zone being zoned R-3. The Applicant is not seeking a use variance. They are reducing the coverage over the aggregate of the property. He referred to other beneficial results of the proposals contained in the application and the reasons why they are proposing that certain work be done in the manner they are recommending in the application. He commented on the two tests that an Applicant has the option of selecting in seeking a C variance: (1) the C-1 test requiring showing hardship or (2) the C-2 test which weighs the benefits of the application as a whole against the detriments of the application to determine which carries more weight. Only one needs to be met, not both. He believes both tests can be met with this application. He reviewed his position regarding the benefits side: (1) improved established business with improved parking; (2) improved setbacks from the residential component; (3) improved buffering to enhance privacy of the surrounding properties and provide an aesthetic benefit; and (4) improved circulation from an access and parking standpoint. When he weighs the benefits against the detriments in terms of the impact on the surrounding area, he sees nothing that is substantially detrimental. Change has impact(s), but the courts have determined that the impact(s) must be substantial and significant. He also provided commentary providing his reasons as to how the application can also rely on the C-1 test for hardship. He believes all statutory tests are met under both C-1 and C-2.

In conclusion, Mr. McDonough stated the variances can be granted without substantial detriment to the surrounding property or to the public good or impairment to the Borough zoning plan and ordinances. He added he reviewed various Master Plans and land use ordinances passed over the years since 1975 Master Plan and provided

relevant commentary regarding all of this material (the 1984 Re-Examination Plan, some amendments in 1988, and a land use element amendment in 2010 relating primarily to the multi-family development on Route 53), in particular elements pertinent to purposes. However, he did see a nexus with some of the objectors in the Master Plan Re-Examination Report of 2008 which refers to “recognizing and adjusting land use planning efforts where necessary to address changing demographic characteristics and conditions found in the municipality. Enacting land use ordinances and rendering land use decisions which are fiscally responsible and which promote an economically sound and balanced municipal tax base.” The State development and re-development plan, the cornerstone for all planning in New Jersey, makes it clear that there are scarce land resources in New Jersey and that re-development is favored over new development. As to the State municipal land use law, he sees a nexus with purposes (a), (h), (i) and (m). He believes this is a good application from a planning standpoint and from a real world standpoint. All statutory tests have been met. He stated this application warrants the approval of the Planning Board.

Mr. Lopez asked if he believes the additional parking will alleviate some of the congestion currently on the site in connection with parking.

Mr. McDonough replied yes, and as a planner he looked to what constitutes good planning: the zoning ordinance. The site is not conforming now, but with the proposed change it will be brought into conformance. It is a positive aspect.

Mr. Hall asked about the proposed driveway. Relating to the proposed driveway, if it was shifted 7 to 8 feet to the south, it would be conforming, correct?

Mr. McDonough replied it would be by being closer to the intersection. They are attempting to strike a balance; three quarters of the driveway are conforming. To make this change it would disrupt the parking arrangement that currently exists. He believes there is no planning rationale for doing so.

Mr. Hall asked about the front yard setback. It appears there is an existing non-conforming condition that is not being made any worse by the proposed work.

Mr. McDonough stated this is correct.

Mr. Denzler asked about additional buffering and whether this is a substantial benefit to the adjoining properties. Will this buffering be helpful to some extent in connection with deliveries and unloading.

Mr. McDonough responded yes for both horizontal and vertical buffering standpoints. He believes the buffering will be helpful in connection with blunting noise from deliveries and unloading activities. It serves a functional and an aesthetic benefit for the surrounding properties.

Mr. Wyciskala stated the Applicant is indeed formally withdrawing the variance relative to the proposed monument sign.

Mr. Lopez opened this portion of the meeting to the public for questions of the testimony provided by Mr. McDonough; questions to the witness.

Resident of 18 Stiles Avenue, Morris Plains, stated he wants to present his point of view on the positive and negative benefits assessment.

Mr. Lopez stated this is not the time for presenting viewpoints, just questions.

Mrs. Kerrin Summa, 48 Maple Avenue, Morris Plains, asked a safety related question in connection with the newly-located driveway. She also asked about the increased number of cars and the idling 18-wheelers in the parking lot and the possible safety/health issues this could cause.

Mr. McDonough stated moving the driveway puts it more in conformance with the zoning ordinance. The zoning ordinance states that this is the way it should be and that it is good planning. There is no relief that this application needs from a traffic generation standpoint.

Jessica Terreri, 55 Maple Avenue Avenue, Morris Plains, asked how the proposed project will help keep landscapers trucks, trucks, and trailers from parking in front of her property, leaving trash on her property.

Mr. McDonough replied that the application complies with the parking requirements of the ordinance.

Mr. Colin O'Reilly, 6 Oregon Trail, Morris Plains, asked how this application is being looked upon in terms of fiscal responsibility.

Mr. McDonough stated the proposed work will enhance an established ratable in the community because it is making the business be in greater conformity with the zoning ordinance in terms of the parking requirements, maintaining the stability of an existing ratable. The site will operate better and thus better serve its patrons.

Mr. Tom Smith, 33 Stiles Avenue, Morris Plains, asked why the value of the expansion of the parking lot is more significant and valuable than the existing two-family house that has been acquired to provide for the lot expansion. He also referred to testimony that states the existing parking lot at Quick Chek does not conform to the Borough's standards. He raised the matter of the ability to expand business parking into a residential zone. He also questioned what the much earlier approval on this site required and whether the witness was aware of this information.

Mr. McDonough replied Quick Chek is a \$20,000+ ratable in the community. He does not know what the piece part of the expanded driveway would add to the \$20,000+

ratable value. The 16 parking spaces that currently exist on site do not conform to the ordinance requirements of 20 parking spaces. Yes, the Borough's ordinance does allow expansion of business parking into a residential zone. He said he did not analyze the 1972 site plan and the matter of plantings that were required supposed to be on this site, but were removed.

Mr. Lopez intervened stating what this witness is or is not responsible for providing information on or needs to be concerned about.

Mr. Smith stated there is an existing site plan from 1972. There are many changes and missing elements today from that earlier site plan and approval and he wonders why these requirements were not enforced over the years.

Ms. Meredith Zweimueller, 8 Stiles Avenue, Morris Plains, asked about the proposed removal of existing trees – which trees are they? How many new trees will be added and exactly where will they be planted? Will the plantings be able to flourish in the proposed area since the trees in that area may obstruct sufficient sunshine, or will these trees be changed in some way. Any plans for variances regarding for the noise ordinances during construction. Could an 8' fence be installed?

Mr. McDonough advised they are not on the site plan, but they are along the common boundary between existing Lots 12 and 13. The Applicant will be complying with all requirements in connection with the installation of the fencing without asking for any relief in the area of the plantings. From a landscape architectural standpoint, he believes the proposed plantings will survive in the conditions of the area where they are to be planted. He provided commentary on the details of the planting of the plantings. Construction will be done in accordance with the municipal ordinances. He believes the Borough has a 6' maximum for fencing.

Mr. Wyciskala stated the Applicant will have no problem with installation of an 8' foot fence versus a 6' one.

Mr. Hall stated he would not have a problem with an 8' fence. He commented on the question raised about saving the trees along the boundary line. There is a detail on the landscaping plan showing the trees will be protected with snow fencing.

Mr. Lopez stated the tree issues will be taken under consideration.

Mrs. Jane Loughlin Fischer, 57 Maple Avenue, Morris Plains, asked if anyone has looked at staffing patterns to ensure the most efficient operation during the busy hours in the morning and evening.

Mr. McDonough replied he is not aware of anything to this effect from an operational standpoint. The Applicant is not looking for a use variance, to change the hours of operation or to change the number of employees. Quick Chek is always looking at ways to improve its operations.

Mrs. Nancy Logan, 69 Maple Avenue, Morris Plains, stated her concern is Florin Lane which is in front of her property. Would there be any plan to close Florin Lane off to prevent U-turns?

Mayor Druetzler advised he has talked with the Police Chief and this was one of the thoughts that came up in a discussion of how to possibly improve traffic and provide safety. He provided some of their thoughts on this idea and others. More discussion is planned.

Resident of 7 Maple Avenue, Morris Plains, asked about being at the bus stop with her children and issues relating to the Stop signs. She once asked a police officer parked on Florin Lane about "blown Stop signs." She stated the police officer said the police do not care about blown Stop signs because the ticket money goes to the State, not to the Borough.

Both Mayor Druetzler and Mr. Lopez stated they were very disappointed in an answer such as this from a police officer.

Mrs. Judy Seibel, 73 Maple Avenue, Morris Plains, advised she has lived at this address for 40 years and has been complaining about that street then (the Stop sign issue).

Cross discussion about streets, traffic flow, and Stop signs in this general area.

Mr. Tom Smith, 33 Stiles Avenue, Morris Plains, asked when he can ask the Borough Planner and Engineer questions on their testimony. He asked Mr. Hall if he reviewed the 1972 Quick Chek site plan. Who approves an application for a variance for it to be complete. Why would this kind of information not be reviewed by the Borough Engineer? Did the Applicant perform a sufficient job of researching the history? Why did the Applicant not request the same request for information from that he did? He asked if the Applicant ever obtained the same information he has. He asked why the Applicant was not aware of the various changes were made to the site without Borough permission. If this application is approved, who will monitor that they continue to conform to any requirements and/or conditions over time

Mr. Hall stated he did not review the 1972 site plan. The Board makes the final decision while he makes recommendations to the Board. It is the burden of the Applicant to research the records in both the Applicant's files and the municipality's files. The matter of the 1972 action was raised at the first public hearing session.

Mr. Wyciskala advised the Applicant submitted an OPRA request for the resolution. A copy of the plan was not requested because the resolution contained sufficient information for the Applicant continue its public hearing. He does not know what occurred in the intervening time regarding any substantial changes to this site, changes made without permission from the Borough. Quick Chek is responsible to conform to any and all requirements and/or conditions resulting from any approval of this

application. He does not believe there were any conditions of approval applied in the 1972 approval. He stated he provided a summary background at the opening of this meeting; he suggested Mr. Smith could do likewise.

Mr. Falcon intervened stating that only one person can make his point at a time.

Mr. Smith asked Mr. Denzler if he believes he should have reviewed the 1972 site plan for Quick Chek whether he had to or not. He again brought up various changes (types of plantings, required variance for dropped curb designed by a professional, parking issues, dumpster being located in the loading zone, direction of traffic flow on Hanover Avenue driveway of which there is no enforcement) made by Quick Chek since the 1972 Board approval and zoning issues. He referred to decision(s) made by the Borough Attorney, particularly since there will be “substantial changes on this application”, even though it is now being stated that there will not be substantial changes. The Borough Attorney also advised the Borough will defer enforcement after he (Mr. Smith) contacted the Zoning Officer. He believes removal of the parking barriers in front of the sidewalk creates a safety issue and a liability situation. Mr. Smith questioned why the Applicant is not receiving zoning violations.

The Mayor explained to Mr. Smith that the Borough Attorney said the Borough could not take enforcement action . . .

Continuing, Mr. Smith referred to the impact of “substantial bad behavior” by an Applicant; it should weigh heavily on the final action taken. Violations were not written down thus denying him the right to question these violations and those who are responsible for enforcing them. He is unable to put these issues on the record.

Ms. Meredith Zweimueller, 8 Stiles Avenue, Morris Plains, asked about delivery times and other issue relating to deliveries in general. What will really be done to ensure compliance with delivery timeframes and the problem of delivery trucks sitting idling on the street prior to the agreed-to delivery time. Can a specific loading zone be determined so that any other spot will be a violation? Her concern is significantly about the delivery trucks that arrive between 5:00 a.m. and 6:00 a.m.

Mr. Lopez again reminded all members of the public that this is not the time for statements, opinions, nor points of view. It is for questions of the witness only. There will be an opportunity at the end of the hearing where there can be expressions of concern and so on.

Mr. Cahill advised those trucks that can use the existing loading zone will use it. This includes the bread trucks and the smaller vehicles. The WB-50 trucks will not fit in the loading zone – it will pull onto the site and block parking spaces.

Mr. McDonough stated there is no relief sought with respect to the loading zone.

Cross discussion on issues essentially relating to delivery parking problems and possible solutions.

Having been previously sworn in, Mr. Keith Cahill, the Applicant's engineer, stated the Applicant is not changing their existing delivery pattern.

Mr. Tom Smith, 33 Stiles Avenue, Morris Plains, asked Mr. Cahill if he just testified that a C-50 truck will not fit in the existing loading zone. He asked if he was aware that a dumpster enclosure was built in the existing loading zone that is on the 1972 site plan approval.

Mr. Cahill said he did not testify that a C-50 truck will not fit in the existing loading zone; he did not say C-50, but rather a WB-50. He did not review the 1972 site plan approval information.

Mr. Lopez once again intervened to remind that Mr. Smith's comments are for the end of the hearing, not now. He advised Mr. Smith he can ask the question he wants to ask now of Mr. Cahill at the end of the hearing. The exhibit can be presented at the end of the hearing.

Mr. Falcon advised Mr. Smith that what he wants to do now can be done at the end of the hearing, including presenting the 1972 site plan. He can provide the site plan to Mr. Cahill now. Later, Mr. Smith can use this plan as part of his presentation.

At this point in time and it was not possible to actually determine exactly who was saying what, although Mr. Smith continued to be verbally insistent that he make his points.

Mr. Lopez stated the Applicant is presenting its case based on the plan submitted to this Board. They are not going back in history, but rather is presenting the view for now and for the future.

Mrs. Kerrin Summa, 48 Maple Avenue, Morris Plains, stated that after the May Board meeting the Applicant was to look for any previously approved plans approved since there were some questions. This is how it was left at the May Board meeting. A statement was made that this would be difficult to do because it was so long ago; the neighborhood group was able to obtain them.

Hearing no further questions from the public, Mr. Lopez closed this portion of the meeting to the public.

Mrs. Leach asked to review a number of items that included the lighting exceeding the .5 foot candles at the eastern and southern areas – why would this be needed at the eastern area. She is concerned about light reflecting into the residential side. Will police officers at the site during the construction phase? If there are, who pays for this?

Mr. Cahill responded this would only be at the driveway, right at the right of way. There will be a 25' buffer; the light will not shine into the residential property line. It is to provide safety at the driveway. As an engineer, he prefers 3' candles because he believes they would be even safer. They are trying to comply and balance and only deviating at the right of way at their driveway. There will be no problem with lighting in the residential area from exceeding the .5 foot candle.

Mr. Hall stated this will be a subject of the road opening permit. When the permit is processed, he will discuss with the police department, and they will make the final decision as to whether an officer(s) is necessary. The Applicant pays for the time of any police on duty at the site.

Mrs. Leach asked about the existing trash enclosure. Will there be construction during Quick Chek's operational peak hours?

Mr. Cahill stated there has been a trash enclosure on the site for some time; it is not being modified as part of this application since they do not anticipate any significant increase to use of it. A portion of the parking/driveway area will need to be closed off at points during the construction phase. Safety of their customers will be maintained.

Mr. Wyciskala advised the Applicant has not further witnesses.

Mr. Hall reminded Mr. Cahill that he is recommending that the light fixtures be equipped with full detailed outside shields and wants to see this revision on the plan.

Mr. Cahill stated there is no problem with this.

Mr. Lopez asked about the allocated parking area for tractor trailers along Hanover Avenue. Since the new tractor trailers cannot do this because they are too large, can this space accommodate a box truck?

Mr. Cahill responded yes, it can accommodate box trucks.

Mr. Lopez opened this portion of the meeting to the public for statements regarding this application.

Mr. John Downs, 71 Maple Avenue, Morris Plains, was sworn in by Mr. Falcon. He stated both he and his wife believe that the Applicant's site is in significant disarray. What plans are there for maintaining the property once the planned work in this application is completed? There must be an improvement in general maintenance of the property. He also commented on the fact that there are other "Mom and Pop" type businesses in Morris Plains – businesses that willingly donate to Borough sports organizations and the fire and police departments; they help out when help is needed. Quick Chek does not reach out in this way; no donations are made. Quick Chek must become a good neighbor.

New resident who just bought 18 Stiles Avenue, Morris Plains, was sworn in by Mr. Falcon. He questioned the Applicant's statement that they are somehow providing a benefit to the community based on what they primarily sell – tobacco products, sugary drinks, and junk food. The site creates a lot of trash and that does not benefit the community either and additionally often creates a cost when sewers become full of the cast-off trash flowing into them. He does not believe the existing parking lot is ever completely filled.

Mr. Thomas Smith, 33 Stiles Avenue, Morris Plains, was sworn in by Mr. Falcon. He requested that the 1972 site plan and other relevant documentation be entered into evidence. He stated he wanted it entered for possible use in any future appeal so that the appeal judge would have it. The 1972 site plan was marked as Exhibit O-1 (other documentation was already a part of the application/public hearing process). Mr. Smith commented on the numerous incidents of work that apparently were done without the proper knowledge of various Borough officials over the years. He also provided information on his attempts over the years of requesting assistance from the Board, the Zoning Officer, and the Engineer. Everyone refused to assist him and did not document the violations and deviations existing on the Quick Chek site that he brought to their attention. He stated there is no real foundation for this application; it's just politics. He again rebuked the Board and the Borough Professionals for not researching the 1972 site plan or even just looking it over saying they don't want to see it. "There is no way this application will hold water in a court of law in my opinion." He stated the application will be "rubber stamped" and that he will see everyone "in court".

Mr. Falcon stated it is important for the audience to understand what the roles of the Planning Board and the municipal government are in terms of existing violations. This Board reviews applications for site plan approval or subdivisions of properties. The Borough Engineer and Planner are charged with ensuring that the application submitted complies with the requirements of the Borough ordinances. The Planning Board has no authority to issue violation notices or causing fines to be levied. Conditions can always be applied to the approval of an application. What happened between 1972 and last week with respect to this Applicant's compliance with the Borough's ordinances on littering, idling trucks and related issues, there are appropriate statutes/ordinances regulating such matters. The Planning Board is not going to start writing tickets for cars running stop signs or any other infractions.

Mr. Lopez commented in general on the process of the submission of an application, its being deemed complete, the public hearing, and its final approval or rejection. The Borough Engineer is responsible for checking out all the conditions of an approval at the end of work to ensure compliance with all the conditions made part of the Board's approval. Once this is done and found to be in compliance with the Board's approval, the municipal government becomes responsible for addressing any violations of law, not this Board.

Mr. Howard Treton, 53 Maple Avenue, Morris Plains, was sworn in by Mr. Falcon. He referred to comments made by and documentation obtained by Mr. Tom Smith,

particularly their apparent lack of commitment to the community. This should be able to predict their future behavior. He asked that the Board not approve this application.

Mrs. Kerrin Summa, 48 Maple Avenue, Morris Plains, was sworn in by Mr. Falcon. She expressed concern that there would be no increase in trash receptacles as the Applicant advised. If there will be no significant increase in their business, what is the benefit to them for them to submit this application? Is there some underlying reason for why they are doing this?

Johns Downs, 71 Maple Avenue, Morris Plains, why would there be an approval of this application instead of giving the Applicant six months to clean up the existing conditions and prove they can maintain their property. He would like to know what profits the Applicant makes in a year. Why approve this application when the Applicant has already proven they are not good already.

Mr. Lopez stated the Applicant is presenting their application within the letter of the law and meet all the issues. This is what the Board must address. Addressing any violations such as littering or the like, it is the responsibility of the municipal government.

Mr. Downs stated the problem is now; they do not take care of their property now. If he did not take care of his property, someone from the municipal government would surely be contacting him about it. He also stated that the extra parking spaces probably are not really needed even if they will relieve some of the on-site traffic conditions. Further, the Board members are not paying the price, the people in the immediate neighborhood are.

Ms. Meredith Zweimueller, 8 Stiles Avenue, Morris Plains, was sworn in by Mr. Falcon. She stated she wants to retract the statement she made at the May Board meeting referring to Lu Ann Fellers moving due to Quick Chek. Lu Ann did not say that, and she apologized to Lu Ann. She commented on construction work being done on Tabor Road (Route 53) and whether the Borough would plan to add more police in light of adding more businesses and residents. Why are there generally only two patrol cars on the road at any one time?

Mayor Druetzler stated there are more than two patrol cars on the road at any one time. The construction work being done on Tabor Road (Route 53) is to demolish the building on the west side. There are no approvals or anything for any specific commercial/residential project on Tabor Road (Route 53). The matter is currently in court because they are suing the Borough under the Council on Affordable Housing (COAH). If there were to be a large expansion – and the Governing Body is not enamored by the idea of so much housing – the Borough is a small community and try to remain a small community. If something is eventually approved on Tabor Road (Route 53), depending on what is actually approved, the Borough possibly will need to hire additional police officers.

Ms. Meredith Zweimueller stated expanding Quick Chek's parking lot will not provide new jobs; they are expanding their property, but they are not expanding their employment. She does not see the additional benefit they are adding to the community. She expressed continuing concern about improper parking and would like to see increased police patrolling in the area. She called the police about an illegally parked County vehicle in front of her house, but when they arrived 40 minutes later, this vehicle was long gone. She was told she can file complaints on anyone who illegally parks or idles in Quick Chek's parking lot. She plans to videotape such offenders and will file complaints.

The Mayor asked what time she called the police.

She responded it was at 12:49 p.m. today. She had a good discussion with the police officer about idling cars and illegally parked cars. An off-duty police officer told her there are only two patrol cars on duty at any time with an extra one to do special things such as radar. She is also concerned with drivers driving through amber/red lights in this area, the lack of enforcement of such matters, and unreadable traffic signage. If critical issues have not been addressed in the past or currently in the present, what guarantee is there that they will be in the future. She reminded the Board that she attended their January meeting and that after she explained why she attended, the Mayor said he wished she had come forward sooner with her complaints. The police officer she spoke with said he had not heard of any illegal on-street parking complaints, the cutting through on Florin Lane and related issues. Perhaps what is mentioned in the Planning Board meetings never reach the people who could do something about the problem. We all live in this community and care about it and everyone should all they can to keep the Borough beautiful.

Mr. Colin O'Reilly, 6 Oregon Trail, Morris Plains, was sworn in by Mr. Falcon. He commented on a number of comments made by one or more other speakers during this public hearing. He expressed concern about the Board apparently being willing to "bend the rules" for something that has not been documented, proven or studied because of the Applicant's claim that their application will benefit fiscal responsibility to the Borough, but the burden of providing such evidence has not been talked about or proven in any way.

Mr. Jeff Fellers, former owner of 18 Stiles Avenue, stated he is a former resident of Morris Plains, moving here in 1997 and that he knows many of those at this meeting through his years in the Borough. He lived on the corner of Maple Avenue and Stiles Avenue since 2004, and everything that has been said is absolutely true. If the Applicant's site is allowed to get bigger, the problems will also get bigger. Quick Chek is a very difficult neighbor.

Mr. Lopez stated he agrees with the comment that the Speedwell Avenue businesses are part of the community because they contribute and participate in the various sports events. Quick Chek must take notice that in order to be part of the community they must join the community, contribute and get involved.

Mr. Wyciskala advised Quick Chek sponsors a Little League and there are other activities they participate in.

Cross discussion about some other events/activities Quick Chek could become active in through contributions and/or active participation. This also included some questions being asked as to where certain Board members and others lived.

An unidentified woman spoke about safety concerns, particularly the safety of children living or being in the Quick Chek area.

Hearing no further comments, Mr. Lopez closed this portion of the meeting to statements from the public.

Mr. Wyciskala presented his closing comments. This is an application to the expand a parking lot. The Applicant believes this project will provide improvement to its site and for the community. When he lived in the Borough, he believed Quick Chek needed additional parking and has heard this from others. He commented on the applicant's 2006 application, specifically that one outcome of the submission of this application was that public wanted a sidewalk brought in off Stiles Avenue to accommodate bicycle riders so they did not have to drive in through the existing driveway location; he does not disagree with this. This is not a plan to ultimately create something larger than already is there.

Mr. Hall asked Mr. Wyciskala if he had discussed with his client the matters of prohibiting deliveries from 10:00 p.m. until 6:00 a.m. and also garbage pick-up and all outside maintenance such as vacuuming/blowing the parking lot to minimize all noise as much as possible between 10:00 p.m. until 6:00 a.m.

Mr. Wyciskala stated he did and understands there may be conditions on these matters. He reminded that newspaper deliveries have to occur prior to 6:00 a.m., as he stated earlier at this meeting.

Mayor Druetzler stated he spoke with the police chief today and does not understand some of the comments made by the police officer to Ms. Zweimueller, but he will follow up on these matters tomorrow. He advised that he hates litter in Morris Plains and water bottles when people throw them everywhere. It is not surprising that banks and funeral homes make good neighbors because they keep their properties neat and clean. He is uncertain if anyone or anything can make people stop throwing such trash on the streets, sidewalks, in the parks and in other places. While the Applicant's parking lot is not always full, it is at times which makes people try to park at Lovey's and illegally on Stiles Avenue. With six new parking spaces, there should be less of a problem. Commercial and residential areas adjacent to one another can create a conflict. The new buffering elements should help solve some of the problem, but not all. He said that at an earlier point in time someone living in the Quick Chek area suggested that

perhaps some/all of the Lovey's employees could park at the nearby firehouse. This has actually now happened. Doing nothing is not going to solve these problems.

Continuing, Mayor Druetzler stated that no one on today's Board or anyone else here today in an official capacity was involved with the 1972 site plan. The Borough was one of the first municipalities in the State to have a zoning ordinance – he believes it was enacted in 1947 or 1948. The layout of the Borough has not changed much over this timeframe.

Mayor Druetzler moved the approval of this application for site and final plan with the variance(s) and with instruction to the Board Attorney to draw up a memorializing resolution with appropriate conditions in conjunction with the Borough Engineer and Planner as well as those specifically discussed in the public hearing such as delivery times, lighting, newspaper deliveries, plantings, the berm, 18' parking spaces versus 20' parking spaces, an 8' fence versus a 6' fence and any other suggestions that should be added.

Mr. Hall added that: (1) all Evergreen plantings shall be 10' high at the time of planting with several White Pine trees included; (2) the lighting plan will be revised to include full outside cut-off shields on all proposed lighting on the lighting plan; (3) the lighting will be subject to a night-time lighting inspection prior to the issuance of a certificate of occupancy; (4) the trash enclosure doors be equipped with self-closing hinges and that the current doors be repaired; (5) Developer's Agreement is required; (6) Performance Bond is required; (7) subject to all outside agency approvals; (8) when revisions are done that they be re-submitted to the County Planning Board to reaffirm their original approval (widening the driveway opening onto West Hanover Avenue); (9) payment a site plan inspection fee; (10) posting of a two-year maintenance guarantee on all installed landscaping (trees, shrubs, etc.); (11) requirement for as-built plans to confirm the parking lot configuration and other improvements; (12) deed of lot merger combining all the lots that make up the application as presented; and (13) relating to the visual impact to the north and to the west, there should be a condition that requires long-term maintenance replacement of all the Evergreen trees since they may die after the expiration of the two-year maintenance guarantee. If these trees are not maintained and kept healthy, the buffering benefit will be eroded and diminished. He commented that there may be additional standard conditions that would accompany the normal preliminary and final plans.

Mr. Denzler stated he has no additional conditions to suggest, but fully concurs with those recommended by Mr. Hall and otherwise.

Mr. Wyciskala stated the Applicant does not have any significant issue with any of the suggested conditions, but does want to point out the matter of their agreement to an 8' fence. Technically, won't a variance be required for this. They will need to amend their application to request this additional variance.

Mr. Falcon advised the Board can grant variances as the result of matters rising during the course of the public hearing.

Mr. Wyciskala also commented on a waiver in connection with light intensity at the driveways.

Mr. Hall stated the degree of this waiver may change after the lighting plan is revised to reflect the full outside shields. He added another condition relating to the new width of 32' for the driveway onto West Hanover Avenue with a total drop curb width of 40'. He wants the County to be aware of this and to reaffirm their original approval once the revisions are made to the plan.

Mr. Lopez stated there will be a variance on the fence based on the resident's concern. He queried the Board members as to additional questions or concerns.

Mayor Druetzler stated the Board wants to be certain the large truck is physically on the site, not off the site, not on the roadway unloading. This is another condition. He realizes some of the trucks can park on site while some can use the loading zone.

Mrs. Leach suggested a condition stating the largest size of truck that can be used. This was identified by Mr. Wyciskala as a WB-50. This should be contained in the resolution.

A question was asked if the actual existing loading zone can be marked as the loading zone and marked in yellow so delivery people know it is the official loading zone.

Mr. Lopez asked Mr. Hall if this would be a major issue.

Mr. Hall replied that it would not. He also suggested placing signage at the loading zone to identify it as the loading zone and also no parking signage so that the loading zone area is not blocked by a parked vehicle.

Mayor Druetzler stated he will direct the traffic committee and the police chief to look up the idea of closing Florin Lane. He does not know if this is a feasible action to take, but believes it should be looked into. Citizen input will be requested on this.

Cross discussion for the need to accomplish good enforcement of the matters covered in the conditions.

Mr. Jensen asked if outside trash receptacles could be placed in the parking lot area.

Mr. Lopez asked if the owner could periodically walk the parking lot and ensure that it is well cleaned and kept clean. When it is not kept clean, it is a major eyesore compounding the situation and it reflects on the community as well.

Mr. Wyciskala stated the it is the manager's responsibility to keep the site neat and clean and this person should be doing it. Managers will be reminded of this responsibility.

Mr. Underhill expressed concern about the driveway and asked if it could in any way be modified or moved a bit.

The response was that this was part of the reason for the proposed changes since it currently is too narrow and hard to get in and out.

Mr. Falcon asked for instruction with respect to the variance relief that has been requested. He referred to the statutory positive and negative criteria provided by Mr. McDonough and his belief that the statutory requirements have been met. He asked if the Board concurs with this and should there be a finding in the resolution to that effect. He wants to be certain of the Board's specific findings with respect to the positive and negative criteria. If the Board concurs, he will include a reference/finding and determination of the Board.

Board members expressed their concurrence regarding the positive and negative findings as requested by Mr. Falcon.

Mr. Falcon raised the issue of a memorializing resolution, suggesting that he be authorized to prepare a resolution that the Board can review prior to the time that it comes up at the next meeting or another future meeting. This way the resolution he prepares can be reviewed and changed to make sure all the conditions the Board wants are included. It is a little too complicated to do as a memorializing resolution.

The Board agreed to authorize the attorney to prepare a resolution versus a memorializing resolution.

Mr. Falcon explained the difference between a resolution and a memorializing resolution.

Mayor Druetzler moved to direct the attorney to prepare a resolution of approval, seconded by Mr. Sawoski.

Roll Call

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

Absent: None

Nays: None

Motion carried.

COMMITTEE REPORTS

Minor Site Plan Committee

No report presented.

Master Plan Review Committee

No report presented.

NEW BUSINESS

Mayor Druetzler commented on the building at the end of the The American Road, 1000-1100 and 1200. These buildings were in a Sheriff's sale. The current owner residing in Florida is planning to auction them. As a result there have been several inquiries about housing. The Governing Body is opposed to additional housing, but that does not mean someone will not try for this. No one knows where this will ultimately lead. The Governing Body plans to keep it zoned the way it is – industrial/light warehousing/office/research.

Mr. Lopez asked how much property this is.

Mayor Druetzler stated he believes it is about 40 acres or so.

Continuing, Mayor Druetzler commented on the Coty work project. This location will be their North American research and development headquarters. People will be translocated here from Arizona and Geneva, Switzerland. He provided additional details about Coty's plans. He also discussed on an ongoing thought of installing a path in the back of the 500 building where Coty is located directly to the train station. He attended a meeting recently where there was much discussion about transit and walking to/from trains. He hopes this pathway can be paved in the next month or so "by someone doing a good deed for Morris Plains". Several Coty employees have told him they like the idea of the path, not just for getting to and from the train station, but also to go into town for lunch or shopping. He said he thinks this possibility could help breathe new life into the downtown area. Perhaps other types of activities would also be able to take place with this pathway.

Mrs. Leach provided some information about this pathway area.

Cross discussion about people who eventually live in the townhouses being built in Hanover on the other side of American Road might also be able to access the train station using this pathway.

Continuing, Mayor Druetzler advised he expects that Honeywell will be at the Board's next meeting for another application and will probably be at least one additional meeting after that. He discussed possible recusal issues relating to the Honeywell attendances. He believes he and Mr. Nichols will be able to participate since the lot is subdivided, but this will still have to be confirmed. There should be at least five members who will be able to participate without any need to recuse.

OLD BUSINESS

None.

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

Karen M. Coffey
Commission Secretary

Maureen Sullivan
Recording Secretary