

CHATHAM BOROUGH PLANNING BOARD
January 10, 2007 7:30 p.m.

Chairman H.H. Montague called the Chatham Borough Planning Board meeting of January 10, 2007 to order at 7:30 p.m. in the Council Chambers, Chatham Municipal Building. Mr. Montague announced that all legal notices have been posted for this meeting.

Members Present:

Chairman H.H. Montague, David Gerridge, Patricia Rush, Alison Pignatello, Thomas Sennett, Bill Jankowski, James Mitchell, Councilman Bruce Harris, Mayor Richard Plambeck.

Charles W. Foster, Esq., attorney for the Board, was present.

Members Absent:

John Hague, Alan Pfeil.

Shailja, LLC – Dunkin’ Donuts/Baskin Robbins – 118 Main Street, Block 53, Lot 32, Preliminary & Final Site Plan Approval

This is a continuation from the December 13, 2006 meeting.

Brian Burns, Esq., attorney for the applicant, was present.

Vincent DeNave, the Borough Engineer, was present.

Gordon E. Meth, Traffic Expert, for the Planning Bd. was present.

Mr. Burns submitted Exhibit A-19, a list of the variances being sought. Copies of this exhibit were given to each Board member and Mr. Foster. Mr. Burns felt this exhibit would be helpful to Board members when Mr. Tobia, the applicant’s planner, testifies.

Mr. Burns noted that at the December 13, 2006 meeting, testimony was heard from 3 witnesses:

Robert Edgar, Environmental Consultant for the property owner

Laurence Murphy, Engineer for the applicant

Gordon Meth, Traffic Expert for the Planning Board

Mr. Burns stated that Mr. Murphy has returned tonight to testify on the latest changes made to the plan. Also, Michael Tobia is the applicant’s final scheduled witness.

Mr. Montague swore in Michael Tobia, the planning consultant for Shailja LLC. Mr. Tobia's address is 4 John Glenn Road, Morristown NJ. Mr. Tobia submitted his professional credentials to the Board. The Board accepted them.

Mr. Burns asked Mr. Tobia to describe what he has done to prepare for his testimony tonight.

Mr. Tobia testified that he has conducted a standard planning investigation of the application, including multiple field inspections, a site photograph, a zoning review, and a Master Plan review. Mr. Tobia stated that he has investigated the re-zoning that took place in 2003 leading up to the permission of eating and drinking establishments in the subject zone. Mr. Tobia also did an investigation of corner lots in the area and how side street driveways work in the area. He has prepared an outline of testimony to be presented tonight.

Mr. Tobia submitted the following exhibits:

Exhibit A-20, photo of the main façade of the property as seen from Main St.

Exhibit A-21, photo of the side façade as seen from Main St., looking towards Hedges Ave.

Exhibit A-22, photo looking eastward at the side of the proposed building

Mr. Burns confirmed with Mr. Tobia that he will be addressing the variances listed in Exhibit A-19.

Mr. Burns suggested Mr. Tobia go over the background that he felt would be important for the Board to understand. He also asked Mr. Tobia to discuss each of the variances and design exceptions and what he felt the supporting reasons are for granting these variances.

In response, Mr. Tobia brought up the photographs in Exhibits A-20. Mr. Tobia stated that this particular site is unsightly. The existing structure has a primitive architecture with block construction, overhead service doors, boarded up windows and no landscaping. Currently there are unnecessary curb cuts, unattractive fencing, and "a declining state of parking lot repair in terms of the pavement."

Mr. Tobia pointed out that Exhibit A-21 shows the side façade and the antiquated light fixtures. Exhibit A-22, giving the predominant view from residential properties on Hedges Ave. and show the boarded-up windows. This property is probably the only property on Main Street that a planner would deem as blighted.

Mr. Tobia noted that there is a history of environmental cleanup efforts on the property which would be concluded and finalized if this project was approved. He stated that the applicant's proposal seeks full site redevelopment of the property.

Mr. Tobia brought up Exhibit A-17, which showed the proposed Dunkin' Donuts building, measuring 1,833 square feet. The exhibit also shows the side and rear yard parking, totaling 22 parking spaces, a driveway to Main Street, a driveway to Hedges Ave., a rear yard buffer across the northerly property line, and another buffer helpful to residents living down Hedges Ave. in a northward direction.

Mr. Tobia stated that Bohler Engineering has added an exemplary amount of landscaping as well as saving some existing mature trees on the property. This landscaping will soften the impact of the building on the site and will also serve as a buffer for the neighboring homes.

Mr. Tobia reviewed the discussions between the applicant and the Historic Preservation Commission (HPC). As a result of these discussions, the proposed building now honors the HPC's guidelines and architectural preferences. Inside the store there will be 14 seats for patrons and one wheelchair accessible seat. Outside the store, the proposed loading area will be at the back of the site. The loading will be restricted to certain hours, which will be off-peak hours. The loading area will be reused to provide additional parking spaces during the morning peak hours when a Dunkin' Donuts receives most of its customers. Mr. Tobia noted that the applicant is now seeking 22 parking spaces, which is double the zoning requirement.

Mr. Tobia referred the Board to Exhibit A-19. He noted that the proposed building is in the B-3 zone. Mr. Tobia reviewed Section 165-18 of the LDO, which described the uses allowed in the B-3 zone. The B-3 zone is similar to the B-4 zone but is meant to encourage the establishment of more vehicular oriented and less intensive usages than the B-4 zone. Mr. Tobia pointed out that eating and drinking establishments are one of several principal permitted uses in the B-3 zone. These principal uses include offices, retail usages, retail services, restaurants and child care centers. Mr. Tobia explained that his investigation of how eating and drinking establishments were allowed in the B-3 zone occurred in 2003 when the Planning Board was fine-tuning the Zoning Ordinance 3-16. When this ordinance was adopted, it permitted eating and drinking in the B-3 zone.

Mr. Tobia noted that the Board had recognized that there were a lot of eating and drinking usages already operating in the B-3 zone; however, before 2003 these businesses were not permitted usages. The deliberations at the Planning Board level, at that time, were that the B-3 zone was the place where eating and drinking establishments should go. The ordinance, making this happen, was adopted by the Borough Council on August 11, 2003.

Mr. Tobia testified that the applicant's site plan is **almost completely** in compliance with respect to use and bulk standards. As a result of the applicant's discussions with the HPC, the applicant has to now seek a few variances that originally appeared unnecessary. Mr. Tobia will now review those latest variances.

Mr. Tobia referred the Board to Exhibit A-17. The applicant had wanted to cooperate with the HPC's request that the proposed building would be more consistent with the neighboring developments to the east of the site or the right of the site as viewed from Main Street. To achieve this, the applicant had to seek 3 additional variances. One of these 3 variances is a front yard setback variance for the Main Street portion of the property. The requirement is 35 feet. Mr. Tobia pointed out that this particular dimension is at a minimum of 23.2 feet. An older plan from several months ago had the proposed building pushed back off the street at the 35-foot required setback. The HPC felt that if the building was moved closer to the street, a number of valuable planning benefits would be achieved. This move will make the structure consistent with the other buildings on the street.

Mr. Tobia noted that the original plan had the proposed building placed at an angle, not parallel to Main Street. This particular placement was to establish conformance with the side front yard setback off of Hedges Avenue. The existing gas station on the site is angled and caddy-corner to the street. Mr. Tobia said that he and the HPC don't like that particular placement.

Mr. Tobia stated that the latest proposal to place the building parallel to the street, generates a minor variance. He pointed out area of the building which encroaches into that required setback. The set back requirement is 35 feet. The proposed setback at its closest point to Hedges Ave. is 28.4 feet. The front corner of the proposed building nearest Main Street is a compliant location. Mr. Tobia pointed out a sliver-shape piece of the proposed building that tapers closer to Hedges Ave. in terms of compliance. He described this small piece as "a minor departure".

Mr. Tobia noted that the Borough ordinance stated that motorists cannot park where loading takes place. This prohibition aims to keep loading areas unencumbered so that trucks can pull in whenever they want. Mr. Tobia stated that it was his experience from other Dunkin' Donuts, that Dunkin' Donuts can control deliveries and that they have a limited delivery schedule. Dunkin' Donuts needs their deliveries made before the peak hour's rush to make sure their stores are stocked with doughnuts and other baked goods. Mr. Tobia said that deliveries will take place before 6 a.m. The peak hours of operation for customers are typically 7:00 a.m. to 9:00 a.m.

Mr. Tobia stated that a variance is now needed to allow for this double use of the zoning area behind the building, allowing four extra spaces to be used during the prime peak hour.

Mr. Tobia discussed the two design exceptions that are required. One exception is to put the store freezer outside and have a fence installed around it. This new arrangement will require a variance; however, it was requested by the HPC. The HPC did not want the freezer inside the store because it would make the store building higher and more massive. Also, the HPC did not need more massing at the back of the building.

Mr. Tobia explained why a fence variance is now needed in the application. The proposed fence at the back of the property measures 9 feet high. The Borough ordinance permits a fence to be only 4 feet high in a side yard and 5 feet high in a rear yard.

Mr. Tobia discussed another minor variance. The revised plans now add a parking space in the western corner of the store's parking lot, behind the building. This extra space is behind the setback established by the building line shown here on the western side nearest Hedges Ave. The Borough ordinance specifies that this space cannot be located in the front yard. Mr. Tobia pointed out that approximately 60 sq. ft. of that one parking space is in the setback.

Mr. Tobia described the buffer shown on the site plan. The buffer will be 15 feet in width and will consist of evergreens and existing plant material shown along the house to the back. Mr. Tobia testified that the building coverage, lot coverage, and maximum store size meet all the zoning requirements for the B-3 zone.

Mr. Tobia testified that the proofs that are required for the particular variances being sought are referred to as C-2 variances. The applicant has not submitted a hardship argument. Instead, the applicant has noted a couple of basic facts. All the variances could be eliminated with a "relatively minor tweaking of the site plan". Mr. Tobia believed that any of these variances appeared on the original site plan presented to the Board. All of the variances were done under the C(2) Statute which is a part of the New Jersey Municipal Land Use Law that says the Board, as an agency, has flexibility in granting variances. If the Board believes that the granting of a variance can provide a public benefit that substantially outweighs the detriment of granting the variance, the Board can have that flexibility. A hardship doesn't have to be shown.

Mr. Tobia reminded the Board that the front yard setback was done at the Borough's request. It's a good idea. It moves the building further away from the residences and moves it in line with the established building setback line that goes all the way eastward down Main Street. Another benefit is that once this building is moved approximately 12 feet closer to Main Street, it allows the applicant to add these parking spaces behind the building. If the building had been moved 12 feet further back, the extra parking spaces could not have been added. Mr. Tobia felt the most important benefit of moving this store to its new position closer to Main Street, is that it continues establishment of a uniform building setback along Main Street.

Mr. Tobia stated that the minor setback variance shown along Hedges Ave. is de minimus. Secondly, it achieves the important function of getting the building parallel to Main Street. If the building was angled on Main Street, it would look funny. Referring to Exhibit A-21, Mr. Tobia pointed out that the gas station was put on a caddy-corner location to pump gas there years ago. Mr. Tobia felt that the existing gas station is "disconnected" with the business district. It would be a clear advantage for the applicant to straighten out the proposed building and seek a very minor variance for that thin sliver of land to the west of the property.

Mr. Tobia described the proposed landscaping to be planted on the west side of the store, and on the west side of the parking lot along Hedges Ave. The landscaping will soften the minor impact the building will have in the side yard setback.

Mr. Tobia pointed out that across the street from this general encroachment is a parking lot for a small commercial building on the other side of the street. He felt that there will not be an impact on the neighborhood by the encroachment into the side yard setback.

Mr. Tobia brought up the advantages of the shared parking in the loading area. This shared parking will increase parking for the peak hours. It would prevent an over-flow of parking onto Hedges Ave. A queuing up of vehicles in the parking lot waiting for available spaces is not desirable. Also, no one wants customer vehicles to park on Main Street. These extra proposed spaces are a good use of land and it's a clever design by the applicant's engineer.

Mr. Tobia reviewed the design exceptions. He brought up the proposed freezer in the fenced-in area and that it is just 9 feet in height. In the planning community, support structures are many times behind the main building. Mr. Tobia felt that putting the freezer in this new proposed location will reduce the massing in the area of the building that faces homes to the north. He believed that the fence is innocuous. Mr. Tobia stated that once the proposed landscaping is installed and has grown, the fence will not be seen.

Mr. Tobia reviewed the small encroachment of one parking space into the side yard, creating the front yard setback of 35 feet. Mr. Tobia believed this encroachment is de minimus. Mr. Tobia pointed out that this new parking space, probably to be used by an employee, raises no planning concerns.

Mr. Tobia discussed at length a zoning case called Pullen v. South Plainfield. The Pullen case proved that benefits do not necessarily have to accrue from a particular variance. He noted that the proposed building has been designed to meet the HPC's suggestions. An abundance of project benefits have arisen; however, these benefits can justify each and every one of the design exceptions and variances requested by the applicant. Mr. Tobia reminded the Board that the applicant will be cleaning up the existing site and adding a land use that is consistent with the small town character of the municipality.

Mr. Burns asked Mr. Tobia to speak on the impact of corner lot access.

Mr. Tobia noted that Mr. Burns had informed him that the Board was concerned about whether or not they should approve a driveway to the side street (Hedges Ave.). Mr. Tobia felt that if the applicant has a corner lot, like in this case, he put a driveway to the side street. This placement would give classic design benefits and safety benefits. Mr. Tobia believed in the Borough there were a number of commercial properties on corner lots that have driveways to side streets. Mr. Tobia stated he and the applicant's architect found 42 instances of corner lots along the business districts in the Borough. The vast majority of these corner lot businesses use side streets for access.

Mr. Tobia pointed out that dead-end parking lots are undesirable. Without the Hedges Ave. driveway, a dead-end situation will result. Drivers will be making K-turns and U-turns to back out to Main Street. Unnecessary traffic movements and back-up movements will occur if the side street driveway is not there. Mr. Tobia added that driveways on side streets are “generally embraced by emergency service people” because it gives them two ways to access a site.

Mr. Tobia explained that a driver coming south on Hedges Ave., and not having this side street driveway, cannot make a left onto the site. The driver will then be forced to come out to Main Street, make a left turn, get their blinker on again and make another left into the Dunkin’ Donuts driveway on Main Street. This is a very awkward procedure. Mr. Tobia felt that there was no reason to put additional left turns on Hedges Ave. going eastbound on Main St. if a simple curb cut is made on Hedges Ave.

Mr. Tobia pointed out that this site plan proposes two driveways on a site that currently has 5 curb cuts on it. Unnecessary curb cuts are being eliminated. The applicant believes that only two curb cuts are absolutely necessary.

Mr. Tobia noted that currently throughout the Borough there are 39 commercial corner lots, fronting on Main Street, with accesses to side streets. He counted 5 corner lots along Main Street that do not have side street access. Mr. Tobia believed the overwhelming number of commercial lots on corners make use of the side streets. He noted that these side streets are not commercial side streets. Mr. Tobia believed that generally a driveway on a side street is most beneficial to the neighborhood nearest it because most people on Main Street are going to use the Main Street driveway. Mr. Tobia reviewed all the corner commercial lots on Main Street having side street accesses starting with the CVS shopping center and going east to the Parrot Mill Inn. Mr. Tobia stated that he found three instances where commercial corner lots did not have side street accesses. These exceptions were on University Ave., Bowers Lane, Dunbar St., and Passaic Ave.

Mr. Tobia reiterated that most commercial land uses in the area use side streets. He clarified that he is not claiming that this pattern is necessarily right; however, such an arrangement will reduce left turns onto Main Street and enhances convenience for the neighborhood to the north. It also eliminates any dead-end traffic in parking lots. With a side street access, emergency vehicles would be able to enter the site if there should be some kind of blockage on Main Street.

Mr. Burns asked Mr. Tobia to testify on the negative criteria for the application. Mr. Burns felt that the application is fully compliant with the Board’s intent for the B-3 zone.

Mr. Burns asked Mr. Tobia what is the maximum size in the B-3 zone.

Mr. Tobia answered 2,500 sq. ft. The proposed building is “comfortably below” the maximum building size. He also pointed out that the B-3 regulations recognize that in the outlying sections of the business district, vehicular oriented uses are appropriate.

That is why a parking lot is being proposed here and proposes a use that definitely appeals to commuters and passers-by.

Mr. Tobia brought up that one of the HPC's goals was to foster private reinvestment in historic districts. The Dunkin' Donuts application is a private sector initiative which will be eliminating the only blight on Main Street in the Borough. Mr. Tobia felt the proposed use will blend in with the historic resources to the east.

Mr. Tobia testified that "broadly, the use is permitted". The only zoning characteristics that deviate from the Borough's B-3 standards have been requested by the municipality.

Mr. Tobia reviewed what the Borough's Master Plan promotes. One of the Master Plan's goals is to improve stormwater runoff. Mr. Tobia pointed out that the applicant's engineer, Mr. Murphy, has presented modern stormwater management techniques.

Mr. Tobia testified that the proposed building would be "plainly good for the community". It will be better than what is currently on the property. He believed the proposed plans would complement the Borough's "small scale sensibility", its "historic values" and the obvious need to fix up the property.

Mr. Burns said that Mr. Tobia will now answer questions from the Board.

Mr. Montague and Mr. Tobia discussed how the front setback is measured. Mr. Tobia noted that the front yard setback is always measured to the right-of-way. Mr. Montague confirmed with Mr. Tobia that there is 12 additional feet from the street curb to the property line. Taking that fact into account, Mr. Tobia calculated that the setback is basically the required 35 feet.

Mr. Montague noted that Mr. Tobia had testified that the front setback is uniform. Will the proposed building maintain the same distance at the buildings on either side?

Mr. Tobia answered yes. He reported that he has done a "windshield survey" on these measurements. He pointed out that the HPC believed that the proposed building's front setback and the neighboring buildings will be consistent.

Mr. Montague brought up the variance on the parking in the loading zone. He asked if this variance is only for parking in that zone during peak hours. Mr. Burns answered that was correct. Mr. Montague confirmed with Mr. Burns that the applicant will somehow police that situation. The peak hours will be 6:00 a.m. to 9:00 a.m.

Mr. Montague asked if this loading zone/parking arrangement is being proposed for Saturdays.

Mr. Burns said this arrangement will probably only be necessary for the weekdays.

Mr. Montague pointed out that business will also take place on a Saturday at the proposed store.

Mr. Burns then recommended that the loading zone/parking arrangement be for 6 days a week.

Mr. Montague noted that parking is allowed on Main Street, in front of the site. He understood that the applicant's traffic engineer had testified that parking was not allowed in front.

Mr. Tobia clarified that planners usually want the front yards used for landscaping. One of the basic principles of site design is not allowing parking in the front yards. Planners believe that most sites benefit by the visual interests created by landscaping and foundation plantings and street trees.

Mr. Montague confirmed with Mr. Tobia that there should not be any parking in the front yard setback. Mr. Montague asked how he felt about parking on the street on either the front or on the side.

Mr. Tobia said he personally didn't have any problem with on-street parking for businesses. He felt that it would create some pedestrian activity between the front of the building and the streetscape, which is especially true in the B-4 zone.

Mr. Tobia said one of the reasons the applicant added four more parking spaces in the loading area and squeezed in the new space encroaching the front setback, is because of the pressure point existing between the commercial use on the site and what happens next door, which is residential. Mr. Tobia stated that in this type of case, it's undesirable to have customers parking down the street in front of homes. Most residential property owners don't like that. That's why there are far more spaces provided by the applicant on-site than are required by the ordinance.

Mr. Montague brought up the detriment of the increase of traffic onto Hedges Ave. with customers driving into and out of the site.

Mr. Tobia explained that detriments are divided into groups: those established by variance and those that are part and parcel of permitted uses in a particular zone. He reminded Mr. Montague that the Borough Council and the Planning Board has deemed this particular business use as appropriate. If this business use is "embraced by zoning", then the detrimental aspects of land development have also been embraced.

Mr. Tobia noted that, in this case, a detriment associated with a variance, would be the front yard setback. Mr. Tobia and the applicant felt that it would not be a substantial detriment. Mr. Tobia felt that the proposed shared parking and loading area is a good idea, not a detriment. The encroachment into the parking setback will be very minor. Mr. Tobia reminded the Board that from a planning perspective, permitted uses mean that they have accepted the reality that there may be traffic impacts, land development

impacts, tree removal and other things that just happen as a consequence of land development.

Mr. Burns reminded Board members that both the applicant and the Board both had traffic experts giving testimony. Both experts took the view that the traffic oriented to Hedges Ave. would be minimal. Gary Dean's count was 5 cars that would use that exit driveway onto Hedges Ave. Mr. Meth's testimony was that if the Hedges Ave. driveway was closed off, nothing damaging will happen to the site. Mr. Meth believed that a lot of vehicles won't be using that driveway because of the level of service.

Mr. Burns said the reason the applicant is arguing for the Hedges Ave. driveway is because he didn't want the parking to be perceived as a dead-end. The applicant wants an easy parking lot for drivers to enter and leave. The Hedges Ave. driveway will help with this goal.

Mayor Plambeck noted that the applicant has given testimony that because the driveway is there, that it's easy to enter there from Hedges Ave. Mayor Plambeck asked wouldn't more drivers be attracted, who are driving eastbound on Main Street, who are north of the site, to take Hedges Ave. rather than take another street and then make a left turn off of Main Street.

Mr. Tobia answered maybe. If that were the case, the nearest cross street on Hedges Ave. is Weston Ave., which is three quarters of a mile back. That is a long way.

Mayor Plambeck pointed out that a lot of people live north of this town, both Chatham Borough residents and residents in neighboring towns.

Mr. Tobia said he has driven that way several times. He believed if that nearest cross street to the north was much closer to Main Street, it would be a more viable option. The further that cross street is from the Hedges Ave. driveway, the more likely it is that drivers are going to hop onto Main Street and get through town on Main Street rather than go north, then east, then back south.

Mayor Plambeck said he wasn't referring to the drivers coming from the south. He was talking about drivers from the north.

Mr. Tobia felt that the way the street pattern has developed historically, there would be a disincentive for drivers to go all the way back there to come out this way.

Mayor Plambeck agreed that would be the case for drivers coming from the southern direction.

Mayor Plambeck brought up the parking situation in front of the proposed building. He pointed out on Main Street; the shoulder of the road is marked as no parking. Mayor Plambeck asked Mr. Tobia, as a planner, was it his opinion that this no parking situation be maintained in order to keep sight distance in and out of the site appropriate.

Mr. Tobia answered that the applicant's traffic witness could better answer that question. Mr. Tobia noted that this section in town is more vehicular oriented than the Borough's B-4 zone. He believed that there should not be parking in front of this particular site for the reasons as stated by the Mayor. Mr. Tobia said if the proposed site was in the B-4 zone, he would want cars parked in front of the building.

Mayor Plambeck noted that Mr. Tobia had testified that the environmental remediation at this site will occur just because this development is the one that happens to be before the Planning Board. From a schedule standpoint it might happen sooner. However, wouldn't any development essentially do that? And wouldn't the owner be required to do that even if there was no development?

Mr. Tobia believed the answer to the final question is yes; however, from his work experience he has found the private sector initiative to be a good thing. Any new development is required to get remediation done and would provide the incentive. The sooner the remediation is done, the better.

Mayor Plambeck agreed with Mr. Tobia that the sooner this remediation is done, the better. If this application is approved, he hopes that the owner will make it happen sooner rather than later.

Mrs. Rush noted that Mr. Tobia had testified that the applicant does not want cars parking on Hedges Ave. She pointed out that the Board was concerned that this type of parking will result if there is an over-flow of cars in the store's parking lot. She asked Mr. Tobia if he could comment on this.

Mr. Tobia answered that this type of use generates a high turnover of parking spaces. Customers will not be staying in this store for a two-hour meal. Most customers are out of the store in 5 minutes. In other facilities like this one, he has found that one parking space can turn over half a dozen times an hour, up to ten times an hour. Now that extra spaces have been added to the parking lot, it will be a productive action which will, in Mr. Tobia's opinion reduce parking on Hedges Ave. Mr. Tobia stated, in his opinion, during non-peak hours only half the parking lot is full.

Mrs. Rush noted that on the plan that the configuration of the Hedges Avenue driveway is such that the right turn out of there is not discouraged, as it has been on previous plans.

Mr. Tobia answered that the configuration is slightly angled. He believed the only people making a right turn are going to be the people who live down there (Hedges Ave.). Mr. Tobia suggested the Board talk to their traffic expert about this issue.

Mrs. Rush brought up the situation of drivers heading to the town north of here. After getting their coffee, these drivers may not bother to exit onto Main Street and then go out Passaic Ave. or Hillside Ave. These drivers might continue out onto Hedges Ave., which would increase the traffic there.

Mr. Tobia agreed that might happen. He believed that if the drivers don't go out onto Hedges Ave., they may make a right on Main Street and head northbound, and sooner or later ending up a residential street. The question is: Do you want this to happen on Hedges Ave. or on some other street.

After conferring with Mr. Murphy, Mr. Tobia pointed out that this plan now shows a "No Right Turn" sign here.

Mrs. Rush acknowledged that notation on the plan.

Councilman Harris brought up Mr. Tobia's survey of corner lots along Main Street. He asked if any of the establishments on those corner lots were fast food operations like Dunkin' Donuts that would have similar traffic volumes.

Mr. Tobia briefly went through his survey which included mostly banks and a couple of service stations. The service stations probably generate a high level of traffic.

Councilman Harris noted that Gary Dean's report showed about half the volume for the trip projection.

Mr. Burns commented that Gary Dean's trip projection was lower than Mr. Meth's count for the service stations.

Mr. Tobia pointed out that there are other uses which he suspects would be lower, such as the realtor and insurance offices on corner lots. Also, the Bean Curd restaurant, the carpet stores, and the Parrot Mill Inn would all be lower. Mr. Tobia reviewed that his survey showed a count of 39 lots with access to side streets.

Councilman Harris noted that Mr. Tobia had testified on the impact of not having a driveway onto Hedges Ave. Mr. Tobia had testified that K-turns and other maneuvers will be happening in the parking lot. Councilman Harris asked Mr. Tobia to better clarify that K-turn situation.

Mr. Tobia showed how drivers, if the parking lot is full, would have to back out and exit. During peak hours there's no room for vehicles to make K-turns to back out into the body of the lot. The proposed driveways make it much easier to re-circulate on the street pattern.

Mr. Tobia stated that every emergency service person he has spoken to likes "two ways-in rather than one". A blocked driveway on Main Street still has another way into the site and vice-versa. The second driveway should be kept open in case a stalled car or fender bender occurs.

Councilman Harris suggested that a chain could go across the Hedges Ave. driveway. The chain could be disconnected for emergency vehicles.

Mr. Tobia agreed; however, he is not in any way suggesting that arrangement in this application. That arrangement isn't used in areas where the road connection might allow a lot of traffic into the middle of a neighborhood where people don't want it. Mr. Tobia said in this particular application he wasn't going to give up his opinion that the second driveway helps outside circulation.

Councilman Harris asked if there would really be a detriment to closing off the Hedges Ave. driveway.

Mr. Tobia believed it would be a detriment. He pointed out that DOT believes that if there is another means for cars to get out to Main Street, it should be used, since it would get drivers out to an already established road.

Councilman Harris recalled that Mr. Meth's testimony on that issue was that DOT wouldn't require that side driveway.

Mr. Tobia said that Mr. Meth was still present and could testify further on that topic. Mr. Tobia felt the driveway issue was probably in response to neighborhood sensitivity to a curb cut on a residential side street.

Councilman Harris said that wasn't his understanding of the concern. He pointed out that there is already a failing condition at the intersection of Hedges Ave. and Main St. Any additional amount of traffic is just going to worsen the situation.

Mr. Tobia agreed; however, by cutting down the driveway, it would seem all it does is relocate it from the street intersection to a driveway intersection a couple of hundred feet east.

Mr. Montague asked if the Board had any more questions for Mr. Tobia.

Mr. Foster noted that when Mr. Tobia had testified about the variance being sought for the multiple use of the loading zone, he (Mr. Foster) didn't know if he was referring to the need for a variance from the minimum off-street loading section of the ordinance that applies to these B zones. Mr. Foster recalled in earlier material from Mr. Burns; he had just referred to the definition of a loading zone or parking space. Maybe when a decision is made on this application, it should be clearly stated that the applicant is seeking a variance from Section 165-24(a) on page 43 of the ordinance, in addition to varying from the definition of parking space.

Mr. Burns said he was open to the definition of "parking space". He agreed with Mr. Foster's observation that the variance arises from the fact that the parking space definition states something like: "And that space shall not be devoted to any other use. Mr. Burns felt "a shared use" concept is being talked about here. That is what gives rise to the variance; however, it's the same variance that Mr. Tobia had testified to.

Mr. Foster felt that Section 165-24 (a) intends that the parking space should be used for no other use except as a loading zone. He believed the applicant would need a variance from that section as well as the definition.

Mr. Burns reviewed the definition of “parking space”. He believed that the definition probably had a parallel provision regarding loading. It’s not supposed to be used also for parking. Mr. Burns agreed with this idea and said he had no problem adding Section 165-24 (a) to the request.

Mrs. Pignatello referred back to the environmental issue. She pointed out that the applicant doesn’t own the property; however, they do seem to have some bargaining power. As part of the lease, the applicant was able to get the owner to complete soil remediation. She noted that the Board had been concerned about the remaining ground water remediation. The Board is curious to know if the applicant would be amenable to approaching the owner to move things along on the remaining ground water remediation.

Mr. Burns informed Mrs. Pignatello that the applicant is agreeable to that idea. Unfortunately, there are no guarantees. Mr. Burns said there was no question that the applicant wants this site to have an NFA letter as soon as it can. Mr. Burns will be happy to make that request to the owner.

Mrs. Pignatello reminded the Board that this remediation situation is an incredibly complex ownership/who-is-footing the bill scenario.

Mr. Sennett had a question on another issue. He noted that Mr. Tobia had stated that the applicant could have presented a variance-free application that would basically comply with the ordinance. He also noted that Mr. Tobia had testified to a few of the guidelines of the Master Plan in regard to fostering the historic nature of the town. Mr. Sennett asked Mr. Tobia if, as a planner, he thought that such a variance-free application was approved, would it be following the Borough’s Master Plan?

Mr. Tobia felt that the proposed store is better than what currently exists on the site. He did believe, however, that the variance driven case is “more site specific and it’s definitely more reverent to the prevailing development pattern out on Main Street.”

Mr. Sennett pointed out that these variances are needed in order for the Board to approve an application that follows the guidelines of the Master Plan.

Mr. Tobia explained that a site plan review is taking place between the applicant and the Board. He noted that with the variances, this has now become a better project. If the application was variance-free, the proposed building would be angled, too far from the street, and at least 5 parking spaces would be lost. The variance-free application would comply with many of the Master Plan goals, but it would not comply as well as the present plan with the variances.

Mr. Montague asked the public if they had any questions for Mr. Tobia.

Bernie Vella, 58 North Summit Ave., brought up an item from Mr. Burns concerning Dunkin' Donuts business plan in order to make this particular store profitable. Mr. Vella asked if there is some number given to the applicant to state how many customers would be needed during the peak hours to make this store successful.

Mr. Burns said to the best of his knowledge, no.

Mr. Vella noted that this proposed project has been going on for some time. He asked if there was nothing in the business plan that would say how many customers would be needed to make this Chatham store a successful operation.

Mr. Burns answered that he didn't think the business plan was done that way. He believed the basis of location and a study of demographics is taken into account.

Mr. Vella estimated that 80% of the customers will be exiting the site via Hedges Ave. He didn't believe that these drivers will want to make a K-turn, pull out, and go back onto Main Street. He asked Messrs. Tobia and Burns if didn't they think that drivers would rather go out the Hedges Ave. exit, rather than risk making K-turns.

Mr. Tobia asked if he was referring to the drivers who want to continue west on Main Street after buying their coffee at the Chatham store.

Mr. Vella answered yes.

Mr. Tobia answered that one method is for the drivers to make the right turn at the main driveway, come around the back, and make a left turn onto Hedges Ave., then come out onto Main Street.

Mr. Vella noted that there is already a 3 to 4 car back-up at the intersection of Hedges Ave. and Main St. without these additional vehicles trying to get on Hedges Ave. He felt these drivers won't be able to make a left turn because there will be cars in front of them. The drivers will then make a right turn instead and go up to Weston.

Mr. Tobia agreed with Mr. Vella's observation about the 3 cars queuing up on Hedges Ave.; however, he believed the drivers will come out to Main Street, make a right turn, and go on their way.

Mr. Tobia and Mr. Vella discussed the K-turn situation. Mr. Tobia felt that without the Hedges Ave. driveway, the cars will be making more like "W" turns where they back up twice and go forward twice. The presence of the Hedges Ave. driveway may prevent those types of awkward movements.

Mr. Vella still predicted that road rage will occur on Hedges Ave. with the additional traffic from the proposed store.

Rob Goldberg, 41 Hedges Ave., asked Mr. Tobia if there were no other fast food businesses in Chatham Borough and Chatham Township.

Mr. Tobia clarified that the zoning term used in this particular case is “eating and drinking establishment”. Mr. Tobia reviewed a list of existing fast food restaurants already operating in town: Gabriella’s Ice Cream, Arminio’s; Noah’s Bagels, Cold Stone Creamery, etc. These businesses all fall under the same general definition zoning-wise as the proposed Dunkin’ Donuts store.

Mr. Goldberg confirmed with Mr. Tobia that he was comparing Café Beethoven or the Chatham Bakery as being similar to the proposed Dunkin’ Donuts in terms of the customers going in and out, and the cars pulling in and out.

Mr. Foster reviewed the LDO definition of “eating and drinking establishments”. The examples given in the definition are lunch counters, ice cream parlors, delicatessens and pizzerias.

After further discussion, Mr. Goldberg admitted that he may have been making more of a layman’s distinction rather than a planning board’s distinction. He was referring to fast food chains like McDonald’s and Burger King. Do you find any of these type businesses in Chatham? The answer is “no”. Mr. Goldberg asked what was the planning idea behind that decision not to have these types of businesses.

Mr. Tobia informed Mr. Goldberg that there’s no zoning distinction between a national franchise like McDonald’s and a mom and pop ice cream store. He believed what Mr. Goldberg was suggesting is one more of ownership. Because one business is a national operation and the other is a single unit mom and pop business is irrelevant from a planning perspective. Mr. Tobia reminded Mr. Goldberg that the applicant could have very easily come before the Board with a “national” architecture plan, but he didn’t. The applicant went before the HPC.

Mr. Goldberg asked if the Borough had an ordinance prohibiting drive-through fast food businesses. He believed Burger King had approached the Borough in the 1980s, proposing such an arrangement and it failed because of this prohibition.

Mrs. Rush disagreed. She recalled the application was turned down because of parking.

Mr. Goldberg asked Mr. Tobia, as a planner, if the town had any recourse, if this application is approved and if significant traffic problems arise.

Mr. Tobia answered that if the Board approves this application, the residents may have recourse with normal police powers. If the residents see illegal parking close to the site, they can notify the police. If the loading trucks on the site are not using the designated spaces, they should call the zoning officer.

Mr. Goldberg said he was referring to the traffic volumes. If the traffic volumes create unsafe conditions or become a serious nuisance, what recourse should the residents take?

Mr. Tobia answered if it was a safety or nuisance issue, residents should call the police and ask for reinforcement.

Mr. Goldberg still felt he wasn't hearing an answer about what recourse residents would have concerning "the sheer volume of this happening in this area".

Mr. Tobia wasn't sure he had an answer for that. Traffic associated with a permitted use such as this is a given.

Mr. Goldberg had no more questions.

James Cronin, 18 Hedges Ave., referred Mr. Tobia to his survey of northwest Main Street and businesses that had side driveways. He asked Mr. Tobia if he had distinguished all those businesses that had only access on side streets, and none on Main Street.

Mr. Tobia answered yes, he did that particular category. Of the 39 businesses having side street accesses, 20 of them do not have accesses to Main Street.

There were no further questions for Mr. Tobia. Mr. Montague asked Mr. Burns to move onto his next topic.

Mr. Burns noted that the applicant's testimony is now concluded. He suggested the floor be open now for public comment. He will sum up the application after the public makes their comments.

At 9:16 p.m. a break was taken in the meeting.

At 9:28 p.m. the meeting resumed.

At this point in the meeting Vincent DeNave, the Borough Engineer, joined the proceedings.

Mr. Montague informed Mr. Burns that the Board had questions for his witnesses. There also may be questions for the Borough Engineer and the Board's traffic expert.

Mr. Gerridge had a question for Mr. Meth. Mr. Gerridge noted that currently the applicant has agreed that they would give the town the right to enforce a "no right turn" provision if there was a driveway coming out onto Hedges Avenue. He asked what would be the pros and cons of having that driveway. He also asked what would be the overall impact on Hedges Ave. with the two driveways in operation. Would we be better off with the driveway on Hedges Ave. or better off without it?

Gordon Meth, the Board's traffic expert, asked to be sworn in again since a new calendar year has begun. Mr. Montague swore him in.

In answer to Mr. Gerridge's question, Mr. Meth answered yes, it's better to have full circulation. In larger parking lots it's generally perceived not good practice to have dead-end parking aisles, especially if these lots become full. The side driveway access would be a convenience for when there is not enough parking. Mr. Meth pointed out that because of the queue of traffic westbound in the morning, there really is no good circulation anyway. Also, because the traffic on Hedges Ave. is already operating at a Level of Service F, the bypass theory really doesn't benefit anything.

Mr. Meth reiterated his earlier testimony stating that the delay leaving the driveway is probably a little less than the delay would be on Hedges Ave. itself. He believed from a practical standpoint, the second driveway in the morning wouldn't really offer any great efficiency.

Mr. Meth stated that from a traffic flow perspective, the side driveway would help spread the traffic out in the parking lot and provide a new option for traffic to exit the site. The driveway may provide a more efficient means for a truck entering the site for deliveries.

Mr. Meth testified that the Hedges Ave. driveway will be lightly used. In reality, he believed there will be no major benefit for drivers using the Hedges Ave. driveway. Mr. Meth pointed out that today most of the traffic on Hedges Ave., in the morning, turns left and not right. Mr. Meth believed the applicant's traffic expert's opinion that a very small number of vehicles would actually use the Hedges Ave. driveway. From that perspective, he wasn't sure if the Hedges Ave. driveway would really give a traffic benefit. It's going to give a circulation benefit.

Mr. Meth went on to discuss the present traffic situation on Hedges Avenue. He didn't believe that more traffic would be attracted to Hedges Avenue because of the Hedges Ave. driveway on the applicant's site. He did not see an operational benefit in the peak hours to the Hedges Ave. driveway. The negatives of the driveway are that if the parking lot becomes full, the traffic from the site may spill over onto Hedges Ave. for extra parking.

Mr. Gerridge asked for further clarification on this "spill over". He brought up the scenario of drivers entering the site, finding no available parking spaces, and no right turns allowed for cars exiting the Hedges Ave. driveway. Where are these cars going to park?

Mr. Meth answered that assuming traffic obeyed the "no right turn" provision; the cars could turn left and park on Hedges Ave. in the stretch between the driveway and Main Street.

Mrs. Pignatello asked if that particular parking is legal. She understood that a vehicle has to be 50 feet back from the stop sign before it can park.

Mr. Meth believed that there was far more than 50 feet back from the stop sign on Hedges Avenue; however, he didn't know the exact number of feet.

Summing up, Mr. Meth stated that the Hedges Ave. driveway is good for truck circulation; however, on the down side it facilitates the use of Hedges Ave. for additional parking for the site.

Mrs. Rush asked Mr. Meth if he was implying that the Board really has to decide whether to prohibit right turns out of the driveway or decide against the Hedges Ave. driveway altogether.

Mr. Meth recalled that the applicant's planner and traffic engineer believed the DOT could force access onto Hedges Ave. Mr. Meth, however, did not believe that the DOT under these circumstances, would force this particular access. The DOT may, as a practical matter like alternative accesses, but there's no rule about it.

Mr. Meth brought up the issue of emergency vehicles accessing the site. He could not envision a fire truck, ambulance, or police car parking on Hedges Ave. to handle an emergency in the store. Perhaps the Board may want to ask their emergency services how they would handle an emergency call at the site.

Mr. Sennett asked if the Hedges Ave. driveway was closed, would it be a problem for the parking in the loading and unloading zone.

Mr. Meth explained that the aisle way at the loading dock is actually anywhere from 30 to 30 feet wide even with the loading/parking area versus the typical 24 wide aisle in a parking lot. Mr. Meth believed that if the Board prohibited this loading/parking space area, cars will still park there anyway. He felt that the Board is legitimize what may happen anyway at very busy times by granting those four additional spaces.

Mr. Montague brought up the scenario of a person driving into the parking lot and seeing it's full. Is there a very high possibility that this person will just drive out, park on Hedges Ave., and walk to the store for his coffee?

Mr. Meth believed it depended on the individual. The individual weighs his options when he drives into a full parking lot. If the motorist wants his coffee bad enough, he will be strongly tempted to just park on Hedges Avenue, walk in, and get it. It's a matter of convenience. Mr. Meth noted at the Madison Dunkin' Donuts, customers frequently park in the drive aisles when spaces are not available.

Mr. Montague brought up the scenario of a driver coming up Main Street and sees another vehicle waiting in line to the entrance. Is there an assumption that he'll just drive right up to Hedges Ave., turn on Hedges Ave., park, and then go in the store. Mr. Montague asked if that tendency could happen.

Mr. Meth answered again it depended on the individual. If a driver takes this particular action, his car will be facing in the wrong direction on Hedges Ave. After visiting the store, he will then have to make a U-turn or traverse all the way down Hedges Ave. if he was going north.

Mayor Plambeck asked, once a customer parks in one of the perpendicular spots, regardless of which exit they use, wouldn't the customer have to make essentially the same maneuver with his vehicle?

Mr. Meth agreed with Mayor Plambeck that the customer would have to back out his car and go one direction or another.

Mayor Plambeck confirmed with Mr. Meth that whether there is an entrance there or not or an exit there or not, the maneuver is required of everyone who is parking in that parking lot.

Mr. Montague asked Mr. DeNave, the Borough Engineer, if all the questions in his letter to the applicant had been satisfactorily answered.

Mr. DeNave answered that so far all questions have been answered satisfactorily. The only open item that the DEP or EPA still has is the environmental issue. Mr. DeNave believed that the applicant provided testimony on that issue. As long as the Board is comfortable moving forward with the understanding that it's going to be cleaned up to a certain standard, he (Mr. DeNave) is satisfied. Mr. DeNave pointed out that from an engineering standpoint with the drainage and the pavement, the applicant has agreed to do any additional streetscape work as deemed necessary at the time of construction if the Borough were to expand it down that way. Mr. DeNave said, therefore, he was comfortable with the engineering aspect.

Mayor Plambeck had one more question for Mr. Meth. He brought up the scenario of drivers coming down Hedges Ave. today and making left turns on Main Street. If the application is approved, there will be a driveway coming out of the store allowing for possible left turns onto Main Street. Would the proximity of those two left-turn movements create a safety issue? Would it be better to allow only one left-turn movement?

Mr. Meth believed that the driveway and the street are separated at an appropriate distance. He felt that a driver making a left turn from Hedges Ave. will not conflict with someone making a left turn exiting the Hedges Ave. driveway. Mr. Meth did not see any overwhelming traffic safety reason to say you cannot have that left turn.

Mrs. Rush noted that northbound traffic has been discussed. Has there been any discussion on drivers traveling southbound on Hedges Ave who would be precluded from going into the site at all, if there were no driveway access on Hedges Ave.

Mr. Meth recalled the applicant's planner had testified that would be inconvenient for the drivers, because they would have to turn left onto Main Street and then left into the site. Mr. Meth believed from a practical standpoint, that the drivers will park on the street on Hedges Ave. and walk to the store.

Mrs. Rush asked Mr. Meth if there may be a parking problem on the left side of the street for motorists bound in that direction who want to access the site via Hedges Ave.

Mr. Meth answered that situation could be possible; however, given the mix of traffic, he didn't believe a great deal of traffic will be drawn from Hedges Ave. to begin with. It's probably less than 10 cars an hour. He reminded Mrs. Rush that the Planning Board cannot prohibit parking in a plan. The Board can only make recommendations to the governing body to do that.

Mr. Meth brought up an earlier question from the Mayor regarding parking on the street on Route 124. Mr. Meth clarified his earlier testimony, stating that based on a review of the actual parking regulations for Route 124 or Main Street, there is no legal restriction against parking in the vicinity of this site. It is legal to park on the shoulder. The Borough can recommend to the DOT or ask them to restrict parking in that section.

Mr. Sennett asked if allowing parking on the shoulder would be a detriment, or would it help things.

Mr. Meth answered that if only one vehicle parked right in front of the store, it could obstruct sight lines. If there was parking up and down the street, it would just move the driveway throat forward. Drivers would just creep up to the top of the parking and take their sight distance from there.

Mr. Sennett had a question for Mr. DeNave. He pointed out that Mr. DeNave and Jay Stewart of the Borough Environmental Commission were both initially in agreement that a No Further Action letter should be issued before any construction takes place. Mr. Sennett asked Mr. DeNave why changed his position.

Mr. DeNave understood that there is a desire of knowing that tanks have been removed and that the site had received a clean bill of health from the State. At some point, he would like to have the NFA letter in the Borough's file when it finally comes about. However, Mr. DeNave indicated that he was satisfied with the explanation given from the State and the applicant's professionals.

Mr. Sennett pointed out that the State is an independent body. It does not have a vested interest in the property at hand. The testimony the Board heard was provided by someone who was paid by the applicant who wants to turn this property into something more valuable than it is right now. So these experts testified to the Board that everything is fine. Mr. Sennett questioned whether these experts were really impartial.

Mr. DeNave felt that the State weighs more heavily than the applicant's consultant. He noted that the applicant's consultant was telling the Board where they stood right now and what their future plans were. The applicant's experts gave the Board more information than the State did on what would be the next step. The Board wants to know what is going to be done during construction. Mr. DeNave recalled that the applicant's witnesses had talked about the removal of some of the contaminants during the first phase of construction. The applicant is attempting to have some natural attenuation.

Mr. Foster asked if Mr. Burns could again describe the applicant's arrangement with the owner of the property and the nature of the certification which the applicant expects with regard to the cleanup.

Mr. Burns answered that in regard to the clean-up, the applicant has in his lease a provision that requires the landlord, by February 14, 2007, to deliver to the applicant a site that is clean soil-wise. The significance is that the soil has to be remediated and removed before the applicant starts his site activities. The groundwater is a different condition, because that can be treated by an injection process with monitoring wells. These are the arrangements as stated in the lease.

Continuing, Mr. Burns said that the applicant will insist that those soils be remediated before he starts his site work. The applicant will provide to the Board a certification from a qualified environmental consultant. Mr. Burns had a strong belief that the certification would come from someone from EWMA, which is Mr. Edgar's firm.

Mrs. Pignatello noted that the actual remediation contractor may do an interim report. When the soil remediation is done, the contractor may submit a report addressing only soils to the DEP, stating that the work is done and the soils have been cleaned up.

Mrs. Rush had a question for either Mr. DeNave or Mr. Burns. She noted that the ground level, at the rear of the site, drops off some 10 inches. With this leveling off, will we run into a soil disturbance problem of any sort back there, or will it be smoothed out with no problems. Mrs. Rush said she had walked the site and it appeared as though there was quite a bit of drop-off at the rear of the property. That would be the location where the new buffer will go in.

Mr. DeNave agreed that a significant amount of landscaping will go in at that area. Also, the parking lot and Belgian block will be installed in that area as well as plantings and berms. Mr. DeNave stated that he was not worried about the rear of the property from a drainage standpoint. The main source of runoff is going to come from the parking lot. It's going to be contained in the applicant's drainage system and will be allowed to leave the site at a controlled rate. The remaining area is not steep enough to create any kind of issue on any adjoining properties.

Mr. Montague noted that when he looked at the site plan, the upper east corner has a height of about 192 feet. This height then slopes downward. The back of the contour is 190 feet. He believed the water is going to come down there. Will there be a berm or a

Belgian Block that's going to hold the water and force it into the drains or is it going to run right over the top and down the hill and erode the hill.

Mr. DeNave confirmed with Mr. Montague that he was talking about the dumpster area. Mr. DeNave noted that **there will be** Belgian block curbing. That will be sufficient enough. If the water builds up to the surrounding grade, it will be pitched toward the drain which is on the west side of the garbage enclosure. It should drain off and not accumulate. In the remaining area, in back of the Belgian block where there is a slope, there will be plantings. It's not significant enough to build up any kind of drainage or cause erosion.

Mr. Montague asked if the utilities issue had been resolved of whether the water pipes will be 4 inches or 8 inches.

Mr. DeNave said that the plans have listed an either/or alternative pipe size depending on what is found when the contractor starts digging.

Mr. Burns recalled that these particular reports were covered at the initial hearing back on October 29, 2006. The applicant had no problems with the Public Works' report.

Mr. Montague brought up the Board of Health's concern about washing rubber mats for the disposal of the liquid wastewater. Has that issue been taken care of?

Mr. Burns consulted off to the side with Mr. Truilo and Mr. Modi on this matter.

Mr. Burns answered that the floor mats in the customer service area will not be washed on-site. They will be taken away by a cleaning service, cleaned and brought back to the store.

There were no further questions from the Board. Mr. Montague opened the floor for questions from the audience.

Bernie Vella, 58 North Summit Ave., asked if the Board had any intentions of making a visit to this site either as individuals or a group.

Mr. Foster pointed out that Chairman Montague and other members of the Board have visited the site during the heavy rush period in the morning and weekdays.

Mr. Montague stated that he visited the site before 8:00 a.m. and at that time, he counted all the traffic. He found some of the traffic reports to be absolutely accurate, but not all of them.

Mr. Vella assumed Mr. Montague believed that the traffic flow will work.

Mr. Montague clarified that he did not say that. He stated that he had counted the traffic coming down Hedges Avenue and going back onto Hedges Ave. He discovered that

there was a certain amount of courtesy/permission breaks going on during the heavy peak hours where drivers permit other motorists to make turns. Mr. Montague also observed that 5 minutes after 9:00 a.m. the traffic goes away.

Mr. Vella still believed that a large increase of traffic will result.

Mr. Montague noted that his observations supported what Gordon Meth has reported.

Mr. Vella then asked Mr. Montague if he then believed there would be no problem with the traffic.

Mr. Montague clarified that he is not saying that.

Mr. Vella asked him if he anticipated a traffic problem.

Mr. Montague answered that “it depends on how people are going to operate.” He felt that the parking is the key to this problem.

Mrs. Rush reported that she had monitored the traffic between 7:00 and 8:00 in early October. She said her findings were pretty much in agreement with those observations made by Mr. Meth and Gary Dean. She also pointed out that it would be unrealistic to say that a traffic surge and increase is not anticipated. It’s not clear yet how much of an increase will occur and how much will be incorporated into the normal flow of westbound traffic.

Amy Pento, 48 Hedges Ave., felt there was already enough traffic on Hedges Ave. She has young children. She was very concerned about the Dunkin’ Donuts customers driving down her street and not paying attention when the kids are leaving for school.

James Cronin, 18 Hedges Ave. noted that the Chatham Dunkin’ Donuts will be more of a pass-by instead of a destination. He believed the store will increase the amount of traffic on the north side of town, beginning with Van Doren Ave. Mr. Cronin brought up that deliveries will be made to the store between 4:00 a.m. and 4:30 a.m. During that time period, the Borough noise ordinance requires that the noise level at the receiving property be less than 50 decibels. Mr. Cronin believed the back-up signal on a truck is well over 50 decibels. He recalled that Mr. Meth had testified that there would be a significant amount of back-up movements by trucks using this store’s delivery space. Mr. Cronin believed the back-up beeper is going to be a significant problem to residents in the immediate area.

Mr. Cronin noted that the DEP considers both the proposed site and the residence at 8 Hedges Ave. as one site for the purposes of contamination. He expressed concern that the house at 8 Hedges will remain essentially forever vacant because of the remediation. Mr. Cronin believed there will be no economic incentive to finish up with the rest of what the DEP has identified as one site. He asked the Board to require the clean-up of what

the DEP has identified as the contamination site, not just the Main Street property where the store is being proposed.

Mr. Cronin also expressed concern that the concessions made by the applicant and the requirements that may be imposed by the Board may become “pie crust” promises that are “easily made” and “easily broken”. He asked what could the residents and Board do to make certain these requirements and concessions are fully addressed.

Mr. Montague thanked Mr. Cronin for his comments.

Mr. Foster asked Mr. Burns if there had been an earlier discussion on suppressing the back-up beeper on trucks arriving on the site before 7:00 a.m.

Mr. Burns answered that he was advised that there will not be a mandatory beeper on these type trucks. Mr. Burns said the applicant will accept a condition that states he will comply with the state and local noise limits.

Mr. Montague asked if the public had any further questions or comments.

Rob Goldberg, 41 Hedges Ave., voiced his concern that the proposed store will be “the wrong size business for the wrong size place.” He noted that the applicant’s traffic expert testified that the traffic from this site will be self-regulating and self-policing. To Mr. Goldberg that sounded like there was no traffic plan at all. He believed that the proposed store and the traffic it will produce will be a nuisance and a danger to the community. Mr. Goldberg pointed out that the location of this store is a place where everyone is driving in and out of town. The volume of vehicles visiting this store will add to this bottle-necked location.

Christine Grobert, 7 Hedges Ave., thanked the Board and the applicant for all their work to make this proposal a nice one. She felt, however, that the proposed business will not have enough parking regardless of whether there is an exit driveway on Hedges Ave. or not. If that exit is eliminated, customers will then park in front of the residences on Hedges Ave, causing problems to the residents on that street. Mrs. Grobert reported that she had attended a Borough Traffic Committee earlier. The Committee is asking that no parking be allowed in front of these Hedges Ave. homes. Mrs. Grobert still felt this proposed business and the traffic it may produce will be a problem for both the Hedges Avenue residents and the town as well.

Mr. Montague thanked Mrs. Grobert for her remarks. He asked the public if they had any more statements or questions. There were none.

Mr. Burns thanked the Board for all their patience and work on this application. He also thanked the public for their input. Mr. Burns discussed the issue of “use”. He pointed out that the issue of use had been decided by another governing body. At that particular time it had made sense in terms of the Zoning Plan for this town to allow eating and drinking establishments in the B-3 zone where this site is located. Unfortunately along

with this particular use comes the traffic. The traffic is a function not of the site plan, but of the use. The courts have said that when a municipality has a permitted use, they can't turn it down just because it generates traffic.

Mr. Burns pointed out that if the Borough wants a vibrant downtown, it is going to have traffic. He noted that traffic is inherent with this particular use and it does create issues. However, Mr. Burns believed that "the process will work". He recalled that the Board's traffic expert had described a continuous queue, bumper to bumper. Mr. Burns pointed out that considerate drivers make courtesy gaps for other drivers. That situation will be happening at this location.

Mr. Burns went over the Hedges Ave. driveway issue. He pointed out that Mr. Meth, the Board's traffic expert, had identified the benefits of the driveway. The driveway would provide better circulation for vehicles. The detriment of the driveway would be the possibility of customers parking on Hedges Avenue. Mr. Burns asked the Board to please listen to him and keep an open mind.

Mr. Burns stated that he had referred back to the ordinance and could not find anything wrong with the Hedges Ave. driveway. There are provisions in the Borough ordinance that recognize that corner lots are going to have driveways. The applicant has met every requirement. The applicant has also met all the LDO requirements on non-residential access. Mr. Burns said he had asked Mr. Meth about this pertinent section of the LDO. Mr. Meth had told him that he wouldn't doubt that the driveway is fully conforming.

Mr. Burns pointed out that the driveway has to be safe. There had been an earlier dialogue about this issue. Mr. Meth did not question this factor. Gary Dean stated that "it does work". Mr. Burns stated that the driveway will be a level surface road with good sight distances in both directions and it's going to function at a Service A Level. Mr. Burns agreed with both traffic experts that the Hedges Ave. driveway is not going to get a lot of use. He also felt that the driveway would be self-regulating.

Mr. Burns discussed the parking issue. Thanks to the comments from the Board, the proposed plan now has 22 parking spaces. This increase has made it a better plan. The parking arrangements on this particular site will be much better than the parking at the Madison store. Mr. Burns admitted that the parking at the Chatham store will not be perfect; however, it will be well-designed.

Mr. Burns noted that the proposed plans have met the requirements of the Borough Engineer, Mr. DeNave. The applicant has presented testimony on how the remediation of soils would be handled and how this remediation relates to the initial construction. The applicant also agreed to the "no right turn" on to Hedges Ave. with enforcement under Title 39.

Mr. Burns also pointed out that a passive vapor barrier system would be installed for the building. Also, it was agreed that there would be enforcement of the no customer parking in the loading area after 9:00 a.m. The applicant will also provide a bicycle rack. The

store's garbage pick-up will take place after 9:00 a.m. Councilman Harris confirmed with Mr. Burns that employees will park their vehicles "nose in". Councilman Harris also reviewed how the garbage in the store will be handled. Mr. Foster confirmed with Mr. Burns that at some point the monitoring wells will be moved from the location of where the building will go in. This particular action will be done by the owner.

Mr. Burns said this concludes his case.

Mr. Montague opened the floor up for discussion from the Board.

Mrs. Rush stated that she advocates the circulation advantages of retaining the Hedges Avenue driveway as an open conduit to the street.

Mr. Gerridge pointed out that there is a traffic problem in general in town, whether it be drivers speeding or using cell phones. Like Mrs. Rush, he believed that the site would be better off with the Hedges Ave. driveway.

Councilman Harris believed that closing the Hedges Ave. driveway would not have a serious adverse affect on the circulation of the site. He felt that opening this driveway could have a bad affect on Hedges Avenue. He pointed out once that driveway is open, there's no going back and undoing it.

Mayor Plambeck didn't think there would be a tremendous change in the traffic volume on Main Street. He believed, however, this new store will create more turning movements at this location and at Hedges Ave. Mayor Plambeck said he is still considering whether it would be good or not to have the driveway on Hedges Ave. He believed there may be additional traffic on Hedges Ave. if this store is established; however, he didn't believe these traffic numbers would be overwhelming.

Regarding the remediation, Mayor Plambeck felt it was important that the clean-up should be accelerated. This site has been both a contamination problem and an eye-sore for a long time. The removal of the contaminated soil will help prevent further contamination from leeching down.

Mrs. Rush asked if the local emergency services should be consulted about this Hedges Ave. driveway. Perhaps the Board should receive input from these services.

Mayor Plambeck reported that he has put in a call to the Chief of Police and asked Chief Drake if the Police Department had traffic concerns about this proposed site, bring them before the Board. Mayor Plambeck suggested the Emergency Squad, the Fire Department, and the Police Department should be asked to submit any final comments they may have on this proposed site before the Board votes on the resolution.

The Board agreed with Mayor Plambeck's suggestion.

Mr. Montague explained why he would like to close the Hedges Ave. driveway/exit. During peak hours, he expected customers to park their vehicles in the lane of the driveway. This would then prevent any exit to function. This situation is already happening at the Madison store. One alternative Mr. Montague suggested was to leave the exit driveway alone. If traffic problems come up, the applicant will provide a person to direct and guide traffic during the peak hours. This person would control the exit and block the right-hand turns. He pointed out that Kings Supermarket has a police officer for this type of mediation.

Councilman Harris said he would like an officer controlling the traffic on the site from the very first day of business. If no problems arise, the applicant could then return to the Board and ask for relief from that requirement.

Mrs. Rush brought up the parking situation on Hedges Ave. To whatever degree parking is prohibited on Hedges Ave., it will be inconvenient for the people living on that street, close to the store.

Mr. Montague felt that the Borough Council could deal with this particular parking prohibition in stages.

Mr. Foster pointed out that the Borough Council could prohibit parking at certain hours. There can also be resident and non-resident parking requirements which could be established.

Mrs. Pignatello did not feel the Hedges Ave. driveway should be closed down because of circulation issues.

The Board reached a consensus that the local emergency services should give their input on any concerns on maintaining the Hedges Ave. driveway or what may happen if this exit is eliminated. The hearing can be resumed at the next meeting. At the next hearing, the public will be invited to ask questions and make comments.

Mr. Foster asked Mr. Burns if he had any final comments or suggestions on behalf of the applicant.

Mr. Burns said he has consulted with the applicant and has been taking notes of the Board's comments. Mr. Burns said he received the impression that there was a consensus of allowing the Hedges Ave. driveway to stay, provided a "safety valve" is included. He brought up the idea of someone policing that driveway during peak business hours, Monday through Friday or Saturday. Mr. Burns reminded the Board that if the applicant agrees to police this driveway, the Board, in effect, is approving this driveway. If the Board was inclined to close that driveway, they should first listen to their local emergency services.

Mr. Burns stated that the applicant is willing to pay for a police officer for the first six months of the year, Monday through Saturday, to direct traffic coming off the site.

Mayor Plambeck recommended that the Board consider a draft resolution stating all the conditions that had been discussed. A provision should be included about this police officer present to enforce safety regulations. Mr. Foster said he could have the draft ready before the next meeting for the Board to review.

Mayor Plambeck made a motion to authorize the Board attorney to prepare a draft resolution on this application before the next meeting. Mr. Montague seconded the motion. The motion was unanimously approved.

The next hearing on the Shailja, L.L.C. application will be held on February 7, 2007. The application will be extended to February 14, 2007.

The meeting adjourned at 11:30 p.m.

Respectfully submitted:

Elizabeth Holler
Planning Board Recording Secretary