

ORDINANCE NO. 8-2014

AN ORDINANCE TO PROVIDE FOR THE AMENDMENT AND SUPPLEMENTATION OF "CHAPTER 13, 2000 BOROUGH OF MORRIS PLAINS LAND DEVELOPMENT ORDINANCE" TO PROVIDE FOR THE FOLLOWING: (1) THE PARTIAL AMENDMENT, SUPPLEMENTATION AND REVISION OF CERTAIN PROHIBITED USES IN THE B-3 ZONE SET FORTH IN SECTION 13-5.2A(12) "PROHIBITED USES" TO PERMIT RETAIL PHARMACY USES WITH DRIVE-THRU FACILITIES AND DRIVE UP RESTAURANTS; (2) THE PARTIAL AMENDMENT, SUPPLEMENTATION AND REVISION OF SECTION 13-5.1D, "SCHEDULE D", SCHEDULE OF ZONING REQUIREMENTS, TO INCREASE THE MAXIMUM PERMITTED FAR IN THE B-3 ZONE; (3) THE PARTIAL AMENDMENT, SUPPLEMENTATION AND REVISION OF SECTION 13-5.7A "OFF-STREET PARKING" IN THE B-3 ZONE; (4) THE PARTIAL AMENDMENT, SUPPLEMENTATION AND REVISION OF CERTAIN CHECKLIST REQUIREMENTS SET FORTH IN SECTION 13-4.2G(1) CHECKLIST A, "MINOR SUBDIVISION," SECTION 13-4.2G(2) CHECKLIST B, "PRELIMINARY MAJOR SUBDIVISION," SECTION 13-4.2G(5) CHECKLIST E, PRELIMINARY AND FINAL SITE PLAN, AND SECTION 13-4.2G(6) CHECKLIST F, "VARIANCES AND APPEALS PURSUANT TO N.J.S.A. 40:55D-34, 35 & 70.

WHEREAS, the Borough Council is desirous of revising the prohibited uses in the B-3 Planned Shopping Center Zone to permit retail pharmacy uses with drive-thru facilities, consistent with the recommendation of its professionals; and

WHEREAS, the Borough Council is also desirous of adopting certain amendments to the regulations governing floor area ratio and off-street parking requirements in the B-3 zone, as well as certain housekeeping amendments to various checklist requirements relating to soil disturbance permit requirements and to require identification of existing rights-of-ways, easements, covenants, agreements and other restrictions affecting property that is the subject of an application for development; and

WHEREAS, the Borough Council proposes to amend Chapter 13, 2000

Borough of Morris Plains Land Development Ordinance consistent with these objectives.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Morris Plains, they being the Governing Body thereof, as follows:

Section 1:

Paragraph (a) of Section 13-5.2.A(12.3), Prohibited Uses in the B-3 Planned Shopping Zone, in the “Chapter 13, 2000 Borough of Morris Plains Land Development Ordinance” (hereinafter “Chapter 13”) is hereby amended, supplemented and revised to permit retail pharmacy uses with drive-thru facilities in the B-3 Zone so that hereafter, the aforesaid Paragraph (a) in Section 13-5.2A(12.3) shall read in its entirety as follows:

- (a) Any use prohibited in the B-1 Business Zone, except for bank or financial institutions and retail pharmacy uses with drive-thru facilities and drive-up restaurants.

Section 2:

Section 13-5.1D, Schedule “D,” SCHEDULE OF ZONING REQUIREMENTS4A(3) of Chapter 13 is hereby amended, supplemented and revised by increasing the permitted Floor Area Ratio from “20(8)” to “22(8)”.

Section 3:

Section 13-5.7A, Schedule “E”, “Off-Street Parking” of Chapter 13 is hereby amended, supplemented and revised by reducing the minimum required off-street parking in the B-3 Planned Shopping Center Zone for all sales and services except restaurant uses from 1 space for each 180 sq. ft. gross floor area to 1 space for each 200 sq. ft. gross floor area so that hereafter the off-street parking requirement for the B-3 Zone shall read as follows:

<u>TYPE OF BUILDING OR USE</u>	<u>MINMUM NUMBER OF SPACES</u>
Retail Store, Shop or Similar Establishment:	
<u>B-3 Zone</u>	
All Sales & Services except restaurants	1 for each 200 sq. ft. GFA
Restaurants	As specified elsewhere in this schedule.

Section 4:

Section 13-4.2G(1), Checklist “A,” Checklist for Determining Completeness of an Application for Approval of Minor Subdivision is hereby amended, supplemented and revised by replacing Item #38a, which now reads “Soil Relocation application” with “Soil Disturbance Permit Application in

accordance with Chapter 19 of the Revised Ordinances of the Borough of Morris Plains and Ordinance #19-2009” so that hereafter Item #38 shall read as follows:

38. There may be other requirements applicable to the proposed development as listed below:
 - a. Soil Disturbance Permit Application in accordance with Chapter 19 and Ord. # 19-2009.
 - b. Soil Erosion and Sedimentation Control Plan.
 - c. Tree removal permit.

Section 5:

Section 13-4.2G(2), Checklist “B,” Checklist for Determining Completeness of an Application for Approval of a Preliminary Major Subdivision is hereby amended, supplemented and revised by replacing Item #50a, which now reads “Soil Relocation application” with “Soil Disturbance Permit Application in accordance with Chapter 19 of the Revised Ordinances of the Borough of Morris Plains and Ordinance #19-2009” so that hereafter Item #50 shall read as follows:

50. There may be other requirements applicable to the proposed development as listed below:
 - a. Soil Disturbance Permit Application in accordance with Chapter 19 and Ord. # 19-2009.
 - b. Tree removal permit.
 - c. Environmental Impact Statement.

Section 6:

Section 13-4.2G(5), Checklist “E,” Checklist for Determining Completeness of an Application for Approval of a Preliminary and Final Site Plan is hereby amended, supplemented and revised by replacing Item #58a, which now reads “Soil Relocation application” with “Soil Disturbance Permit Application in accordance with Chapter 19 of the Revised Ordinances of the Borough of Morris Plains and Ordinance #19-2009” so that hereafter Item #58 shall read as follows:

58. There may be other requirements applicable to the proposed development as listed below:
 - a. Soil Disturbance Permit Application in accordance with Chapter 19 and Ord. # 19-2009.
 - b. Tree removal permit.
 - c. Environmental Impact Statement.

Section 7:

Section 13-4.2G(6), Checklist “F,” Checklist for Determining Completeness of an Application for Variances and Appeals Pursuant to N.J.S.A. 40:55D-34, -35 & -70 is hereby amended, supplemented and revised with the insertion of a new Item 19 which shall hereafter read as set forth below and all remaining Items in Section 13-4.2G(6), Checklist “F” shall be renumbered

sequentially:

(19) Location, size, nature, purpose and text of all existing rights-of-way, easements, protective or restrictive covenants, agreements and any other encumbrances or restrictions on or effecting the subject property.

Section 8:

All other provisions of "Chapter 13, 2000 Borough of Morris Plains Land Development Ordinance" shall be unaffected and are hereby continued.

Section 9:

All other Ordinances, parts of Ordinances or other local requirements that are inconsistent or in conflict with this ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this Ordinance shall apply.

Section 10:

This Ordinance shall be so construed as not to conflict with any provision of New Jersey or Federal law. Notwithstanding that any provision of this Ordinance is, for any reason, held to be invalid or unconstitutional by a Court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance, which shall continue to be of full force and

effect. The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

Section 11:

The Borough Clerk is hereby directed to give notice at least ten days prior to hearing on the adoption of this Ordinance to the County Planning Board and to all other persons entitled to notice pursuant to N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-62.1 (if required). Upon the adoption of this Ordinance after public hearing thereon, the Borough Clerk is further directed to publish notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Morris County Planning Board as required by N.J.S.A. 40:55D-16. The Clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

Section 12:

This Ordinance shall take effect immediately after final passage and publication and upon thirty (30) days from the receipt of the ordinance by the County Planning Board.

Introduced: April 17, 2014

Adopted: May 1, 2014

/s/ Frank J. Druetzler