

CHATHAM BOROUGH PLANNING BOARD

December 13, 2006

7:30 p.m.

Chairman Patricia Rush called the Chatham Borough Planning Board meeting of December 13, 2006 at 7:30 p.m. in the Council Chambers, Chatham Municipal Building. Mrs. Rush announced that all legal notices have been posted for this meeting.

Members Present:

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

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

Members Absent:

None

Amendment – Eating Establishments and 2nd Floor Apartments M-1 and M-3; Site Plan Review for Change of Use

Mrs. Rush stated that tonight Board members will be voting on a resolution allowing restaurants and eating and drinking establishments as a permitted use in the M-1 and M-3 Industrial Districts. This resolution would also allow outdoor eating and drinking and apartment units as a conditional use in those same two districts. Also included is a new rule regarding Site Plan Review for any change in permitted use.

Mr. Foster went over the language he added on Section 3 B: “for any change of permitted use, as defined in this Chapter”.

Mr. Hague made a motion to approve this resolution recommending an amendment to the LDO regarding eating establishments and apartments in M-1 and M-3 Districts and requiring site plan for approval for change of use. Mr. Montague seconded the motion.

A roll call vote was taken:

Mr. Montague	-	yes
Mr. Gerridge	-	yes
Mr. Hague	-	yes
Mrs. Pignatello	-	yes
Mr. Sennett	-	yes
Councilman Harris	-	yes
Mayor Plambeck	-	yes
Chrmn. Rush	-	yes

Mr. Jankowski abstained from voting because he was absent when this amendment was discussed.

Shailja, L.L. C., Dunkin' Donuts/Baskin Robbins – 118 Main Street, Block 53, Lot 32:
Revised Plans & 2nd Traffic Report

This is a continuation from the November 1, 2006 meeting.

Brian D. Burns, Esq., attorney for Shailja, L.L.C., Dunkin Donuts/Baskin Robbins.

Mr. Hague recused himself from this hearing.

Mrs. Rush noted that Mr. Burns will be calling on the applicant's environmental consultant to testify. After that, the traffic issue will be discussed again. Before any testimony began, Mrs. Rush reviewed with the public the procedure which must be followed for a hearing.

Mr. Burns stated that the last time the applicant appeared before the Board was on November 1st. At the November 1st meeting, testimony was heard from Laura Zmijeski of the Historic Preservation Commission. Testimony was given by Laurence Murphy, the applicant's civil engineer regarding the applicant's latest changes submitted at that time. Environmental issues were discussed at the November 1st meeting. Shailja promised to have an environmental consultant present at tonight's meeting. Mr. Burns introduced Robert Edgar, the environmental consultant for the property owner. Mr. Edgar is Director of Environmental Waste Management Associates (EWMA).

Before Mr. Edgar testified, the Board took a minute to read the letter from the DEP concerning this site. This letter arrived at the Borough Engineer's Office this afternoon. They gave a copy of the letter to Mr. Edgar, who had not seen the letter.

Mrs. Rush swore in Robert Edgar. Mr. Edgar submitted his educational and professional credentials to the Board. The Board accepted his credentials as an expert in environmental science.

Mr. Burns asked Mr. Edgar to explain how his firm, EWMA, is involved with the applicant's property.

Mr. Edgar testified that EWMA was employed as the environmental consultant for the owner of the property at Hedges Ave. and Main Street. EWMA is overseeing the environmental compliance activities being performed by the responsible parties.

Mr. Burns confirmed with Mr. Edgar that the property has been contaminated in the past and is still contaminated. Mr. Edgar testified that the contamination came from the gas station which operated on the site for years.

Mr. Burns confirmed with Mr. Edgar that the two prior operators who are “the responsible parties” are Exxon Mobil and Kimber Petroleum. Each of those parties has played a role in the clean up of the site.

Mr. Burns asked Mr. Edgar if the owner has also been involved in the clean-up of the area. Mr. Edgar said yes, that would be three parties who have been involved in the clean-up over the years.

Mr. Burns noted that Mr. Edgar will testify on the status of the clean-up going on today. Mr. Burns asked Mr. Edgar what exhibits he would be using for his testimony.

Mr. Edgar submitted Exhibit A-15 which consisted of soil sample results, the soil contamination that exists on the property today. He also submitted Exhibit A-16, a groundwater sampling taken on the property in April 2006.

Mr. Burns asked Mr. Edgar what is the current status of the clean-up.

Mr. Edgar testified that the majority of the soil contamination has been excavated and removed from the site. He also testified that there is residual groundwater contamination, but the majority of the groundwater contamination has also been remediated.

Mr. Burns asked what are the most recent efforts of the clean-up.

Mr. Edgar answered that currently not much has been happening. Usually in cases like this one, there is a speedy response to the environmental contamination. The source of the contamination is removed, the tanks are removed, and the impacted soils around the tanks are removed. Unfortunately, as it happens in this case, after that the progress of the remediation has greatly slowed down because the remaining contamination is not as great. It may be seen by the responsible parties as less of a priority in terms of remediation. The owner has urged the responsible parties involved to move more quickly. Unfortunately, they have been difficult to deal with.

Mr. Burns confirmed with Mr. Edgar that Mr. Edgar’s client is in litigation with the two of them. He also confirmed with Mr. Edgar that there is an understanding between his client, the landlord, and the tenant, and the applicant with respect to what is going to happen if this project gets approved.

Mr. Edgar testified that there was an agreement that all remaining underground storage tanks would be removed from the property. That removal was completed in 2005. A fuel oil tank was removed. There were two tanks that the DEP had agreed could be abandoned in place. These two tanks had been filled with concrete, but the owner chose to remove them as well. In removing these tanks, they also removed the contamination as well.

Mr. Burns asked what is the plan with respect to taking care of the remaining residual soil contamination.

Mr. Edgar said as he understood it, concurrent with redevelopment activities, the remaining soil contamination will be excavated and removed from the property.

Mr. Burns asked Mr. Edgar if the applicant makes a request that any contaminated soils be removed before site work begins, would Mr. Edgar agree to do that on behalf of his client.

Mr. Edgar answered that EWMA would agree to such a removal concurrent with the redevelopment after the existing building is demolished. However, EWMA would not do the contaminated soil removal after, say, the new parking lot was paved.

Mr. Burns asked Mr. Edgar if he was authorized by his client to provide a certification to the Borough when the soils have been remediated to the applicable DEP standard.

Mr. Edgar answered yes.

Mr. Burns asked Mr. Edgar how old is this particular case with the DEP.

Mr. Edgar answered that this case is 20 years old.

Mr. Burns and Mr. Edgar discussed correspondence received today from Joe Eaker of the DEP. In his letter, Mr. Eaker indicated that the DEP has not yet completed a full review of the 2004 underground storage tank removal. Mr. Edgar said that is not unusual for the DEP. He agreed with Mr. Burns that a No Further Action letter from the DEP would be “years away”.

Mr. Burns confirmed with Mr. Edgar that it is feasible, possible and not uncommon that the remediation of the soils would be accomplished within a much shorter period, about 60 days.

Mr. Burns and Mr. Edgar discussed a report received from the Borough Environmental Commission.

Mr. Burns noted in their report, the Commission had brought up the underground stormwater detention system. The Commission wanted to know whether this system might impact the flow of groundwater and whether it might thereby affect the extent to which contamination might be disbursed. Referring to Exhibit A-16, Mr. Burns asked Mr. Edgar to address those questions and show how the groundwater flows.

Mr. Edgar stated that it’s always important to consider the potential impact on the contamination at the site when you install things like this system. First, the location is looked at, then the depth of the system. Mr. Edgar pointed out Main Street and Hedges Ave. on the map. He testified that he has to look at the depth subsurface retention system is in relation to the contamination on the site. The depth is 5 feet below site grade. The depth of the impacted groundwater at this site is somewhere between 11 ft. and 17 ft.

The depth of groundwater is significantly below the bottom depth of this retention system, so that he wouldn't expect any impact at all on the groundwater from the installation of this system or any affect on the normal movement of this contamination with groundwater flow.

Mr. Burns confirmed with Mr. Edgar that his exhibits contained notations as to sampling results. Mr. Burns asked what the most recent date for the groundwater samplings was.

Mr. Edgar answered April 5th 2006.

Mr. Burns asked what the latest date for the soil samplings was.

Mr. Edgar answered June of 2004.

Mr. Burns said he had no further questions for Mr. Edgar.

Mrs. Pignatello asked how high above state standards were the groundwater samples for the soil.

Mr. Edgar answered that they weren't that bad.

Mrs. Pignatello asked if the TICS (Total Individual Contaminants) that are above, or is it the individual contaminants.

Mr. Edgar answered that it was the Individual Contaminants which were above standard. The majority of them are in the hundreds of parts per billion range in terms of the detection. That's good.

Mrs. Pignatello asked what the contaminants above standards were.

Mr. Edgar answered benzene; ethyl Benzene; tertiary butyl alcohol, which is a gasoline additive. These are gasoline contaminants. Other things were detected in April 2006, but they were not above standard.

Mrs. Pignatello asked if there was a plan in place on how often the sampling is going to occur. Are the owners following a plan?

Mr. Edgar responded that these were the most recently publicly available results. The responsible party that generated these results is Exxon Mobil. They are monitoring on a quarterly basis.

Mr. Sennett asked Mr. Edgar how often he found himself remediating contaminated sites which are to be used for food services. Is this a common type of remediation?

Mr. Edgar answered that it was a fairly common type of remediation. He pointed out that this kind of redevelopment happens all the time.

Mr. Sennett noted that Mr. Edgar had mentioned litigation between the property owners and the contaminators. What is the nature of this litigation?

Mr. Edgar believed that the nature of the litigation is the recovery of the cost that the landlord is going to incur or has incurred.

Mrs. Rush asked if there would be any chance that the groundwater system and the stormwater retention system would commingle. Would there be any seepage downward from the stormwater retention system?

Mr. Edgar answered no, that won't be happening. He explained that the stormwater retention system is far above the groundwater system.

Mayor Plambeck noted that the e-mail received indicated that the plume is at the western portion of the site. He asked Mr. Edgar to identify the extent of the identified contamination in the area. Mayor Plambeck noted that there are also monitoring wells off-site. How have changes been occurring with regard to the concentrations?

Mr. Edgar explained that the e-mail was referring to the soil contamination at the western part of the property. Residual soil remediation was done in 1992 on this western portion. Mr. Edgar believed Mr. Eaker, in this e-mail, was just saying that the proposed building location might be in the area of some of that contamination. At the time of redevelopment that contamination would be excavated out to clear the way for the building to come in.

Mayor Plambeck asked if the depth of the contamination was known.

Mr. Edgar tried to remember the depth. He believed it was 2 feet to 8 feet.

Mayor Plambeck asked how extensive the groundwater contamination was. Also what monitoring systems are located outside the site itself to determine the extent of the contamination?

Mr. Edgar explained that the groundwater flow is going northward. The off-site wells have been installed to chase the plume of groundwater contamination to the north. Mr. Edgar believed that work has been done fairly recent by the Exxon Mobil consultant, GES. There are a number of wells across the site. Mr. Edgar believed that the groundwater contamination really isn't that bad. The contamination is within the levels that consultants would consider are amenable to natural attenuation, meaning that it can naturally degrade by being eaten up by the natural bacteria and micro-organisms.

Mayor Plambeck asked Mr. Edgar if he could put a number on that in terms of where the levels are, relative to what the DEP would issue a No Further Action letter for.

Mr. Edgar answered that the levels are above standard and they're in the hundreds.

Mayor Plambeck asked him if he could tell the Board what the standards are and what the numbers are.

Mr. Edgar answered that the standard for benzene is one part per billion. There is a detection of 369 parts per billion. The highest detection here on site is tertiary butyl alcohol at 2,140 parts per billion, and the standard is 100. The other contaminants are sort of in between that range.

Mayor Plambeck confirmed with Mr. Edgar that the contamination is several orders of magnitude above the standard for benzene in this situation.

Mayor Plambeck said he understood that the property to the north, with a building situated on it, is also contaminated and that there are also wells there. He also understood that the building is owned by Exxon Mobil. He asked if there was an active remediation program going on with that property as well. Is it possible that contamination could come back and haunt the applicant's site?

Mr. Edgar didn't believe that the contamination would return to affect the applicant's site; however, he didn't know what GES's plans or Exxon Mobile's plans are with regard to the remediation going forward. Mr. Edgar believed the plan that they are following right now is called monitored natural attenuation. They continue to monitor on a quarterly basis and they let the plume naturally degrade.

Mayor Plambeck asked Mr. Edgar if he could give some idea on how rapid that degradation is occurring.

Mr. Edgar answered that he knew that the levels a few years ago were higher because his company did some sampling on this site; however, the determination of how quickly something is naturally degrading involves calculations that he couldn't do right now in his head. The calculation is doable, but he said he just couldn't make them off the top of his head.

Mayor Plambeck asked him if he had the actual numbers from past years.

Mr. Edgar answered no; however, he knew they were higher. There were more results in the thousands; whereas here there are more results in the hundreds.

Mrs. Pignatello asked, based on the levels that are at the site now, has there been any discussion of further pump-and-treat or bio-remediation through injection.

Mr. Edgar answered that there hasn't been any discussion that he knew about. He felt those options could be applied in this particular case.

Mrs. Pignatello asked who the actual remedial contractor was. Who is actually doing the work?

Mr. Edgar answered that the two responsible parties are Exxon Mobil and Kimber Petroleum. They are the consultants. Exxon Mobil's consultant is GES. GES is doing the investigation and remediation for Exxon Mobil. Kimber Petroleum's consultant is Bell Environmental.

Mr. DeNave noted to Mr. Edgar that he had talked about soil removal prior to, or at the beginning of the demolition process and prior the installation of improvements. He also noted that Mr. Edgar had referred to a few red dots, areas that were discussed in Mr. Eaker's letter. Mr. DeNave asked if there were any other red dots on that map besides that western corner of Hedges Ave. and Main Street.

Mr. Edgar answered that EWMA is the consultant for the property owner. There are samples that are above standard from the underground storage tank removal in 2004 by Kimber Petroleum. Mr. Edgar pointed out where the 1992 samples were taken on the site for the GES Exxon Mobil investigation.

Mr. DeNave confirmed with Mr. Edgar if the soil in the area of the proposed building will be removed prior to construction.

Mr. DeNave noted that the monitoring wells themselves are shown in the area which will become the parking lot. Is he looking to move those wells or is he looking to put those wells underneath the pavement, but have them accessible?

Mr. Edgar stated that what usually happens is during redevelopment, wells that are in an area like a parking lot or a landscaped area, the redeveloper and the environmental consultant will work together and maybe have a well-driller come out and protect the wells while redevelopment occurs. The wells will then be brought back down to the new grade once redevelopment is done, whether it becomes a landscape area or a parking lot. In this particular case, any wells that are inside the footprint of the building can be properly abandoned by a licensed well-driller and then reinstalled somewhere else. Mr. Eaker's e-mail specifically mentioned this method. Prior to reinstalling the wells, input would have to be given to the DEP.

Mrs. Rush asked if 8 Hedges Ave., the house next door to the site, would be any better off or worse off after the natural remediation of the contaminants in this water; or, will 8 Hedges Ave. need its own remediation?

Mr. Edgar answered that as a consultant, he and his firm would look at the groundwater plume as one who thing irrespective of any property boundaries that may be in the way. The natural attenuation of the plume was a whole, whether it is on the site at Hedges Ave. and Main St. or the adjacent residences, it would be equally effective.

Mrs. Rush confirmed with Mr. Edgar that the property at 8 Hedges Ave. would profit from the cleanup of the Exxon Mobil site.

Mrs. Pignatello asked if the NJDEP considered those two properties as one site.

Mr. Edgar answered yes. The NJDEP looks at it in terms of responsible parties. There is one case manager for both properties and both responsible parties.

Mayor Plambeck noted that Mr. Edgar testified that the flow of groundwater in this situation tends to be toward the north. How far north have monitoring wells been installed to see how far a plume has so far progressed?

Mr. Edgar said that the DEP in recent years had asked Exxon Mobil to pursue the further delineation of the plume to the north. Mr. Edgar believed that they've installed 3 or 4 monitoring wells either along the road or on adjacent properties, or both, to complete that delineation.

Mayor Plambeck asked Mr. Edgar if he was sure that delineation had been completed.

Mr. Edgar answered that the results from the furthest down-grade wells are in compliance. The delineation has been completed through the installation of those wells.

Mayor Plambeck asked if the Board could be given data to confirm that action.

Mr. Edgar said that accomplishment was mentioned in the April 5th 2006 groundwater data.

Mrs. Pignatello noted that if the construction of the building is moved forward, the wells may have to be moved. She asked Mr. Edgar to explain to the Board and the audience what the wells will look like and how small they are.

Mr. Edgar pointed out that people probably pass the wells everyday at sites when they drive into a gas station. Most people don't even know those wells are there. The well itself is typically 8 inches in diameter and sits in a tube, and a 2 ft. by 2 ft. concrete pad. Sometimes the pads are stained or died to be the same color as the pavement around them to appear less obvious. The wells are flush with the grade under a manhole cover.

Mayor Plambeck asked if the existing wells would be either maintained or additional ones installed if the excavation had to go deep enough that they had to be abandoned.

Mr. Edgar testified that the existing wells would be maintained on-site for the continued groundwater monitoring activities.

Mayor Plambeck confirmed with Mr. Edgar that paving and other work can be done around these existing wells and that these wells will be flush with the surface when the work is done.

Mr. Foster confirmed with Mr. Edgar that he was familiar with the reports sent by Joanne Stott of EWMA to Mr. Burns' office dated October 27th.

Mr. Foster noted that in both of those reports there's a recommendation that a passive vapor mitigation system should be installed at the time of building construction. He asked Mr. Edgar if he agreed with this recommendation. If so, Mr. Foster asked Mr. Edgar to describe this system and explain why EWMA felt that it was necessary.

Mr. Edgar stated that this system was necessary. He explained that the passive vapor mitigation system is very similar to what's been commonly used to mitigate radon. It consists of a series of slotted PVC pipes, white 4-inch or 3-inch diameter PVC pipes. Usually it's placed under the foundation within the stone under the foundation. This system passively collects vapors that might accumulate below the floor of the structure and passively vents them up above the roof line so that those vapors do not come into the occupied space of that building. These kinds of systems are used whenever there's volatile groundwater contamination which may get up into the soil vapor under an occupied structure.

Mr. Foster asked if that would be combined with some sort of vapor lock or layer in the basement to prevent the vapors from getting inside the building.

Mr. Edgar answered yes.

Mrs. Pignatello said considering the NJDEP's new focus on indoor air quality standards, would the vapor system have a polymer coating on the floor in the basement to seal it in, or is the system sufficient?

Mr. Edgar answered that in cases where there is significant groundwater contamination, the two systems would be used concurrently. The undercoat would be put on the foundation of the building as well as on the installation of the system. Mr. Edgar felt in this particular case, he wasn't sure if the contamination actually warranted the addition of the undercoating; however, this undercoating also can serve as kind of a water barrier.

Mr. Gerridge noted that the monitoring well MW-11 seemed to have many more red numbers on its chart than any of the others to the northeast. He asked Mr. Edgar what was the reason for this.

Mr. Edgar explained that when he looked at those numbers, he noticed that the pattern that would be expected from a discharge from an underground storage tank system is apparent at this site. Also, there is a plume to the north-northeast of where the underground storage tanks and where the pump islands existed at the site. The worst contamination would be expected to immediately flow down from where the source is located. That is what will happen at MW-11.

Mr. Gerridge asked if that particular well is showing an improvement.

Mr. Edgar said his recollection of the groundwater sampling that EWMA did was definitely worse than this 2006 round.

Mr. Jankowski asked that once the area is paved and a seal is put across the top of the soil, how quickly will that self-remediate? In other words an impervious coverage is going over the contamination. Does that impede the natural remediation that should occur?

Mr. Edgar answered no, not at all.

Mrs. Rush asked Mr. Edgar if he knew a company named Integrated Process. She noted that their sign and phone number was on the house adjacent to the site in question.

Mr. Edgar said he didn't know of Integrated Process. He said he would guess that it may be connected to Exxon Mobil's consultant.

A member from the audience (Bernie Vella) pointed out that the same sign is on the 118 Main Street pump. Mrs. Rush said she only noticed it next door at the adjacent house.

Mr. Edgar said perhaps Integrated Process is the company that's been retained to secure both sites.

Mr. Sennett brought up the No Further Action letter from the DEP. He felt that Mr. Edgar was proposing that the landowner move ahead with construction without waiting for the No Further Action letter. Is that commonplace with these types of sites?

Mr. Edgar answered that unfortunately many times it takes the redevelopment of a property to kick the remediation into high gear. The responsible parties become more motivated to do something about the contamination.

Mr. Sennett wanted to know what was the real purpose of a No Further Action (NFA) letter.

Mr. Edgar explained that the NFA letter is issued by the DEP when the site has been cleaned up to the DEP's criteria. That document will not be issued for this site by the DEP until the soil and the groundwater meets the DEP's cleanup criteria.

Mr. Sennett asked if it's common practice for people to go ahead and change the use of a site and redevelop a site without the NFA letter in hand.

Mr. Edgar answered yes.

Councilman Harris asked Mr. Edgar if he would review the relocation of the monitoring wells with the DEP.

Mr. Edgar answered yes.

Mrs. Rush opened the floor up to the public to ask Mr. Edgar questions.

Bernie Vella, 58 North Summit Ave., asked if anyone, whether it was Exxon Mobil, Kimber or EWMA, had tried to get the NFA letter from NJDEP.

Mr. Edgar answered that the responsible parties, Exxon Mobil and Kimber, have been actively moving toward obtaining the NFA letter. They've been doing the quarterly monitoring, they have removed the underground storage tanks, and they removed residual contamination.

Mr. Vella asked if the responsible parties have applied yet for the NFA letter.

Mr. Edgar explained that because contaminants remain at the site above standard, the DEP would not issue a NFA letter. This won't happen until the contaminants have been removed or remediated or it can be proven that they will naturally degrade over a certain length of time. Only then will DEP issue that NFA letter.

Mr. Vella asked if he meant that the NFA approval will not be obtained before the development begins.

Mr. Edgar answered yes, in his opinion there will be no NFA letter before the development begins.

Mr. Vella asked if the parent company of Dunkin' Donuts is aware of the plans to construct one of their stores on a site that is currently contaminated and that there is not going to be any attempt to get an NFA letter. Are the executives of Dunkin' Donuts aware of this?

Mr. Burns answered that they are aware of the situation.

Mr. Vella asked if they approved of the situation.

Mr. Burns answered that they are allowing their franchise to move ahead. This is not unusual.

Mr. Vella asked if there was anybody he could verify this situation with.

Mr. Burns answered that there was no name that he knew of.

Mr. Vella indicated he had no more questions.

Mr. Foster noted that the applicant has two maps having to do with the environment. These maps show the location of the proposed building. Is that the original location of the building?

Mr. Burns clarified that it was the current location. CAD drawings were sent to Mr. Edgar so he could plot it in the current proposed location. By "current" Mr. Burns meant

the plans that he is presenting tonight. These plans include the 23-foot or so setback from Main Street.

Michael Dean, 181 North Passaic Ave., asked while we are waiting for a NFA letter, has the DEP or anybody else determined the level of safety for this site for the local residents as construction is going on and as adults and children are sitting at a site above a not totally clean underground.

With Mrs. Rush's permission, Mr. Burns summarized an e-mail from Joe Eaker who is with the DEP and the Bureau of Underground Storage Tanks. The e-mail indicated that the Bureau didn't have any issue with a Dunkin' Donuts at this site. The e-mail also goes on to say that if someone is redeveloping, they need the Bureau's approval for relocation of monitoring wells. So the DEP is aware of this situation. There is not a problem from their perspective.

Mr. Dean noted that monitoring wells to the north had been mentioned. He asked if there were any towards the east towards Townsquare or across the street.

Mr. Edgar went to the map and pointed out monitoring wells to the south in front of the other gas station, and to the north along Hedges Avenue and on the adjacent residential property.

Mr. Dean asked what is the advantage to Chatham Borough if this site is being cleaned up now by this application, or is there any disadvantage for this site not to be cleaned up by this application? And if this application is not approved, what is the anticipated time for the site to be cleaned up?

Mr. Burns told Mr. Dean that he lives in the town, he should make the judgment. Any town that he (Mr. Burns) has lived in, if he sees a contaminated site, he realizes that it only gets cleaned up and productive again when it's redeveloped. Mr. Burns perceived it to be a plus to get rid of the contaminated site, to get rid of an eyesore, and redevelop it with something that is productive and reasonably acceptable to the community.

Mr. Burns noted that Mr. Dean asked what happens to the site if the application gets turned down. What happens to the redevelopment process? Mr. Burns pointed out that this particular property has sat for any number of years. This is a 20-year old case. It has not completed the remediation process because there has been no redevelopment.

James Cronin, 18 Hedges Ave., asked if the applicant wants to proceed relying upon the certification of its environmental expert in lieu of a No Further Action letter.

Mr. Burns answered yes, prior to the receipt of a NFA letter.

Mr. Cronin asked if under the circumstances a NFA letter would be normally issued before construction started on a site.

Mr. Burns answered in his experience, no.

Mr. Foster suggested Mr. Edgar also answer Mr. Cronin's letter.

Mr. Edgar also answered no.

Mr. Burns pointed out that many times the redevelopment is part of the remediation, because the redevelopment is what places the engineering controls or capping over some sites where that is part of the process of cleanup and remediation. So it's definitely not the norm.

Mr. Cronin asked what protections are there if an NFA never actually gets issued.

Mr. Burns answered that one of the issues of the relationship of the cleanup to the redevelopment of the site is an assurance that the building is safe and can be safely occupied. That situation is controlled by the municipal certificate of occupancy program. The issue of getting the site fully remediated is really an issue with the DEP and the responsible party. It doesn't affect the occupancy of this property. This property is not going to be occupied unless it can be done safely.

Becca Heard, 33 Elmwood Ave., noted that there are two contaminated sites, one of which will be remediated if this application is approved. Ms. Heard expressed concern about kids getting their doughnuts, sitting down, and eating them on the lawn of a contaminated site, next door at 8 Hedges Ave. She asked if that particular property was owned by the same person.

Mr. Burns clarified that 8 Hedges Ave. has a different owner. It's owned by Exxon Mobil. Exxon purchased the property at 8 Hedges Ave. because they had contaminated it. Mr. Burns asked Mr. Edgar to expand on this issue because DEP has both properties as one case.

Mr. Edgar agreed that both properties are considered as one case by the DEP. He stated that the soil contamination that Ms. Heard is worried about is limited to the former gas station site. The majority of that contamination has already been removed. The remainder of the soil contamination, that someone could touch, is well below the ground, but will be removed during the redevelopment activities.

Mr. Edgar stated that there is no soil contamination associated with the gas station on the residential property. The source of the contamination at the residential property is the movement of groundwater underground; therefore, there is no soil contamination. The groundwater is 14 ft. or 17 ft. down below the ground. At the levels being discussed, this won't pose any danger to anyone above ground.

Ms. Heard asked if there were wells at the residential site.

Mr. Edgar answered yes.

Ms. Heard asked if the wells on the residential site were similar to what is at this current site.

Mr. Edgar answered yes.

Mr. DeNave, the Borough Engineer, asked Mr. Edgar if there was any scenario he could consider that someone would come in contact with the soil contamination on this site, prior to or on the adjoining site that would be a health risk.

Mr. Edgar answered no.

Mr. DeNave asked if kids were to pick up the soil, get it on their hands and face, would this be a health risk.

Mr. Edgar explained that the soil contamination is “at depth”. It resulted from the discharge from the system below ground. That particular contamination right now is just not accessible. It will be removed and then it will be gone. Mr. Edgar believed there won’t be any potential health impact from it just because it will be removed.

Mr. DeNave asked what would be the health impacts if someone were to come into contact with this contamination.

Mr. Edgar answered that he was not a toxicologist so he wasn’t qualified to answer that question. He pointed out the reasons for standards for organic contaminants like this; volatile organic contaminants are an inhalation hazard and a dermal contact hazard.

Mr. DeNave thanked Mr. Edgar for his answers.

Joe Marts, 14 West Coleman Ave., brought up the issue of soil removal. He asked Mr. Edgar if he would contemplate also removing the contaminated soil at 8 Hedges Avenue.

Mr. Edgar answered that the soil contamination is at the old Exxon Mobil site and that’s where the applicant will be removing it from. There is no soil contamination at the house lot (8 Hedges Ave.), just the monitoring wells in the backyard.

Mr. Marts asked, in terms of the existing or the subject site, are there any more aggressive measures that could be taken to clean up the site so that the applicant would be in a position to actually obtain the NFA letter.

Mr. Edgar answered that for this kind of contamination, an injection into the ground could be done. One injection could augment the bacteria. Another injection could physically destroy the contamination. Mr. Edgar noted that in 1993, the DEP approved a remedial action work plan. This plan is mentioned in Joe Eaker’s e-mail. A system was installed at the site to very actively and very expensively clean up soil and groundwater. That system operated up until 1997.

Mr. Marts asked, in other words, notwithstanding any cost, if there were other aggressive measures that could be taken to clean up the site prior to any construction or any paving.

Mr. Edgar agreed that there were more aggressive methods that the responsible parties could use to clean up this site.

Mr. Marts asked Mr. Burns if his client would consider undertaking these aggressive methods.

Mr. Burns answered that his client will not do this clean-up. His client did not cause this particular contamination. Shailja has a contract with the owner. The owner has to take care of it. Mr. Burns said understood Mr. Marts' comments concerned the groundwater. Shailja doesn't have any lease control or other control over how that occurs. That's really an issue with the DEP. Mr. Burns pointed out that if this property is cleaned up more aggressively, does not necessarily mean that the NFA letter will be issued any faster. Mr. Burns described how slow the paperwork moves with the DEP. Mr. Burns was sure his client would not want to sit for two years, paying rent on a site he can't use, because the DEP still has to wade through piles of papers to get to the one related to Shailja in Chatham Borough.

Mr. Marts asked if perhaps the time could be shortened in terms of that aggressive cleanup to the extent that the owner of the property would be willing to underwrite the cost. Mr. Marts assumed that the owner would have more income from Mr. Burns' client if this application were to be approved. Therefore, it would be beneficial to have a more aggressive program.

Mr. Burns informed Mr. Marts that those particular questions really have to be addressed to the owner of the property. Mr. Burns pointed out that he didn't have the right or control over how they handle groundwater. He has control over the soils. Mr. Burns suggested Mr. Marts' questions be addressed to Mr. Edgar, who could relay these questions back to his client. That's the best that can be done.

Mr. Marts thanked Mr. Burns for his answer. Mr. Marts asked Chairman Rush that the Planning Board take under serious consideration the fact that there are more aggressive measures that could be taken. Mr. Marts felt it was said that these measures haven't been taken long before this. He urged the Board not to take any favorable action until the aggressive measures have been exhausted.

Bernie Vella, 58 No. Summit Ave., asked for clarity on the second property (8 Hedges Ave.). He asked if Mr. Edgar was saying that there's absolutely no contamination on that property because the three wells have been tested.

Mr. Edgar answered that there is groundwater contamination there; however, there is no soil contamination.

Mr. Vella confirmed with Mr. Edgar there were still problems on that particular property. Mr. Edgar informed him that there is “some residual groundwater contamination in that direction”.

Mr. Vella confirmed with Mr. Edgar that the residual groundwater is coming from the subject’s property, 118 Main Street.

Brian Hart, 24 Hedges Ave., asked where does the stormwater go that is collected in the underground retention basin.

Mr. Edgar felt that was more an engineering question. Mr. Burns believed that a closed system will be used. The stormwater will go into the drainage system in Hedges Ave. The stormwater won’t be making any contact with the groundwater. It will go into the public drainage system the same as run-off from residents’ driveways does.

Mr. Hart asked who makes the determination of whether or not the Hedges Ave. storm sewer system is capable of handling this stormwater.

Mr. Burns answered that determination is made by Mr. DeNave, the Borough Engineer.

Mr. Hart asked Mr. DeNave if the Hedges Ave. storm sewer could handle this stormwater.

Mr. DeNave answered yes.

There were no further questions for Mr. Edgar. Mr. Edgar was then excused.

Laurence Murphy, engineer for Shailja/Dunkin’ Donuts, was recalled as a witness. He remained under oath from a previous hearing.

Mr. Murphy submitted a new exhibit, Exhibit A-17, a rendered version of the site plan that was submitted to the Borough. This exhibit has been colorized and has the landscaping plan overlaid onto Sheet 3. The last revision date on the plan which Mr. Murphy was referring to is November 8, 2006. Board members indicated that they all had copies of that latest plan set.

Mr. Murphy stated this colorized version (Exhibit A-17) is colorized to give people an idea of what is paved, what is grass, and what is building. The building is shown in orange. The landscaping area is green. The mulch area is green. The pavement is a light grey color.

Mr. Murphy stated that several changes had been made to the site plan to address some of the comments the applicant received at the last hearing. One of the primary changes made was to revise the Lighting Plan to comply with the Borough’s ordinance. Mr. Murphy said he went out and measured the height of the adjacent second story sill of the residential building to the north, took that elevation, and basically reduced the height of

the lights on-site from 14 feet to 10 feet to bring the height of the light below that second story sill elevation. By doing that, the applicant also brought the lights lower.

Mr. Murphy testified that the applicant now has reduced the wattage of those lights so hot spots wouldn't develop on the ground and a better distribution of light would occur. Some of the light locations were adjusted. One free-standing light has been added to the northeast corner of the proposed building. Also added is one building-mounted light to the northwest corner of the building to get a better distribution and still be able to comply with the Borough's ordinance. The building has been moved forward, thus eliminating the bollards that the Historic Preservation Commission had asked to be removed. The decorative building-mounted lights, at the front of the building, will illuminate the sidewalk to an acceptable level.

Mr. Murphy noted that the Historic Preservation Commission had requested that the building be in line with the building to the east of the proposed site. The historic building to the east of the applicant's site is set back approximately 23 feet. The proposed building has been pushed forward to match that setback. This action will allow the applicant to increase the setback to Hedges by pulling it forward because it's an odd shaped lot. This actually increased the setback about a half a foot, from 27.9 to 28.4 feet. Also, as a result it increased the rear yard setback to create a further separation between the resident to the north and the applicant's building from 64.2 to 76.5 feet. That also gave the applicant additional space behind the proposed building to create a larger and more efficient parking lot.

Mr. Murphy pointed out that basically the applicant was able to gain 7 spaces on-site going from 15 spaces to 22. In a previous hearing, the applicant had shown a sketch illustrating how he was going to increase the number of parking spaces on site by utilizing the loading zone. That situation was looked at more closely, and the applicant was able to increase that efficiency. Shifting the proposed building forward will allow the applicant to add one parking space along the eastern property line adjacent to Lot 33, and add 4 spaces north of the building within the loading zone. The applicant is proposing to have a common basically shared parking/loading use of that space. The 4 parking spaces previously discussed will only be allowed to have parked vehicles prior to 9:00 a.m. These spaces will be striped to read "no parking after 9:00 a.m." A Dunkin' Donuts employee will come out of the building at 9:00 a.m. and cone-off those 4 parking spaces. This coning-off will ensure that space is available when the loading occurs. Mr. Murphy explained how two parking spaces will now be added to the north of the freezer.

Mr. Murphy testified that another change to the site plan is the skewing of the driveway to Hedges Ave. to discourage vehicles from making a right turn on Hedges Ave. Also, there will be "signing" on the driveway to identify that no right turns are allowed. Mr. Murphy believed that the general direction of travel will basically lead vehicles to make a left onto Hedges Ave., rather than a right turn.

Mr. Murphy noted that the latest proposed improvements to the parking lot and the shifting of the building forward will increase the impervious coverage on the site. This

increase is about 5 percent, bringing it to 59.22 percent. This increase is still under the ordinance requirement. However, as a result of that increase, the applicant's stormwater management had to be revised to accept additional runoff. To deal with this, the applicant added one additional row of pipe to the site's detention system to still comply with the requirements of the DEP.

Mr. Murphy pointed out the latest changes made to the plans; the applicant adjusted the landscaping on site. The proposed foundation plantings and trees were adjusted. The applicant is proposing the same number of trees.

Mr. Burns confirmed with Mr. Murphy that the newly proposed impervious coverage is still very much under the allowable amount. The proposed amount is less than 60%.

Mr. Burns confirmed with Mr. Murphy that this application was originally a variance-free plan. He also confirmed with Mr. Murphy that in order to follow the HPC's recommendation that the proposed building be parallel to the street, a variance was then needed for the Hedges Ave. setback.

Mr. Burns confirmed with Mr. Murphy that another variance was required when the applicant proposed a fence around the freezer. The proposed fence around the freezer would be taller than what the ordinance allowed. This fence was another recommendation made by the HPC,

Mr. Burns confirmed with Mr. Murphy that even more accommodations have been added to the proposed plans. More variances and another design exception have resulted.

Mr. Burns and Mr. Murphy reviewed the latest variances:

- 1) A variance for the Hedges Ave. setback
- 2) A variance for the Main Street setback
- 3) A variance for the joint use of the parking space for customer parking & loading

Mr. Burns and Mr. Murphy reviewed the design exceptions:

- 1) The height of the fence around the freezer
- 2) The encroachment of a small portion of the parking space closest to Hedges Ave., behind the freezer. This encroachment invades the 35-foot side front yard setback.

Mr. Burns reviewed with Mr. Murphy, Laura Zmijeski's testimony regarding front setbacks as being the most distinguishing characteristic of the Main Street Historic District. Mrs. Zmijeski also had testified that new construction, under the HPC's guidelines, should maintain a uniform alignment with neighboring facades.

Mr. Burns asked how Mrs. Zmijeski's testimony figured into the two setback variances on the plans.

Mr. Murphy testified that the setback variance associated with Hedges Ave. is really a result of the HPC asking the applicant to align the front façade of his building with Main Street. The applicant could have angled the building to Main Street to make it comply with the setback regulations; however, it wouldn't be in keeping with the remainder of the houses and businesses on Main Street.

Mr. Murphy discussed the setback related to Main Street. He recalled that the HPC had asked the applicant to move the building forward. In order to maintain the same line of building setbacks along Main Street, the applicant has to push the building into the front yard setback. The building will now be approximately 23.2 feet away from that front property line.

Mr. Burns asked if there was any other benefit that results from moving the building forward.

Mr. Murphy answered yes; it gave the applicant an opportunity to add parking spaces to the site to exceed the ordinance by even more spaces.

Mr. Burns asked what is the benefit of the third variance which involves the shared use of a parking space for both parking and loading.

Mr. Murphy answered that this variance, if approved, would provide 4 additional spaces during the peak hours, when loading does not occur. If the applicant doesn't have these 4 spaces, that area would sit unutilized for several hours until a loading vehicle came to the site to deliver goods.

Mr. Murphy pointed out that it's in the applicant's best interest not to schedule loading delivery during the peak hours of his business, since his employees aren't going to have a chance to go out and assist with unloading. This will improve the efficiency of the site plan.

Mr. Burns asked if these variances were granted would any substantial harm be done to the site design and the surrounding properties.

Mr. Murphy answered that he didn't see any substantial detriments; however, he sees several substantial benefits if these variances are approved.

Mr. Foster asked Mr. Burns if Mr. Murphy was qualified to answer these particular questions.

Mr. Burns agreed with Mr. Foster's observation. Mr. Burns stated that he was offering Mr. Murphy as a site designer, not as a planner.

Mr. Foster felt that even though the proposed changes being reviewed were justified by the recommendations of the HPC, he still recommended that planning testimony would still be needed to support the variances.

Mr. Burns said if the Board feels the need for planning testimony, he will have it for them. Mr. Burns said he was trying to make clear what the applicant is doing and why through his design witness.

Mr. Burns brought up the new design exception, which relates the parking space closest to Hedges Ave. He asked Mr. Murphy to indicate to what extent that space encroaches into the 35-foot setback.

Mr. Murphy testified that this space encroached approximately 6 to 7 feet into that front yard setback. The encroachment affects the space diagonally. About one third of the space is in the setback.

Mr. Burns asked Mr. Murphy to explain the reasons why he incorporated that design exception into his drawing.

Mr. Murphy testified that this particular design allows the applicant to add an additional space on site. He felt the applicant complied with the intent of the ordinance, which is to screen parking spaces, not to have parking spaces in front of the building and the front building line. A person driving down Hedges Ave. or Main St. will not see a parking field out in front of this building.

Mr. Burns confirmed with Mr. Murphy that his proposed design of the site would achieve, advance the goal of providing, and ensuring adequate parking and still preserve the visual aspect required by the ordinance.

Mr. Foster confirmed with Mr. Burns that he had attached a rider to the new application. This rider listed the variance relief requested and the design exceptions requested. Are there any additional items?

Mr. Burns answered no.

Mr. Foster concluded that Board members can refer to this rider to get a listing of the applicant's requests.

Mr. DeNave brought up the two parking spaces behind the freezer. He said he was a strong believer in trying to maximize the parking situation on this site. Mr. DeNave noted that he could not speak for the Board; however, his preference would be to have those two spaces designated for employees only. Mr. DeNave had safety concerns about traffic turning in not really paying attention. He felt if the two spaces behind the freezer dedicated for employees only would make it a little safer on the site.

Mr. Murphy said he would have no problems making those two spaces for employees only.

Mr. DeNave clarified that he didn't know what the Board's feelings were on this situation.

Mrs. Rush asked Mr. Murphy by moving the building forward, would more turning space then be available in the back lot. Would there be more leeway for cars pulling out or backing out of the parking spaces that are facing north?

Mr. Murphy answered yes.

Mr. Sennett suggested the Board hear testimony from a fire official or a planner. He wondered if there was a loss of fire safety issues if the loading zone is used for parked cars for most of the day, as opposed to having a designated open area that would help emergency vehicles access the building. He didn't believe that would be Mr. Murphy's expertise.

Mr. Murphy pointed out those particular spaces will only be used by cars during a short period and not after 9:00 a.m.

Mr. Sennett reminded him that emergencies do occur.

Mr. Burns answered that an ambulance would park by the front door. He has never seen a requirement where a loading spot has to be designated for an ambulance.

Mr. Sennett said he understood that; however, he was referring to a designated open spot that would help things move around.

Mr. DeNave brought up the sight triangle. He asked Mr. Murphy that by moving the building up, would the sight triangle be impacted at all.

Mr. Murphy answered no; adequate sight distance at the driveway will still be provided.

Mr. Foster asked if the applicant has agreed to designate the two spaces to the west as employee-only spaces.

Mr. Murphy said the applicant would agree to that designation if the Board requests it. Also, if the Board asked, the applicant would print signage on the pavement or put up signage on the building stating that this parking was for "employees only". Mr. Burns added that a condition will be made to instruct employees to park in those two spaces.

On another situation, Mr. Jankowski pointed out that the "no right turn" on Hedges Avenue is on private property which the police department couldn't regulate.

Mr. Burns agreed unless Title 39 is done. The applicant has said at prior meetings he would do that if that is what the Borough wanted him to.

Mr. DeNave brought up the letter from the applicant's acoustics consultant. He asked Mr. Burns if this would be an appropriate time to discuss this letter.

Mr. Burns said he would like to clarify this particular issue. At the last meeting the question of noise from the rooftop mechanicals came up. The applicant had a noise analysis done of that situation. Mr. DeNave received a copy of the report of this analysis. The report indicated that the units would comply with the nighttime noise limit, which is 50 DBA, rather than the daytime, which is a little higher, 65. Since that time the applicant had the acoustical engineers go out and do a more detailed study. The engineers did a study of a Dunkin' Donuts facility on Route 10, Whippany which has about the same mechanical equipment as what is being proposed for Chatham. The tests reconfirmed that the levels will be below the nighttime limit of 50 DBA. That information has been supplied to Mr. DeNave.

Joe Marts, 14 West Coleman Ave., noted that he worked at 64 Main Street. There are times when he drives out of Hedges Ave. and attempt to make a left-hand turn. He commented that the driveway opening onto Hedges would have a very short distance for people to make a left-hand turn. Mr. Marts asked if Mr. Murphy if he had studied the traffic report and if he had determined that this turn could be done in a safe and effective manner.

Mr. Murphy answered that he had consulted with the traffic engineer, but felt he (Mr. Murphy) was not qualified to answer that question. He believed that question about the left turn onto Hedges Ave. has been answered previously by the traffic engineer.

Mr. Burns asked if he could talk about the safety of getting out of the driveway onto Hedges Ave.

Mr. Murphy said he could talk about that point. He stated that the driveway has been designed to safely allow vehicles to enter and exit the site.

Bernie Vella, 58 No. Summit Ave., asked how many actual parking spaces are going to be available for customers to use.

Mr. Murphy answered 22 spaces. Three of those 22 spaces will be utilized by employees. Therefore there will be 19 spaces designated for parking before 9:00 a.m. The handicap space is one of these 19 spaces.

Mr. Vella reviewed what he saw one recent morning at the Dunkin' Donuts store in Madison. He noted that there were 9 employees behind the counter. Sitting outside in his car, Mr. Vella noted that 4 customers exited the store. They were parked in lots belonging to neighboring businesses. He also noted that there were only 3 empty parking spaces in the Dunkin' Donuts parking lot. Mr. Vella said he couldn't believe that on opening day at the Chatham Dunkin' Donuts there will be only 3 people behind the counter to handle the traffic. He felt if the owner has 3 employees behind the counter, he will not be making any money.

Mr. Burns explained that in Madison the counts by the Borough's traffic expert determined there were two employee cars. At Madison, they probably car pool.

Mr. Vella still felt that 3 parking spaces for employees are not realistic.

On another matter, Mr. Vella asked wouldn't the proposed skewed driveway on Hedges Ave. cause another hazard. He felt having this driveway go relatively straight would be a better idea.

Mr. Murphy pointed out on the plans, the same driveway width, 24 ft., will be maintained. The skewing the driveway will favor left turns out and right turns in. He believed the new proposed driveway will make easier right turns into the site. There will be 12 feet allowed for vehicles ingressing the site.

Mrs. Rush informed Mr. Vella that when Mr. Meth, the Board's traffic consultant, gives his report, there will be more illumination on the Hedges Ave. driveway.

Michael Dean, 181 North Passaic Ave., said he believed the people on Hedges Ave., closest to the proposed site, are concerned that the Hedges Ave. driveway may lead to customers parking on their street. The Hedges Ave. residents would rather have the customers parking on the lot rather than the street. If this proposed driveway becomes a reality, he felt the residents to the north, if they can't make a right turn, will be parking in front of the Hedges Ave. homes. He endorsed the idea of no rights turns.

Mrs. Rush suggested a break be taken in the meeting. Mr. Murphy was excused.

At 9:31 p.m. a break was taken in the meeting.

At 9:38 p.m. the meeting resumed.

Mrs. Rush asked Mr. Gordon Meth to come forward. Mr. Meth was sworn in to testify. Mr. Meth testified that he is the Director of Transportation Planning and Assistant Vice President with Greenman-Pedersen in Lebanon, NJ. He submitted his educational and professional credentials to the Board.

Mr. Foster asked Mr. Burns if he had any questions of Mr. Meth regarding his qualifications.

Mr. Burns replied that he knew Mr. Meth and deems him qualified in his field.

Mr. Meth testified at the request of the Chairperson and the Board he and his firm reviewed the various documents presented in this particular case with regard to traffic engineering. They also conducted some independent analysis of a comparable nearby facility to the one proposed. He pointed out the object of this study was to try to come up

with what is the most likely outcome of the proposed project with respect to traffic using the best information available that they could find.

Mr. Meth stated that he and his firm generated a report dated December 7th 2006. In the report, Mr. Meth and his firm mentioned that they had contacted the person who prepared the first traffic analysis, Gary Dean & Associates. At the time, Mr. Meth reported that he hadn't received certain technical back-up information at the time he wrote the report.

Mr. Meth said that when he reviewed the documents presented, he found that the base trip generation used for the proposed project was not a very thorough robust sample of sites. The trip generation was obtained from guidance contained within the Trip Generation Manual, which is produced by the Institute of Transportation Engineers. The trip generation in question for the project was based on two data samples; not a very robust sample.

Mr. Meth testified that he and his firm conducted traffic counts at the Madison Dunkin' Donuts. The Madison store is probably a very comparable facility to the proposed one for the Chatham Dunkin' Donuts restaurant. He scaled from an aerial photograph the size of that facility to approximately 1,950 sq. ft. versus the 1,833 sq. ft. for the proposed project. There is not a great difference in size. Generally with trip generation rates, the theory is: The bigger the facility, the larger the trip generation.

Mr. Meth stated that within the Madison facility, he found trip generation rates in the morning of 261 vehicles. These vehicles are the ones entering the site and leaving within the same hour, versus the 130 used within the traffic analysis presented thus far.

Mr. Meth brought up a Dunkin' Donuts Baskin Robbins restaurant in Byram where he counted 219 trips in the morning peak hour. He averaged the trips for the two sites (Byram and Madison). The resulting figure would give him a good idea of what the likely trip generation for this site could be at its highest and best. Both roads in question have similar traffic volumes in terms of pass-bys. For the morning peak hour, there were 240 trips. The mid-day samples for Madison numbered 103 trips. The evening peak hours for the Madison facility numbered 90 trips. The Baskin Robbins component may add some more trips over that number in the evening peak hours. A good time to assess an ice cream component would be in the summer, not the current winter months.

Mr. Meth testified that at the Madison facility on Saturday he observed approximately 99 trips in Madison versus the 147 trips observed in Byram, for an average of about 120 trips on a Saturday. Given that information and other data, Mr. Meth and his firm made an independent analysis for the project in question. In a situation like this, at least half the traffic will be during peak hours and included in the traffic that's already passing by the site. The rest of the vehicles will probably be diverting slightly from some other trip. Mr. Meth said he didn't know if a doughnut shop really generates that many new trips in peak hours.

Mr. Meth stated that realistically, given the traffic volumes in the area, the traffic volumes in peak hours on Main Street are approximately equal in the east and west directions, which is about the same situation in front of the Madison Dunkin' Donuts. Mr. Meth noted the best conclusion he could make is that the distribution will be very similar to what was observed in the Madison store. He and his firm made observations during peak hours regarding the left and right-turn movements. They discovered that 20% to 25% of people turn left into the site and left out of the site.

Mr. Meth pointed out that the Madison store has a left turn prohibition; however, it's not that obvious. There are also pavement markings at the Madison store. There is an arrow that points to the right on the pavement; however, this arrow could easily be out of a driver's vision when he is making decisions about gaps in traffic. Mr. Meth noted that although there is a left turn restriction at the Madison store, he wasn't sure if it would really change people's desire to turn left or really have much pull. He felt that in this particular case, there may be 20% or 25% of people turning left. In reality, the drivers will look for convenience to some extent. The drivers will consider making a left turn to leave this site as an inconvenient factor and that may affect their decision. Mr. Meth estimated that perhaps less than half of the drivers would make the left turn.

Mr. Meth discussed one unique factor at this site. The westbound direction, in front of the store, during the morning peak hour, there is a queue of cars. That is usually systematic of the peak capacity – the peak volume in the morning not being handled down the road when you get into downtown Chatham. It can't handle as much traffic as it gets there, so cars begin to accumulate. The queue will get larger until the demand drops off. The queue will then dissipate. The queue starts at about 7:45 a.m., blocks Hedges Ave., and will last until about 9:00 a.m. Whether it's a good day or bad day, could have some impact. The situation is influenced somewhat **by** whether somebody turns left at Hillside Ave. or not. There is also a constant queue of cars. That condition makes the morning traffic analysis meaningless because a typical situation is not in operation where cars arrive at random intervals.

Mr. Meth noted that the reason why Hedges Ave. functions today is because drivers leave gaps and allow drivers from Hedges Ave. leave. It's not the best situation from a traffic safety standpoint, because sometimes people can be waved on by a driver and not realize there's an oncoming car.

Mr. Meth stated that the unfortunate thing is with a Dunkin' Donuts chain as he has observed on the two sites, is that the morning peak hour is twice the amount of any other peak hour. Mr. Meth went on to conclude that the level of service at which Hedges Ave. operates, produces failing levels of service today. This situation will **be** exacerbated in the future due to just traditional background growth without this project. This project, if traffic is added to Hedges Ave., will exacerbate the traffic situation. It doesn't matter whether drivers turn right or left, because there is only one lane. If there is a situation where traffic has to sit and wait for a courtesy gap, any other cars that come up, queue up behind them, have to stack. For that reason alone, Mr. Meth said he could calculate that there actually is an impact of this site on Hedges Ave. The driveway itself will operate

under very similar circumstances if traffic actually turns left out of it. Based on Mr. Meth's analysis, he believed the driveway is going to work. Left turns out of the driveway will work a little better than Hedges Ave.

Mr. Meth felt, from a technical standpoint, that Hedges Avenue will not be that useful to the Dunkin' Donuts site. He believed, because of that reason, it is best for this site not to have access to Hedges Avenue. He recommended separating the traffic and the uses that are geared towards the highway from what is a local road system. Mr. Meth saw no comparative advantage to having the Hedges Ave. driveway because it could facilitate additional cut-through traffic.

Mr. Meth invited questions from the Board.

Mrs. Pignatello said when the Board listened to the applicant's traffic consultant; there had been mention of the possibility of closing off the Hedges Ave. driveway. The applicant's consultant had pointed out that the NJDOT wouldn't agree to this because Route 124 is a State road and the State is always looking to not have the State road be the only access and egress to a site that borders that road. Mrs. Pignatello asked Mr. Meth if that was true.

Mr. Meth answered that was partially correct. The access to Route 124 is maintained by the New Jersey DOT. The applicant has filed for a Major Access Permit, and this site requires a permit from the State. The State has the power to override local jurisdiction if it's in the best interest of the State and the safety and efficiency of traffic. Under certain circumstances, on a State highway, you are forced to have access to a side road. Another circumstance is if the State, in the interest of the public, would want to prohibit, say, left turns and still let someone have full movement. Then the State could and would override local jurisdiction.

Mayor Plambeck asked from a traffic safety standpoint and from a parking availability and other standpoints, would elimination of that driveway in some way be beneficial to the operation of this site and the safety of the pedestrians as well as the car traffic in this area?

Mr. Meth brought up the circumstance where the State might consider forcing access to Hedges Ave. if they decided to prohibit left turns out of the driveway as part of their Access Permit process to give full movement. However, dumping that much left-turn traffic onto Hedges Ave., would have a detrimental affect on that street. Mr. Meth wasn't sure if the State would make that determination. Mr. Meth, from his observations, felt that the Hedges Ave. driveway didn't do much for the site in terms of traffic impacts. He did not see the driveway as being a critical piece to the site.

Councilman Harris pointed out that the Dunkin' Donuts in Madison doesn't have side road access.

Mr. Meth agreed; however, he pointed out that the Madison store has two separate driveways, one inbound and one outbound. The State's Access Code considers such a configuration the equivalent of one driveway. Also, the Madison store has full circulation around the building. In that respect, it has full circulation.

Mrs. Rush confirmed with Mr. Meth that if the driveway onto Hedges Ave. were eliminated, people wouldn't make a right turn off Main St., park on Hedges Ave., and visit the store. This procedure would take too long for Dunkin' Donuts customers, since they prefer very brief visits to their store. Mr. Meth said he couldn't see many people making a right turn onto Hedges Ave. and using it as extra parking because then they would either have to drive all the way to Weston Ave. or U-turn in the street and they'd be stuck in traffic trying to turn on Hedges Ave. He believed that motorists would be inclined to pull over on the shoulder of Route 124 if they were inclined to just not enter the property at all.

Mr. Meth reported that he checked the New Jersey DOT regulations. He found out that parking on Route 124 in front of this particular property is legal on the shoulder.

Mayor Plambeck asked if part of this application or part of any application that was looking for a driveway that had access to the State highway, would part of that consideration be that the State would put parking restrictions on in order to have clear sight distances?

Mr. Meth answered that when the State does parking regulations, other statutes basically make it illegal to park in front of a driveway. The State doesn't actually go through the effort of changing the parking zone regulations. Under Title 39, if there is a driveway and a certain distance within that driveway, it's not a legal parking space. As soon as the driveway is put in, then a "no parking zone" is created in front of that driveway, but it doesn't mean automatically no parking up and down the road from that driveway.

Mayor Plambeck asked if the no parking zone went all the way up to the corner of Hedges Ave.

Mr. Meth answered no.

Mayor Plambeck brought up the incentive of the parking lot becoming so full that people can't get in. What will be the incentive to park there?

Mr. Meth answered that if people on this site started turning left in great numbers, as long as there was some turning left from the driveway, there will be delay. If there's delay, then people who are regular users of the site may decide that it's quicker to just run in the store, get coffee, and then edge their way back into traffic. Larger vehicles would usually not want to enter a site like this. Trucks would probably park on the shoulder.

Councilman Harris asked if the municipality could prohibit parking in front of the store.

Mr. Meth answered that since Main Street is a State road, the Borough would have to petition the State to prohibit parking.

Councilman Harris asked Mr. Meth about his observations about the parking at the Madison Dunkin' Donuts.

Mr. Meth reported that generally 23 to 25 vehicles parked on the Madison site at maximum. He also found that there had been a number of violations of parking on the Madison site. Four or five people parked at Quick Chek and walked over to Dunkin; Donuts. Mr. Meth felt that the Planning Board's hands may be tied to what the Borough ordinance specifies. If the ordinance states a certain parking requirement, it limits the activity that can happen on-site. Mr. Meth noted that the parking demand will probably be very high on the Chatham site. Getting as many spaces on-site is probably critical to making this operation work without having the parking spill out to the outside world.

Mrs. Rush asked what steps someone would take to determine how the State felt about this avoidance of having a driveway on Hedges Ave. How could that determination be found out quickly?

Mr. Meth answered that through the Access Permit process, you would encourage the applicant to request a meeting with the DOT to discuss it. The Borough should make sure they are represented by their professionals to make sure the case is properly made for the municipality. This is a common occurrence. Mr. Meth noted that he has attended such meetings on behalf of other communities. Sometimes the State does what they want to do for overriding reasons.

Mr. Sennett brought up Mr. Meth's conclusions as to the maximum queued vehicles trying to exit the parking lot. He asked Mr. Meth if he had made these conclusions assuming the driveway to Hedges Ave. is eliminated.

Mr. Meth answered that the queue he showed is a statistical maximum, not an average maximum queue. It's a 95th percentile statistical number, which means one in 20 maximum queues could be that. It has to do with seeking gaps in traffic, assuming that traffic on Route 124 is flowing. Mr. Meth said that he did not take into account closing the access to Hedges Ave. in the queue. The 5 vehicles in this queue would be based on pure statistical random arrivals and with some frequent traffic on Route 24.

Mr. Sennett asked, given such a tight parking lot and the potential of 5 vehicles queuing in the parking lot, is the addition of more parking spaces going to be all that beneficial to the site. Mr. Sennett was wondering how motorists would even get in and out of those additional space.

Mr. Meth said in some respects, like this, is that parking and traffic are not always perfectly co-related. Very short durations occur, so you're going to get traffic depending on the spots that are on site. Also, there may be an occasional vehicle or two that couldn't find a parking space, and became frustrated in the queue trying to get out again.

Mr. Meth felt that reducing the number of parking spaces would change the queuing. Also, the time these maximum parking numbers are reached, is in the morning. It's not throughout the day.

Mr. Montague asked what if there would be only one exit, which faces on Main Street. Assuming at the peak hour in the morning, there would be enough parking for the customers. What will these customers face, traffic-wise, when they drive out of the site?

Mr. Meth believed these drivers will have to wait in line to exit the site. He felt in the morning peak hour, there would always be a couple of vehicles waiting to turn out. That will be a normal operating condition. Mr. Meth felt that there is no reason why the owner couldn't ask to have left turns restricted to try to make it flow better. That is a possibility for the owner if he thinks it's going to help his business practice to let the needs of the many outweigh the needs of the few. There will always be a couple of cars stacked in the driveway in the morning. In that situation, drivers will have to wait for the queue to move before they can actually get out to make a right turn.

Mr. Montague asked if the traffic would be heavier going westbound on eastbound.

Mr. Meth answered that the traffic flow in both directions would be virtually the same.

Mrs. Rush noted that the Chatham Dunkin' Donuts will not have a Quick Chek next door; however, across Hedges Ave. there is a commercial building with a parking lot, and above that there is a dentist office with parking. West of the dentist office is a bike shop with parking. Mrs. Rush was concerned that Dunkin' Donuts customers will use the parking in these other businesses, if they don't park on the street. She felt this spillover of customer parking will happen.

Mr. Meth indicated that he understood Mrs. Rush's point. He clarified that he wasn't here to "try and pan the case". He said he was just trying to tell the Board what the reality will be with regard to traffic and parking.

Mrs. Rush invited Mr. Burns to ask questions of Mr. Meth.

Mr. Burns commented that Mr. Meth did "a fair and balanced report". Mr. Burns pointed out to Mr. Meth that his report and the Gary Dean report disagree on many points. One thing that Mr. Meth and Mr. Dean agree on is the Hedges Ave. exit is not going to be used a great deal.

Mr. Burns and Mr. Meth discussed Figure 4, which showed 5 vehicles exiting out of Hedges Ave. and all turning right. Mr. Meth concurred that was the case because the delay at Hedges Ave. is greater than a delay from the driveway.

Mr. Burns confirmed with Mr. Meth that the delay at Hedges Ave., per his analysis, was like about 10 seconds on average longer than at the site driveway. He also confirmed

with Mr. Meth that obviously people wanted to get there sooner rather than slower, so they are going to take the path of least resistance. Mr. Meth said that given that Hedges Ave. is only one lane, those right turns from the perspective of the impacts on Hedges Ave. will be the same as if they were left turns.

Mr. Burns agreed stating that it's going to add more cars to the queue; however, a driver's execution of that right-hand turn is going to be quicker than if that driver had to turn left.

Mr. Burns asked Mr. Meth if that right turn execution is going to more even because of the queue.

Mr. Meth answered because of the queue blocking the road, he wasn't sure that would be the case. It would be equal to or worse, because a driver has to wait for the whole queue to move if he is making a right-turn maneuver. If the driver is making a left-turn maneuver and he is fortunate enough that the person approaching Hedges Ave. doesn't block the road, and then the driver can actually make his maneuver.

Mr. Burns brought up the parking situation. Mr. Burns noted that all Mr. Meth had testified about the parking was that it complied with the ordinance.

Mr. Burns asked Mr. Meth if had looked at the required parking for this site.

Mr. Meth said he understood it is 10 vehicles.

Mr. Burns answered it's 11 vehicles. The applicant is planning double that amount.

Mr. Burns confirmed that Mr. Meth that the Madison Dunkin' Donuts has **15 or 16** spaces. The applicant is proposing 22 spaces for the Chatham store. Mr. Burns asked how many spaces the Byram store had.

Mr. Meth didn't know.

Mr. Burns confirmed with Mr. Meth that he had testified that the turn-around time for a customer who is just going in at the Madison store, buying their coffee and doughnuts and getting out is about two minutes. Mr. Meth clarified that he wasn't sure that would be the same time span for a customer visiting the Chatham store.

Mr. Burns recalled a member from the audience indicated they saw 9 employees in the Madison store. Mr. Burns confirmed with Mr. Meth that the transactions in the store were 2 minutes each. If that was the case, Mr. Burns and Mr. Meth agreed that the parking lot should handle 20 vehicles an hour. There would be frequent turnover.

Mr. Burns asked Mr. Meth if he was present when the traffic counts were taken.

Mr. Meth answered no. One of his staff members, who is very experienced at data collection, took the counts.

Mr. Burns commented that from looking at the report, he felt that the Madison store's exit driveway is a real convenient spot and a popular spot to park illegally.

Mr. Meth pointed out that's the same case for the entrance driveway. Mr. Meth said he had visited the Madison store at peak hours in the morning and on other occasions.

Mr. Burns asked Mr. Meth if had noticed that people park illegally even when there are spaces available.

Mr. Meth answered yes.

With Mr. Meth's permission, Mr. Burns designated Mr. Meth's Dunkin' Donuts Parking Lot Statistics at the Madison store as Exhibit A-18. On this exhibit, Mr. Burns referred Mr. Meth to the column showing the 19 parking spaces on site and how many of these spaces has a vehicle parked in it. Mr. Meth has 8 cars parked in the spaces and 11 vacant spaces. There is one vehicle parked illegally. There are two Dunkin' Donuts customers who have parked at the Quick Chek lot next door.

Mr. Burns confirmed with Mr. Meth the fact that Dunkin' Donuts customers have parked illegally doesn't always indicate that there's no parking available at the Dunkin' Donuts lot. These customers are just taking the most convenient means to park.

Mr. Burns confirmed with Mr. Meth that he had recommended that the Hedges Ave. driveway be eliminated. Mr. Burns asked Mr. Meth, when he did his analysis, did he look at the Borough ordinance book before he wrote his report.

Mr. Meth answered no.

Mr. Burns asked Mr. Meth if he told him that the driveway was fully conforming to the ordinance, would he disagree with him.

Mr. Meth answered that he would have no basis to disagree with him. Mr. Meth added that based on the testimony he heard earlier by the applicant's site engineer, he would say the driveway is in compliance with the ordinance.

Mr. Burns referred Mr. Meth to Gary Dean's report, specifically Figure 7 showing his level of service analysis for the Hedges Ave. driveway. Mr. Burns confirmed with Mr. Meth that only when a driver pulls out onto Hedges Ave. and approaches the intersection at Hedges Ave. and Main St. that the traffic gets more difficult.

Mr. Burns brought up Gary Dean's report which also stated that all movements to and from the site will operate safely and efficiently with reasonable prudent driver behavior. Mr. Burns confirmed with Mr. Meth that he (Mr. Meth) hadn't disagreed with this

particular statement. Mr. Meth said that the only thing he saw from a safety perspective, is a hedge in the public right-of-way in front of the adjacent property on Main Street. This hedge may obstruct sight lines for oncoming traffic.

Mr. Burns noted that the driveway is in the B-3 zone. It's not in the residential zone.

Mr. Meth admitted that as a traffic expert he didn't take the time to review the zone lines.

Mr. Burns also noted that Mr. Meth had testified that the applicant will have to obtain a permit from the DOT. Mr. Burns believed that Mr. Meth had implied that it's really the DOT's call of whether the Hedges Ave. remains open or not.

Mr. Meth said he didn't know if that was a totally fair statement. As he had testified earlier, he believed that the DOT has the option to take jurisdiction over a local road.

Mr. Burns asked Mr. Meth if the DOT regulations say that if the DOT requires alternate access; their determination controls any local decision to the contrary.

Mr. Meth said that is an example of when he had stated that the DOT overrides local jurisdiction. Mr. Burns and Mr. Meth agreed that if the DOT requires the applicant that this driveway stays open, that's the determination that's going to control. Mr. Meth added that DOT determines if an alternate access is necessary.

Mr. Burns asked Mr. Meth if he had done a level of service analysis for Hedges Ave. with those 5 additional cars added in.

Mr. Meth answered yes.

Mr. Burns asked what the impact was.

Mr. Meth answered that his report gave three levels of service for Hedges Ave. One of them is the existing condition based on what he believed the analysis was. Mr. Meth stated that that he did not agree with some of the assumptions within the capacity analysis performed by Gary Dean. They are not in conformance with typical traffic engineering practice. A peak hour factor comes into play. Mr. Meth explained that is why his existing level of service is 10 or 12 seconds higher than Mr. Dean's.

Mr. Burns asked Mr. Meth if there are some benefits in having the alternate access.

Mr. Meth agreed that there were benefits.

Mr. Burns confirmed with Mr. Meth that there would be a benefit in having an alternate access for emergency vehicles. He asked Mr. Meth if there would be a benefit of having the driveway so that a dead-end parking lot won't be created. Mr. Meth answered that it is generally perceived that dead-end parking lots are inferior to full circulation.

Mr. Burns asked Mr. Meth if it was not at all uncommon in Chatham and other towns to have a corner lot in a commercial zone that has access from both the main road and from the side road. Mr. Meth agreed.

Mr. Burns asked Mr. Meth if the commercial property across the street from the applicant's site has access to Hedges Ave. Mr. Meth admitted that he hadn't taken a close note of the other property. He couldn't recall.

Mr. Burns asked if Town Square had access to the side road.

Mr. Meth answered that he didn't know.

Mr. Burns asked Mr. Meth if he would agree with him that the question of whether the driveway (on Hedges Ave.) should be there (on the site) is one that reasonable people can differ on.

Mr. Meth agreed with this statement.

Mr. Burns asked Mr. Meth if it would be okay to continue a dialogue with the Board as to what should be done with the driveway.

Mr. Meth said he would "leave the procedures to" Mr. Burns, the Board, and the Board's attorney.

Referring to the Madison Dunkin' Donuts, Mrs. Rush asked Mr. Burns if he agreed that there is a greater amount of illegal parking the higher the number of legal spaces are taken.

Mr. Burns noted that the parking at the Madison Dunkin' Donuts is "a mess". Mr. Burns went through his extensive calculations of his parking counts at the Madison store. He felt that the Madison store's parking arrangements are "highly inefficient" and "not well managed". He questioned how Mr. Meth had counted the cars parking at the Madison store. The turnover seemed too high to Mr. Burns. Mr. Burns believed that the Chatham Dunkin' Donuts will discourage the illegal parking produced by the Madison store. He felt the Chatham store can do much better in the way of parking.

Mr. Burns believed that the trip generations are the calculations the Board should follow. Mr. Burns pointed out that his own witness had taken the worst case scenario. Mr. Burns felt that was the correct procedure to take.

Mr. Burns pointed out that he had definite differences on the driveway. He believed there were benefits to the driveway. He also believed that the site could function without it. He felt the driveway is fully conforming to the Borough ordinance. Mr. Burns said he would like to have a dialogue with the Board about this driveway; however, he reminded the Board to be fair with the applicant about this situation. The applicant has a right to this driveway.

Mr. Burns stated that there are numerous properties in the Borough that have driveways similar to this one. This driveway meets every standard imposed by the Borough. Mr. Burns felt it was a safe driveway, and it is at Level of Service A. He believed that there will be an addition of about 8 seconds of delay; however, it is not a material difference.

Mrs. Rush said she hasn't made up her mind about the driveway yet. She didn't know if the other Board members have made a decision yet. They probably need time to think it over.

Mr. Burns indicated that he and the applicant are willing to work with the Board on this issue.

Mr. Foster pointed out that the Board did not have a real opportunity to really examine Mr. Meth's traffic report. They have just received the report today. The Board hasn't had a chance to compare Mr. Meth's analysis to Mr. Dean's analysis. Mr. Foster recommended that the Board revisit this issue after they've reviewed both reports.

Mrs. Rush asked if the public had any questions for Mr. Meth.

Mary Jane Dobbs, 10 North Summit Ave., pointed out that there are a number of local sites that have access to Main Street and other streets, as well as side streets. Many of those sites have no left turns onto Main St., including Roosevelt Ave. where Serenade and Town Square are located and the area coming out of Town Square. Ms. Dobbs also noted that there are a number of sites onto Main Street with no left turns at all. She suggested the Board should take these factors under consideration as they deliberate this application. Ms. Dobbs pointed out that the Board can require the applicant to redesign the site if it significantly affects off-site conditions, such as traffic.

Ms. Dobbs asked Mr. Meth if he believed that the Dunkin' Donuts site as proposed has sufficient on-site parking.

Mr. Meth answered that based on his observations; he believed on the comparables that a number of 29 spaces would probably be more appropriate. He pointed out that every site is not designed for its maximum loading. Normally the 85th percentile is used when designing a site for the demand for parking. Using that basis, some a little less than 29 may be appropriate. It's much like a shopping center. It's not designed to handle all the potential traffic at Christmas time; however, it can probably handle most of it.

Ms. Dobbs asked if the proposed 22 parking spaces would be a sufficient number for the site.

Mr. Meth explained that 29 vehicles are what, on the comparables, he would estimate to be the maximum number of cars we would see on site at a given time. Mr. Meth pointed out that safety is a whole different issue. He brought up the scenario of what happens if

every space is full and other vehicles come onto the site. Mr. Meth noted that he hasn't done a thorough analysis of that situation; however, given the site layout where the loading dock is, the site could accommodate other vehicles without compromising public safety.

Ms. Dobbs asked if the site, as proposed, could result in the queuing or stacking of cars on site during peak hours.

Mr. Meth answered yes. His analysis showed that it is expected that several cars would have to wait to turn out of the driveway.

Ms. Dobbs asked what procedure would the applicant or the town have to follow to restrict left-hand turns going in and out of the facility from Main Street.

Mr. Meth said he understood that the Planning Board can't impose that restriction. It was up to the DOT to do that, because the driveway is under their jurisdiction. The applicant could ask to do it with the DOT, or they could be told by the DOT to do it. Mr. Meth noted that local letters are welcome to the DOT as part of the Access Permit review. There is a 30-day period for public comment when the permit is first filed. Mr. Meth didn't believe that the DOT would overlook a comment that came after the deadline.

Bernie Vella, 58 North Summit Ave., noted that Mr. Meth had testified that every transaction took two minutes at the Madison Dunkin' Donuts.

Mr. Meth clarified that was what his firm had measured based on the random sample of the few customers that came in and out of the Madison store.

Mr. Vella said he understood that Mr. Burns had done a study himself and came up with roughly 5 minutes.

Mr. Burns disagreed, recalling that he used 5 minutes to be conservative.

Mr. Vella said what he observed at the Madison store this morning was that there were 9 employees serving those particular customers, and it took 2 minutes. At the Chatham location, with only 3 employees, he believed it would take three times as long. Using Mr. Burns' conservative estimate of 5 minutes, Mr. Vella believed that it will take 15 minutes per transaction. Based on that many cars going in and out, Mr. Vella asked Mr. Meth if he considered the space totally inadequate if only 3 employees will be serving the same amount of people.

Mr. Meth answered that he didn't necessarily say that. Despite the analysis Mr. Burns did, Mr. Burns is an attorney, not a traffic engineer. Mr. Meth pointed out that the actual parking is not as uniform as Mr. Burns makes it out to be. The parking demand tends to spike when numerous customers arrive and a queue develops inside the store. That is why the numbers don't jibe if you try to take the turnover of the spaces times the parking

supply. Mr. Meth believed a “ballooning effect” will not occur because of a lesser number of employees.

Mr. Vella said he “would love to not have a driveway” on Hedges Ave. Mr. Vella believed that there was no way of knowing whether the parking lot would be full or not. He believed drivers, pulling into the site, would have a hard time seeing if there were empty spaces in the back. If they don’t find spaces, they would have to back up and come out. He felt the whole parking arrangement was unworkable.

Mr. Sennett asked Mrs. Rush if Mr. Vella was making or a comment or asking a question.

Mrs. Rush noted that it was a comment.

Mr. Vella said he “was allowed to make comments”.

Mr. Sennett asked Mr. Burns how many cash registers would be in the Chatham store.

Mr. Burns answered 3.

Rob Goldberg, 41 Hedges Ave., asked, in comparison to the Madison store during the peak hours, would there be approximately 260 trips?

Mr. Meth clarified that it would be 260 trips in the Madison store. He pointed out that a trip would include each time a customer would pull into the driveway or out.

Mr. Goldberg asked if these 260 trips would be opposed to the previous testimony which gave 130 trips.

Mr. Meth said that was correct.

Mr. Goldberg asked if 25% of those trips would be left turns.

Mr. Meth clarified that it would be actually about 25% inbound, 20% outbound; one in five.

Mr. Goldberg calculated that amount would involve about 60 to 65 left turns.

Mr. Meth agreed, pointing out that half of the left turns would be in and half would be out.

Mr. Goldberg asked Mr. Meth if he was saying if the traffic going westbound or eastbound was messed up in both directions, it wouldn’t matter if a driver was going out or going in. It’s still creating problems.

Mr. Meth clarified that motorists coming out of the driveway is a very different circumstance than motorists turning from Main Street into the driveway.

Mr. Goldberg felt that the left turns are really the issue. He believed that the right turns would be somewhat easier coming in and out of this driveway.

Mr. Meth stated that the right turns may be somewhat easier during the morning peak hours however; they will not be that much easier because of the queuing on Main Street. But under general, normal circumstances, right turns are not as much an issue as left turns.

Mr. Goldberg brought up Mr. Meth's figure of 60 left turns during the peak hours, which is an average of one a minute.

Mr. Meth confirmed with Mr. Goldberg that this particular situation was a failing condition.

Mr. Goldberg wanted to know more about "the ripple down effect" this store's traffic may have on the other streets in town. He noted that Mr. Meth had used the word "absolutely" in terms of this traffic impact on other local streets.

Mr. Meth clarified that when he used the word "absolutely" he was not referring to a specific site. He went on to explain that the downtown traffic flow on Main Street is currently at capacity. The fact that no more traffic is really getting through without changes is the key. This site doesn't necessarily aggravate the bigger problem to the extent that a lot of the traffic will be already in that traffic stream. The site won't necessarily attract that many new vehicles to itself during peak hours.

Mr. Goldberg asked Mr. Meth if he was implying that since the traffic situation on Main Street is already maxed out and if the proposed store brought in a thousand people an hour, it would just be a moot point.

Mr. Meth noted that if the number of vehicles in a system is increased, then there's more probability of a crash rate because each vehicle has a probability associated.

Mr. Goldberg asked if the probability goes up.

Mr. Meth answered yes; however, it is not that measurable. Science has not necessarily proven that the crash rate goes up as a traffic situation approaches capacity.

Mr. Goldberg concluded that "we just wait and hope".

George Caviness, 27 Hedges Ave., noted that earlier in the hearing Mr. Meth had said something about 50 cars coming down Hedges Ave. He also understood that Mr. Meth had approximated the number of houses at about 25.

Mr. Meth said that wasn't what he had stated. It's double those numbers. His earlier testimony stated the current volume on Hedges Ave., during the morning peak hour, is

based on the counts conducted by Gary Dean Associates, not Mr. Meth's firm. Mr. Dean had counted approximately 100 cars an hour. Mr. Dean had counted on two different occasions. Mr. Meth said he had counted 100 cars an hour if both directions had been taken into account. Based on the number of homes on Hedges Ave., there is a certain potential trip generation rate in the morning peak hour. That would be about 50 vehicles.

Mr. Caviness confirmed with Mr. Meth that it would be a double trip. Mr. Meth said he would have to conclude that there's more traffic than just those 50 houses.

Mr. Caviness asked if the other 50 vehicles were cut-through traffic.

Mr. Meth answered yes.

Mr. Caviness had questions for Mr. Burns. Mr. Caviness recalled that at an earlier hearing, Mr. Burns had stated that Dunkin' Donuts wanted to be a good neighbor to Chatham. Mr. Caviness asked if Dunkin' Donuts would be willing to petition the town to make no right turns out of the parking lot with a \$500 fine.

Mr. Burns answered that the applicant has submitted a set of revised plans with a "no right turn" sign and a skewed driveway. The applicant doesn't have the authority to set fines.

Mr. Caviness asked if the applicant would be willing to endorse the idea of prohibiting rights turns out of the site, punishable by a fine, to the town authorities.

Mr. Burns pointed out that the no right turn will be punishable by a fine, as it would be in other places in town. Mr. Burns said he won't take a position on what the fine would be. Mr. Burns felt that the applicant will certainly submit what's called Title 39 jurisdiction, which means that people who leave the Chatham store, if they turn illegally right, they can get a ticket.

Mr. Caviness asked if the applicant would be willing to ask the Borough to enforce the motor vehicle laws of Title 39 for this site.

Mr. Burns said the applicant had agreed earlier on to this request.

Mr. Caviness asked if the applicant would be willing to petition the Borough for no through-traffic on Hedges Ave. to Weston Ave.

Mr. Burns said he did not object to petitioning for such an ordinance. The applicant does not want to bring his customers onto Hedges Ave. and have them cut through Hedges Ave. That's not part of Dunkin' Donuts business plan in any way, shape or form. Mr. Burns said if the Board requested him to tell the applicant to petition for that ordinance, he would say fine. Mr. Burns, however, felt the petition would be better if it came from the residents, since they are the voters.

Mr. Meth pointed out that such an ordinance is illegal in the statutes in New Jersey. As well intentioned as residents are, not wanting no through traffic on their streets, it's not legal for a municipality to reserve a public street for specific users which basically prohibits and legally prohibits the ability to legally ban through-traffic from streets.

Mr. Caviness asked if the applicant would be willing to petition the town for speed bumps on Hedges Ave.

Mr. Burns said he and the applicant had no problem with the installation of speed bumps if that is what the Borough wanted to do.

Mr. Meth noted that under ordinances the Borough can put speed bumps on a road purely within its boundaries at its own discretion as long as it doesn't exceed a certain volume threshold which Mr. Meth didn't believe Hedges Ave. did exceed. The installation of speed bumps is legal.

Mr. Caviness brought up his request for the applicant to modify his hours.

Mr. Burns went over his conversation with his client about the hours of operation. His client has decided to cut back the hours of operation to 11 p.m., instead of 12 midnight.

Michael Dean, 181 No. Passaic Ave., brought up the testimony on Hedges Ave. traffic. He asked if there was specific testimony as to how much additional projected traffic would come down Hedges Ave. He asked if the testimony was 5 cars an hour.

Mr. Burns answered that 5 cars an hour was the number he had used, which he took out of Gary Dean's report. That figure represents the number of cars in the a.m. peak which would turn left down to the driveway, head toward Main Street and then turn. Mr. Burns believed that when the cars got to Main Street, they would turn right. None of them would turn left.

Mr. Dean asked if there was any study or analysis done of how many additional cars would head down Hedges Ave. from the top of Hedges at Weston Ave. as a result of this site.

Mr. Burns answered no.

Mr. Meth said he and his firm could try and estimate that particular number; however, it would just be a speculative estimate. He wouldn't be able to say with certainty how many cars there will or will not be. His personal opinion was that it would not be a large number of cars taking that route.

Mr. Dean asked the Board to look into that number. He pointed out that there were 505 apartments beyond his residence, hundreds of homes around his home, hundreds of cars and trucks on the County Route – Truck Route 607. Mr. Dean believed that such an analysis would show that there would be sufficient increase on Hedges Ave.

Mrs. Rush felt that the Board has heard all the testimony they can digest for tonight.

Mr. Burns asked Mrs. Rush if he could ask one more question to Mr. Meth for clarification.

Mr. Burns asked Mr. Meth if the Byram Dunkin' Donuts had a drive-through.

Mr. Meth answered no, not to his knowledge.

Mr. Burns asked Mr. Meth if he was sure of this fact. He asked Mr. Meth how long had he studied the Byram site.

Mr. Meth answered that the study was performed several years ago in the late 1990s when the Dunkin' Donuts and Baskin Robbins first combined their stores.

Mr. Burns said maybe the Byram store didn't have a drive-through back then, but it does now.

Mrs. Rush asked Mr. Burns if he wished to present anything more to the Board at a future meeting.

Mr. Burns noted that the application has variances. He referred to them as "accommodation variances". If the Board had questions on these variances, he could bring in a planner. Mr. Burns asked the Board for feedback on this matter; otherwise, he will make his own judgment call regarding a planner. If a planner is not needed, Mr. Burns said he could move on to closing arguments and comments from the public at the next meeting.

Mrs. Rush believed that the Board has come to the end of their ability, at this late hour, to absorb any further information tonight. She felt it would be a good idea for the Board to go back home and review these traffic studies over the holidays. They could **weigh** the benefits and detriments of a driveway onto Hedges Ave. and the suggestion of a no right turn from Dunkin' Donuts.

Mr. Foster noted after the Board reads through all the reports, they may have more questions for Mr. Meth. Mr. Foster recommended to the Board that they require the applicant to have a planner testify on the requested variances.

Mr. Burns agreed that the applicant will have a planner present at the next meeting.

Councilman Harris felt with all this discussion of no left turns onto Main St. and no right turns allowed, perhaps the Board should have someone do an inventory of what the setup is along Main Street. Clarification is needed.

The Board also felt the Police Department should give input on the traffic situation for this proposed site. Mr. Burns asked that the Board share any traffic reports with him and the public. Mr. Foster agreed that this should be done.

Councilman Harris felt the main focus for the Police Department to look at were the corner lots that have entrances onto the side streets and Main Street. Mayor Plambeck added that the Police should also look into where there are specific restrictions on turning movements on Main Street.

The Board and Mr. Burns discussed when the next hearing will be held.

Mr. Burns and the Board agreed to carry this case to the January 10, 2007 Planning Board meeting at 7:30 p.m.

Mr. Burns thanked the Board for staying so late.

The meeting adjourned at 11:27 p.m.

Respectfully submitted:

Elizabeth Holler
Recording Secretary