

CHATHAM BOROUGH PLANNING BOARD  
November 1, 2006 7:30 p.m.

Vice Chairman H.H. Montague called the Chatham Borough Planning Board meeting of November 1, 2006 to order at 7:30 p.m. in the Council Chambers, Chatham Municipal Building. Vice Chairman Montague announced that all legal notices had been posted for this meeting. He announced that he will be leading tonight's meeting. Chairman Rush is present, however she has a bad cold and her voice is not strong.

Members Present:

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

Members Absent:

None

Gendel – 56-58 River Road, Block 136, Lot 5 & 6 – Site Plan Approval

Paul Gendel, the applicant, was present and remained under oath from the previous hearing.

James M. Helb, site plan engineer for the applicant, was sworn in to testify.

Mr. Gendel noted that at the previous hearing the Board had requested additional information. He now has Mr. Helb before the Board to clarify the sight triangle for vehicles entering and leaving the property, plans for van handicap parking, and the proposed percentage of lot coverage. Mr. Gendel reported that he has obtained additional insurance to cover Willow Lane. Mr. Helb will also testify on the run-off calculations.

Mr. Helb stated that the site plan he has prepared is an up-date of a plan that he prepared 25 years ago regarding the same subject property. This property is at the intersection of Willow Lane and River Road. Currently there is an existing one story structure on the property. A 1½ story structure has been demolished.

Mr. Foster confirmed with Mr. Helb that the following documents have been submitted to the Board:

- 1) Topographical Survey Plat, last revision date: Sept. 1, 2006
- 2) Site Plan for 56-58 River Road
- 3) Soil Erosion & Sediment Control Plan for this project

Mr. Helb brought up the first sheet, Sheet 1 of 3 of the Site Plan, which identifies the existing site under its present conditions. It shows the existing 1½ story building which stands on the north easterly side of the property. The remaining portion is undeveloped with a gravel condition and some parking available. The site is within the M-3 Zone. An addition, immediately to the west of the existing structure, is being proposed. The proposed addition will measure 80 ft. by 30 ft. The parking lot, servicing the structure,

will provide 9 individual parking spaces. One of these spaces will be for handicap parking. There will be an area for a dumpster pad for a collection of solid waste materials.

Mr. Helb stated that there will be an access to this parking lot off of River Road. This will be the major access to the applicant's property. Mr. Helb pointed out on the plans the proposed removal of the existing 5 parking spaces in front of the existing one-story structure which will be removed as part of the project to facilitate an enlargement of a pervious, grassy area which will service the property as well.

At Mr. Gendel's request, Mr. Helb said he has submitted a revised calculation regarding the percentage of coverage. This calculation indicates that there is an 82.9% maximum coverage on this site, which is within the limits of the zoning district.

Mr. Helb said Mr. Gendel asked him to testify on the proposed hedgerow to be planted across the front of the property. That hedgerow is to buffer the property from the street. It will be installed at its maximum height at 4 feet. It will "soften" the project from the street itself. Mr. Helb reminded Board members that Mr. Gendel's business is in an industrial area. To the east of the applicant's site, is Willow Lane which has a gravel surface. This lane serves as an access for both Mr. Gendel's property and the property to the east. To the west of Mr. Gendel's property is a construction yard.

Mr. Helb testified that Mr. Gendel's site will be improved with greater impervious coverage. He noted that the Board had requested a truck turning radius for this site. Mr. Helb said he and Mr. Gendel don't anticipate large trucks visiting the site. The majority of trucks visiting this site will be pick-up trucks and service vans, which can use the loading zone depicted on the drawing. One handicap stall will be provided at the southern-most corner of this property. Mr. Helb did not anticipate a handicap van visiting Mr. Gendel's site. He has asked for a waiver for that requirement.

Mr. Helb pointed out that at the rear of Mr. Gendel's property is presently a gravel area. Perhaps this gravel area could serve as ancillary parking area for Mr. Gendel's business. This gravel area will not be counted towards the parking requirements. Mr. Gendel's plans already satisfy the parking requirements as shown on Sheet 1.

Mr. Helb noted that the Borough Engineer asked for information on the site lighting. Currently Mr. Helb anticipates low intensity from floodlights attached to the four corners of the building. He pointed out that Mr. Gendel's site is under-utilized in the evening hours. Only security lighting around the building will be used at night.

Mr. Helb described the proposed storm drainage facilities. These facilities would be underground and will collect the surface run-off from the proposed building and parking lot. It will tie into the existing system on the street. This arrangement will meet the requirements of the municipality with regard to stormwater management regulations.

Mr. Helb brought up the sight triangle. He pointed out that Mr. Gendel's site gradually rises from the curb line of the street, going west. There will be ample sight opportunities up and down the street. The hedgerow will be set back far enough to allow vehicles exiting the property sufficient sight distance. The drivers will have generous sight distance in both directions. Every vehicle leaving the property will have to leave in a forward direction.

Mr. Gendel recalled at the last meeting, he was asked to apply to the Morris County Planning Board. He did so and was sent a letter from the County waiving this application. Mr. Gendel also recalled a request was made about a deed for his property. Mr. Gendel noted that he has a single deed for the two lots. If Mr. Foster wants, Mr. Gendel's lawyer will re-do the deed.

Mr. Foster advised Mr. Gendel that his lawyer should revise the language of the existing deed to state that it is "a deed of consolidation of the two lots" and "the resulting lot will be Lot 5 (as requested by the Borough Assessor)".

Mrs. Rush asked Mr. Gendel if he had addressed the Willow Lane matter with his neighbor.

Mr. Gendel answered yes. His neighbor will write a letter permitting him to maintain the Willow Lane and allow for ingress and egress should the town vacate the paper street. In that case Mr. Gendel would then get half and his neighbor would get the other half.

Mr. Foster asked who this neighbor is.

Mr. Gendel answered Richard Hennessey. Mr. Hennessey's letter will be sent to the Construction Office.

Mr. Montague recalled there had been some question of whether the trash bin behind Willow Lane will be moved.

Mr. Gendel stated that one possibility was to completely remove the trash bin and place it behind the building in the spot for alternate parking.

Mayor Plambeck recalled that in the applicant's letter had been a recommendation of consolidating the two dumpsters which would allow parking spaces to be moved farther back, thus creating space for van access. Mayor Plambeck asked Mr. Gendel if that was part of his plan.

Mr. Gendel said if the Borough requires his property to have van access, he would move the dumpsters behind the building. This action would allow him to move all the parking spaces up higher and create the van parking.

Mayor Plambeck stated that it's the American Disabilities Act, a federal law, which takes precedence. The Borough may not have the authority to waive this particular requirement regarding van parking.

Mr. Foster went over the Borough Engineer's letter dated October 18, 2006. In his letter, Mr. DeNave stated that the applicant and the Board had discussed whether or not the loading zone should be striped. Mr. Foster asked Mr. DeNave to give his opinion on this situation.

Mr. DeNave noted that the ordinance contemplates having a loading area. Striping this area would show that it is designated for loading. If it is not designated in this way, no one will be able to figure out where the loading should take place. Mr. DeNave recommended diagonal striping for the loading zone. Also, the words "Loading Area" should be imprinted on the ground so people won't confuse it for a no parking area.

Mr. Helb suggested that loading area signage be put on the building, instead of unattractive markings on the pavement.

Mayor Plambeck asked if such a sign will go on each of the garage doors. Mr. Gendel felt that would be a good idea. Mayor Plambeck felt that the signs alone will not indicate the depth of the loading zone. Some indication on the pavement may be needed. Mr. Helb pointed out that the loading area runs the full length of the building. He felt that there was a generous enough set back for individuals trying to unload. Mayor Plambeck suggested dash lines be put on the pavement. Mr. Gendel said he could paint one long linear line, paralleling the building, 15 feet out and straight down, which could indicate a loading zone. Also, signs could be put on each garage door. Mayor Plambeck agreed with this arrangement.

Mr. Foster asked Mr. DeNave if he had discussed with Mr. Gendel and Mr. Helb about the installation of turning templates for large trucks coming to the site.

Mr. DeNave stated that Mr. Gendel and Mr. Helb have informed him that there will be no large truck traffic on the site. Mr. DeNave said he was still concerned about emergency vehicles which some day may need to maneuver on the site. Mr. DeNave said the emergency vehicles could probably back out onto River Road.

Mr. Gendel stated that since 1980, only one 18-wheeler has visited his property. It came up Willow Lane and made a partial delivery.

Mr. Foster said from previous testimony from other applications, the Fire Department would never park their trucks in a small space behind a burning building. They place their trucks out on the road to fight a blaze.

Mr. DeNave said he was satisfied with the testimony concerning trucks visiting the site.

Mr. Foster noted the handicap parking space on the plans is 8 feet wide instead of 9 feet. Mr. Foster asked Mr. DeNave if this 8 feet wide space was within the federal requirements.

Mr. DeNave answered yes. He pointed that the applicant is proposing a van accessible 8 feet wide space with a 9 ft. hatched access aisle, totaling 16 feet. If the applicant can shift his dumpster to the back of his building, an additional 4 feet will be available and a variance won't be needed.

Mr. Foster confirmed with Mr. DeNave that the Board does not have the authority to waive this federal requirement.

Mr. Foster brought up the Sight Triangle issue. He asked Mr. DeNave if he felt there was still a need for a sight triangle easement.

Mr. DeNave answered that the hedgerow is set back far enough that it won't impede any of the sight distance. He confirmed with Mr. Helb that the hedgerow will be 4 feet high. Mr. Helb stated that he and Mr. Gendel have been considering a variety of deer-resistant hedges. Mr. Gendel will make a final decision.

Mr. DeNave recommended that a planting schedule, of whatever the species is decided, be included on the plans. He asked that the number of the species be included.

Mr. Foster noted that Mr. DeNave has found the proposed drainage acceptable. He asked Mr. DeNave to comment on the drainage.

Mr. DeNave stated that a recharge system will be used. The water on the property will be collected in a storm basin at the edge of the parking area at the entrance driveway. The water will go into a 24-inch perforated pipe which will be embedded in stone. The pipe itself will have a certain amount of storage. The pipe will then recharge into the ground. Any over-flow will go into a new inlet which will be placed on River Road. From there it will go into an existing storm sewer system.

Mr. Foster noted that there are no "lighting fields" shown on the site plans. Perhaps they are not necessary. Mr. Foster asked Mr. Gendel if there were any residences close by to his facilities.

Mr. Gendel answered that across the street from his building is a commercial property. To the right of his building, is Mr. Hennessey's business. To the left of Mr. Gendel's business there is a storage shed and construction machinery. Everything around Mr. Gendel's property is commercial.

Mr. Foster asked Mr. DeNave if he felt the proposed lighting would be adequate for safety purposes and will not spill over on neighboring properties.

Mr. DeNave stated that the ordinance specifies a minimum amount of illumination for commercial facilities. Mr. DeNave said he could not determine if this requirement was met with this site plan. A foot candle diagram has not been provided. The Board has the ability to grant a waiver for this situation; however, it's difficult to determine if there's enough light to provide safety for someone parked at the corner of the property. Mr. DeNave recommended that the lighting levels be shown and make sure they meet the minimum requirements.

Mayor Plambeck asked Mr. Foster if a satisfactory lighting plan could be a condition that applicant had to submit to the Construction Office if the application were approved. If the lighting plan satisfied the Construction Official, he could then issue a building permit.

Mr. Foster agreed with this condition. Also, the Borough Engineer should approve the lighting plan as well as the Construction Official.

Mr. Foster asked if the Board had received a fire safety report from the Chatham Fire Department. Board members couldn't locate this report.

Mr. DeNave noted that there are occasions that the proposed use in industrial buildings will require a different type of construction or explosion-proof walls. Mr. DeNave didn't believe this was the case with what Mr. Gendel is proposing. He has spoken with Mr. Jankowski about this issue and he didn't believe it would be a problem. Mr. Jankowski will touch base with Mr. Nugent, the Borough Fire Official.

Mr. Gendel pointed out that he uses a fire retardant insulation produced by his neighbor, Mr. Hennesey.

Mr. Foster concluded that another condition be included that subject to approval of the plans, there should be a fire department report regarding access to the site and the proposed interior. Final architectural plans and final mechanical plans are needed for the proposed interior.

Mr. Foster confirmed with Mr. Gendel that the height of the existing structure is 28 feet. Mr. Foster asked Mr. Gendel if he was willing to stand by this measurement. Mr. Foster said he would like to see a condition that no part of the building, either existing or proposed, is higher than 28 feet. Mr. Gendel clarified that in the new building, the side wall will be 19 feet, and will single slope down to 12 to 13 feet. Mr. Foster confirmed that he was aware of that arrangement.

Mr. Foster noted that he had a one page policy endorsement change from Mr. Gendel's insurance company. Mr. Gendel told Mr. Foster that Chatham Borough will be added as a hold harmless. Mr. Gendel said the Borough Attorney, Mr. Lloyd, requested he write a hold harmless letter. Mr. Gendel said his lawyer will be working on this letter. Mr. Foster said a condition will be added to the resolution that insurance coverage by the Borough and other documentation required by the Borough will be provided by Mr.

Gendel, with regard to Willow Lane. Mr. Gendel assured Mr. Foster that this process has already begun.

Mr. Foster confirmed with Mr. Gendel that he will move the dumpster shown on the plans to the northwest end of Willow Lane.

Mr. Hague suggested that any letters regarding the use of Willow Lane, between Mr. Gendel and his neighbor, should be in the form of a reported agreement.

Mr. Foster asked Mr. Gendel if he had obtained approval from the Morris County Soil Conservation District.

Mr. Gendel said the application has already been made to them.

On another matter, Mr. Foster noted that the alley inside the existing building was not included in the calculations as part of the storage area. He asked Mr. Gendel if there was anything stored at that location at the present time. Mr. Gendel answered that there are boxes of materials and machinery being stored there until the addition is built. Mr. Foster said Mr. Gendel will have to agree, that in the future, this alley will not be used for storage because it wasn't included in his parking space calculations.

Mr. Foster had no more questions for Mr. Gendel.

There were no questions or comments from the public.

Mr. Hague made a motion to approve the resolution with the following conditions:

- 1) A proper consolidation of the lots be made
- 2) That there be a revised plan showing the re-location of the parking spaces and the dumpsters
- 3) No part of any building on the premises shall exceed 28 feet in height
- 4) Approval must be obtained from the Morris County Soil Conservation District
- 5) No storage be allowed in the 15 ft. by 40 ft. alley shown on applicant's sketch of the interior of the existing building
- 6) Loading area shown on the site plan shall be outlined in yellow striping
- 7) The agreement between Mr. Gendel and his neighbor should be recorded & satisfy the Planning Board
- 8) The planting schedule will be submitted
- 9) The species of the plantings should satisfy the Borough Engineer
- 10) The lighting diagram will be submitted to the Board
- 11) The revised site plan will be submitted
- 12) The final architectural plans will be submitted
- 13) A fire safety report will be submitted

The motion was seconded. A roll call vote was taken:

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

At 8:25 p.m. a break was taken in the meeting.

At 8:35 p.m. the meeting resumed.

Shailja, LLC Dunkin' Donuts/Baskin Robbins – 118 Main Street, Block 53, Lot 32  
Mr. Hague recused himself from this hearing. He had a conflict of interest with the applicant.

Mr. Montague reported that the Planning Board is proposing to hire a traffic engineer to provide input on the traffic situation on the site. All Board members indicated that they had a copy of the draft resolution appointing this engineer.

Mr. Foster noted that Mrs. Rush has distributed material she has received from the proposed traffic consultant who will be acting on behalf of the Planning Board. The consultant is Gordon Meth of Greenman-Pedersen, Inc. of Lebanon NJ. Mrs. Rush has given copies of the proposal to Board members and a list of Mr. Meth's qualifications and the qualifications of Mr. David Mendelsohn. After these experts have completed their studies, one of them will testify before the Board. Attached to the proposed resolution which will be voted on by the Board tonight, is the official appointment of Greenman, Peterman & Lebanon to do this traffic study.

Mayor Plambeck made a motion to approve Planning Board Resolution 2006-11. Mr. Gerridge seconded the motion.

Before the Board voted, Councilman Harris suggested that an explanation be given of what exactly the traffic study will entail.

Mrs. Rush stated that Mr. Meth plans to do a traffic count similar to the one done by Betsy Dolan of the Dean Company at a previous hearing. Mr. Meth will also be

observing and taking traffic counts at the Dunkin' Donuts facility in Madison. He will be doing calculations for 3 separate time slots for the Madison facility. The 3 times slots will be 7 a.m. to 9 a.m., 12 noon – 2 p.m., and 4 p.m. to 6 p.m. on a typical weekday. Mr. Meth will also be doing a time slot for a Saturday.

Mrs. Rush said Mr. Meth will also do a traffic count for the Shell Station on Main Station, across the street from the proposed site in Chatham.

Regarding the Madison Dunkin' Donuts, Councilman Harris asked if Mr. Meth could make observations regarding parking. It appeared to Councilman Harris that illegal parking was going on during the peak hours at the Madison site.

Mayor Plambeck agreed that situation will be included in the traffic study. There had been some questions about the sufficiency of parking and the movements of parking on the proposed site.

Mrs. Rush said the Board will be hearing Mr. Meth's report at their December 6, 2006 meeting.

Mr. Burns, attorney for Dunkin' Donuts, stated he had a scheduling conflict for December 6<sup>th</sup>. He asked if the application could be carried to the December 13, 2006 meeting at which time Mr. Meth could give his report.

Mr. Foster asked Mr. Burns if he had the date of when this application was deemed complete.

Mr. Burns said that date was in his files. He did not know it off hand. Mr. Burns said he will extend the time through December 31<sup>st</sup>. If a snowstorm occurs on December 13<sup>th</sup>, the Board will have time to schedule a follow-up meeting.

A roll call vote was taken on Resolution 2006 – 11:

Mr. Gerridge	-	yes
Mr. Sennett	-	yes
Mrs. Pignatello	-	yes
Mr. Jankowski	-	yes
Councilman Harris	-	yes
Mayor Plambeck	-	yes
Mr. Montague	-	yes
Chairmn. Rush	-	yes

Mr. Montague noted that new materials have been submitted by Dunkin' Donuts. He confirmed that all Board members have received a copy of the Issues List from the October 11, 2006 Public Hearing.

Mr. Montague noted these additional items which have been submitted:

- 1) An operations & maintenance plan
- 2) A letter from Burns & Schaeffer discussion the clean-up of the property
- 3) A letter from the applicant's traffic engineer giving the traffic counts for October

Mr. Burns pointed out that Board members should have a set of revised drawings by Bohler. These drawings were last revised on October 18<sup>th</sup>. Also, Board members should have a set of plans by the architect, last revised October 16<sup>th</sup>.

Mr. Burns stated that Dunkin' Donuts was present at the Board's October 11<sup>th</sup> meeting. Testimony was presented by the applicant's architect, the engineer, and the traffic engineer. Mr. Burns recalled that the applicant went away with a list of items, which the Board now refers to as "The Issues List". The applicant will cover this list in some fashion tonight.

Mr. Burns noted on Friday his client was notified that the Board would like to first hear testimony from the Borough Historic Preservation Commission (HPC). Mr. Burns said he and his client do not object to taking that testimony in the course of their direct case. Mr. Burns suggested that the witness from the HPC testify first. Dunkin' Donuts will only present one witness tonight, the applicant's engineer. He will be discussing the Issues List. Mr. Burns indicated that Mrs. Zmijeski of the Historic Preservation Commission could testify ahead of his witness.

Laura Zmijeski, Chair of the Chatham Borough Historic Preservation Commission, was sworn in to testify. She stated her address is 16 Kimball Street, Chatham.

Mr. Foster noted that when there is an application being proposed in the Historic District in the Borough, it is referred to the Historic Preservation Commission. Mr. Foster asked Mrs. Zmijeski to describe the previous meetings she has had with representatives of the applicant.

Mrs. Zmijeski read aloud to the Board this brief summary about what occurred at these meetings:

"The Historic Preservation Commission met with the architect on the project, as well as the Dunkin' Donuts franchise operator at two of our regular meetings, which were held on April 18, 2006 and May 16, 2006. The Commission has submitted our comments and recommendations for your review. All of the recommendations have been incorporated into the latest plans that have been presented to you. Many small changes have been made to the design to conform with the design guidelines for rehabilitation and new construction in the Main Street Historic District. Some of these changes include eliminating the proposed cupola, upgrading the siding and awning fabric, limiting the awnings to solid plum as opposed to plum and orange stripes, and modifications to lighting and window alignments. Arguably the largest change that we asked for was "to square up" the building with Main Street, which requires a variance regarding the Hedges setback. The HPC fully supports granting this variance. In fact, we have requested that

the building also be in line with the adjacent historic buildings to the east, effectively moving it up or south a few feet from where it is currently located on your plans. Support for this request is also found in the design guidelines, which state: ‘Front setbacks required by regulations in all but the central business zone, are the single most distinguishing characteristic of Chatham’s Main Street.’ ”

Mrs. Zmijeski felt that new construction should also maintain a uniformed alignment with neighboring facades. Bringing the building forward will also help address an outstanding issue which the HPC has with the design. This issue is the lighting for the front walkway. Currently bollard lights are drawn into the plans to light the walkway to the front door. Mrs. Zmijeski felt that if the walkway was shorter these bollard lights could be eliminated or be made smaller, similar to landscape-type lighting.

Mr. Foster confirmed with Mrs. Zmijeski that she had met with him and Chairman Rush on October 27<sup>th</sup>. Mr. Foster recalled that he had shown her the up-dated plans with their engineer’s drawings and survey. Also included were their architect’s drawings and elevations. All of this material was presented at the first meeting of this application. He asked Mrs. Zmijeski to testify that she has seen these updated plans.

Mr. Foster confirmed with Mrs. Zmijeski that she had requested the following revisions be made to the proposed building:

- 1) That the cupola on the original plans be eliminated
- 2) That the awnings be a solid plum color and be made of fabric, not vinyl
- 3) That the siding be of a light gray color called “Light Mist”
- 4) That the number of wall sconces lighting up the front of the building be reduced to just wall sconces on either side of the door

Mrs. Foster noted that Mrs. Zmijeski had recommended that the applicant prepare a lighting plan for the walkway.

Mrs. Zmijeski stated that she and the HPC were satisfied with the updated lighting plan submitted on October 18<sup>th</sup>. The only item she found unacceptable were the bollards.

Mr. Foster asked what could be an alternative to the bollard lighting.

Mrs. Zmijeski explained that a bollard light is waist high and has an industrial look to it. The HPC would like more of a landscaping light, which would be installed at shoe level, or else no lighting at all. Mrs. Zmijeski and the HPC felt that the other proposed lighting will provide enough illumination for the walkway.

Mr. Foster confirmed with Mrs. Zmijeski that she had required an illustration from the architect giving a view of the proposed building as seen by a pedestrian walking south on Hedges Avenue. Mrs. Zmijeski testified that she and the HPC had seen this illustration and found it satisfactory.

Mr. Foster confirmed with Mrs. Zmijeski that she and the HPC had recommended that the proposed building be parallel with Main Street rather than Hedges Avenue. Mr. Foster pointed out that the HPC believed it would be even better, from the point of view of the streetscape to have the building closer to Main St. and set back about the same distance as the building to the east. Mrs. Zmijeski confirmed that she and the HPC had made this recommendation.

Mr. Foster confirmed with Mrs. Zmijeski that she and the HPC had recommended that the front sign be lineal and rectangular on a horizontal basis and externally lit, not internally lit. Mrs. Zmijeski said the applicant made those adjustments accordingly.

Mr. Foster confirmed with Mrs. Zmijeski that she and the HPC recommended that the sidewalks running alongside the front of the building be pulled away from the structure to give a more residential atmosphere. Hopefully this arrangement would absorb the lights from the building. The HPC also recommended that landscaping should be put in under the windows. Mrs. Zmijeski stated that the applicant has agreed to make those revisions.

Mrs. Zmijeski testified that the applicant also agreed to use Hardi Plank for the siding, instead of vinyl.

Mrs. Zmijeski stated that, at the recommendation of the HPC, the applicant will have the central gable raised to the same height as the roof peak. The originally proposed fake dormers will be removed. The HPC also asked that the trim should be white and made from a material called Azek. The applicant agreed to raise the height of the front door to line up with the tops of the front façade windows.

Mrs. Zmijeski testified that the applicant will be following the HPC's recommendations for the east and west elevations. The applicant has also agreed to put in real windows at the front, rear and sides of the building, instead of the original painted windows.

Regarding the proposed sign, Mr. Sennett asked Mrs. Zmijeski if she had concerns about the graphic sketches on the store's sign as opposed to just stating the name of the occupant.

Mrs. Zmijeski answered that those particular details are left to the Borough Sign Committee's consideration. The HPC, however, asked that the sign be more of a linear board sign, matching the other businesses in that areas, which were once homes.

Mr. Montague asked Mr. Burns if he had any further questions for Mrs. Zmijeski.

Mr. Burns said he had no further questions.

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

Nicole DiMaggio, 48 Tallmadge Ave., asked Mrs. Zmijeski if the HPC's analysis was based on the physical appearance of the Dunkin' Donuts as opposed to any functionality.

Mrs. Zmijeski answered that the HPC's responsibility is to protect the streetscape in the Historic District. They evaluate the architecture and the structures, in this district. The HPC does not analyze issues like traffic and parking.

Joe Mikulewicz, 9 Chatham St., noted that in the back of the building there will be air conditioning units on the roof. He didn't believe any residential home in Chatham or historic home would have such units on their roof. He asked Mrs. Zmijeski if this was a good location for these units.

Mrs. Zmijeski answered that she and the HPC thought this location would be better than having the units next to the building itself. If the units were on the side, they may impede pedestrian traffic and will be more visible. The A.C. units, on the roof, will be hidden by a fence so they won't be really visible.

Mr. Mikulewicz felt there may be a noise issue if the A.C. units are placed high up on top of the building. He asked if the applicant has reviewed the noise level which will be produced by the A.C. units. He noted that the freezer will be external to the building.

Mr. Montague asked Mr. Mikulewicz who he was addressing this question to. He reminded Mr. Mikulewicz that questions at this point in time are just for Mrs. Zmijeski, who is representing the HPC.

Mr. Mikulewicz felt possibly this noise issue could be a concern for the HPC. He thanked the Board for letting him speak.

Mrs. Zmijeski noted that the noise situation is not handled by the HPC.

Neal Collins, 19 No. Hillside Ave., brought up Mr. Sennett's question at the previous hearing that normally 2 businesses are not allowed on one sign. Mr. Collins asked if this would be an issue for the HPC to address or the Borough Sign Committee.

Mrs. Zmijeski said this sign situation would be deferred to the Sign Committee. She admitted that she has never seen another sign in town proclaiming two businesses. The Borough Sign Committee should decide on that issue.

Mrs. Rush said, as a member of the Sign Committee, she recalled that the Sign Committee had discussed this issue. The Committee had noted the two businesses were owned by the same corporation and they are equal tenants of the proposed building. Mrs. Rush stated that the Committee had determined that both names could be on the sign.

Mr. Montague asked if there were any other questions from the public.

James Cronin, 18 Hedges Ave., had a question in regard to the building aesthetics, its coloring, its siding, and awnings. He noted the HPC's requirements for these items will

remain throughout the life of the building. Could the owner of the building replace these items in the future without the HPC's permission?

Mrs. Zmijeski answered yes. Theoretically whenever a change is made to the exterior of a building in the Historic District, the owner of the building is supposed to consult the HPC. In reality, however, every paint job is not submitted for the HPC's review. She noted that the applicant is proposing Hardi Plank siding, so "the color that it is, is the color that it is".

Mr. Montague asked if the public had any more questions for Mrs. Zmijeski.

There were no other questions.

Mr. Montague thanked Mrs. Zmijeski for her time and testimony tonight.

Mr. Montague gave the floor to Mr. Burns.

Mr. Burns stated that the applicant had a noise study done of the proposed outdoor equipment for the building. A copy of the report will be given to the Borough Engineer, Mr. DeNave. The results indicate that the mechanical equipment will comply with the Borough ordinance, as well as the State standards.

On other matters, Mr. Burns brought up the recommendation from the HPC regarding moving the building forward. The applicant has followed two other recommendations: 1) to square the building with Main Street and 2) to provide a fence around the walk-in freezer at the rear. The applicant did not want to make the third final change of moving the building forward, unless the Board gave more feedback on this idea. Mr. Burns reminded the Board that the proposed plans meet the Borough's parking standards.

Mr. Burns referred the Board to the Issues List from the October 11, 1006 Public Hearing. He noted the first issue was a request from the Board to provide dimensions on the plans. This has been done. Mr. Burns brought up the request to provide an alternate bollard fixture in conformance with requirements. He said that project was currently in the works and will be acceptable to the HPC. The applicant will have this matter resolved by the next Planning Board meeting on December 13<sup>th</sup>.

Mr. Burns noted that the Board asked that evidence be provided that the HPC approves of the utility light fixture. He pointed out that Mrs. Zmijeski has testified on that issue tonight.

Mr. Burns said the Board had requested a report or a letter from the applicant's environmental consultant concerning the status of the environmental cleanup. The applicant submitted a letter dated Oct. 31, 2006. Mr. Burns asked if the Board had any questions on this letter.

Mrs. Pignatello noted that at least the letter revealed what some of the contaminants of concern are. It also outlines where the failures were in the initial plan. She pointed out that she and the other Board members had just received this letter tonight. She had just skimmed it. Mrs. Pignatello pointed out that the letter does not have any test results. There is no indication of how the clean-up of the property is coming along and how safe the site is.

Mrs. Pignatello also noted that the environmental consultant felt a passive recovery system would be appropriate. She pointed out that MTBE is still being dealt with. She asked if the original environmental concerns had been remediated.

Mr. Burns said he did not have the answers to those questions; however, he understood the concern of remediation.

Mrs. Pignatello believed the Board would be comfortable knowing where the wells are located. She pointed out that three additional wells were installed in 2005 on the neighboring property. She also asked how often was the pumping happening. Does the applicant plan to passively treat the well situation with bio-remediation or will they dig the wells out? The Board needs to know about this situation.

Mr. Burns answered that he hopes the applicant plans to dig it out.

Mrs. Pignatello pointed out that digging it out will cause a lot of disruption to the site.

Mr. Burns noted that the digging out has to be done before the site work begins. He stated that he was not happy with the final version of the report from the environmental consultant. Perhaps EWMA should be asked to attend a future Board meeting so they can clearly explain what the issues are.

Mrs. Pignatello was also curious if any interim reports had been submitted over the 10-year period to the DEP giving any progress that may have been made. She felt that situation would also be vital to the Board.

Mr. Burns asked Mrs. Pignatello to tell him what she is looking for. He did not want to inundate her and the Board with too much technical data, but to assure the Board that there will be a process in place so that the environmental work will be done before the construction begins.

Mayor Plambeck agreed with this course of action; however, the Board also has expertise from the Borough Environmental Commission who could review the data and comment on it. Hopefully, the data will get to the Commission in a timely fashion. Mayor Plambeck pointed out that currently there is no information regarding the lateral extent of the contamination and its levels. The Board has to consider the public health issues involved since an eating and drinking establishment is being proposed.

Mrs. Pignatello suggested a delineation of the plume and the results of the last round of sampling be submitted. The Environmental Commission and any other interested parties can request more information if they want.

Mr. Burns confirmed with Mrs. Pignatello that she meant the plume for the groundwater, not the soils. He noted that if the Board has seen this report, there was active groundwater remediation done. Exxon Mobil stopped it in 1997. Then they submitted to the DEP, presumably for the NFA (No Further Action form) or the equivalent. The NFA was never received. Mr. Burns and the applicant know that there has been monitoring going on a six-month or quarterly cycle. They don't know whether the DEP is accepting now that this simply can be handled by natural attenuation or if something else is required.

Mr. Burns also confirmed with Mrs. Pignatello that she would like to see a map delineating the limits of the plume.

Mrs. Pignatello said she would also like to see the last round of sampling. She would like to see how high the numbers are over.

Mayor Plambeck pointed out that additional tanks were removed from the site after 1997. Additional contamination was found.

Mrs. Rush confirmed with Mr. Burns that she had received an e-mail from the Chairman of the Borough Environmental Commission. Chairman Stewart is present tonight.

Mr. Burns said perhaps the applicant and Chairman Stewart could interact between meetings. This interaction could produce more information at the Board's December 13<sup>th</sup> meeting.

Mr. Foster said if the Board is otherwise inclined to approve this application, shouldn't there be a condition that construction won't start until the Board has received some assurance from the DEP that the course that's being followed is satisfactory and that it's safe for a retail operation to function on these premises.

Mr. Burns stated that getting DEP to issue anything is very difficult, particularly anything that is custom designed to meet a particular request like this. Mr. Burns felt that a particular milestone needed to be met before the applicant began construction. He suggested an alternate procedure be in place whereby a certification be obtained from a professional who is acceptable to the Board. The professional can confirm that the soil remediation has been accomplished to the extent necessary so that it won't interfere with the site work and that any groundwater remediation that has to occur likewise can occur without interfering with the site plan. Mr. Burns pointed out that if natural attenuation is the case, the monitoring wells should be in the right place so they don't interfere with the building. That is the type of milestone he suggested the Board consider.

Mr. Burns noted that the Mayor had asked at the last hearing whether the applicant was proposing any dish antennas. Mr. Burns stated that none are being proposed.

Returning to the Issues List from the October 11<sup>th</sup> hearing, Mr. Burns said that the applicant's engineer will testify on points 6 through 12. He called on Laurence Murphy, the engineer, to come forward. Mr. Murphy remained under oath from the previous hearing.

Mr. Burns confirmed with Mr. Murphy that between meetings he had submitted to the Board a set of revised plans. Mr. Burns asked him if he had any new exhibits to submit.

Mr. Murphy answered that he had a new exhibit which was basically a colored rendering of the site plan sheet that was included with a package submitted to the Board. This rendering is dated Oct. 25, 2006.

Mr. Foster asked that except for the coloring, it's still the Oct. 18<sup>th</sup> revision.

Mr. Murphy answered that was correct. The rendering consisted of the landscaping plan overlaid onto the site plan sheet, Sheet 3. Mr. Murphy submitted this rendering as Exhibit A-13.

Mr. Burns asked Mr. Murphy to describe the changes that have been made to the plan in response to issues that came up at the October 11<sup>th</sup> Board meeting. He asked Mr. Murphy to start with the lighting issue.

Mr. Murphy testified that the concerns of the Board were taken into consideration. He and the applicant are proposing to install internal shields blocking the lights along the northern property line adjacent to the residences. These shields will prevent the lighting from going in the direction of the residences. Also, all lights will be on a circuit timer and will shut off. All lights, except for the security lights, will shut down one hour after the business closes. The two security lights will remain on one hour after closing and will then shut off.

Mr. Burns asked how the utility light at the rear of the building will work. Will that light be on all the time?

Mr. Murphy answered no, that light will only be on when motion is detected at the rear of the building. That light will have a motion sensor.

Mr. Burns noted that at the previous meeting, Mr. Sennett had asked about the height of the second story window on the nearest residence. He asked Mr. Murphy what he had found out about this situation.

Mr. Murphy testified that he obtained the elevation from the survey adjacent to the finished floor of the one and a half story building to the north. He also looked at the second story sill height and measured that to be 14 feet, 10 inches up, coming to an

elevation of 202. He corresponded that to the height of the proposed lights on-site. The applicant's lights are slightly higher than that elevation. To comply with the ordinance requirement, the applicant would need to reduce his lights to 11, 11½ and 10½ feet depending on the location on-site. Mr. Murphy anticipated that the height of the proposed lights will be reduced to a uniform height of probably 10 feet through the site to meet the ordinance requirement.

Mrs. Rush asked about the proposed light on the southwest side of the Hedges Ave. driveway. She pointed out that light does not have a shield on it. It appears that this light is closer to a residence than the light in the middle of the parking lot.

Mr. Murphy confirmed with Mrs. Rush that she is talking about shielding this light from the residence to the north.

Mr. Murphy felt that if this light was shielded in that direction it would defeat the purpose of even having a light in that location. A person would not be able to see the bulb for this fixture because the actual light is mounted in a horizontal position and recessed within the roof of the cast aluminum fixture. A person will only see a soft glow rather than a direct light bulb and direct glare.

Mrs. Rush asked if this fixture would be the same type of light as the one at the rear of the building.

Mr. Murphy answered yes. Even without the shields, this particular light meets the ordinance requirement of .8 foot candle at the property line.

Mrs. Pignatello asked how long the security motion light in the back will stay on once it is activated.

Mr. Murphy answered that usually that could be set by the user. These motion lights have a range and a timer that can be set for a specific number of minutes.

There were no more lighting questions. Mr. Burns moved on to the landscaping issue.

Mr. Burns noted that the Board had been concerned about the proposed landscaping being deer food. He noted also that Mayor Plambeck had requested a 5 foot fence at that particular location. Mr. Burns asked Mr. Murphy to give an up-date on what he has come up with.

Mr. Murphy testified that after working with his landscape architect, they picked out a number of species that are more resistant to deer feeding. Those species are a thornless honey locust; a multi-stem river birch; an American holly; a Scotch pine; a Norway spruce; and a Leyland cypress in regards to the ornamental and evergreen trees.

Mr. Burns asked what was along the rear property line.

Mr. Murphy testified that they are the evergreen trees, American holly and cypress. He specified that there would be 10 American hollies along the northern property line, followed by Scotch pines to the northeast.

Mr. Burns asked if these species were fast growing.

Mr. Murphy answered that these plantings will grow one foot in height a year.

Mr. Montague asked if the landscaping was included in the applicant's maintenance plan.

Mr. Burns suggested that a condition be put in the resolution that would state that so long as the use that's approved exists, the applicant shall maintain the approved landscaping in good condition.

Mr. Burns noted that at the previous meeting, Mr. Foster had pointed out that the sight triangle was not shown on the plans. Is it shown now?

Mr. Murphy answered yes. The sight triangle shows 25 feet on each street connected by a diagonal. Also, the sign location was moved so it would be outside of that sight triangle. No encroachments will be permitted in that sight triangle.

Mr. Burns confirmed with Mr. Murphy that part of the 5 ft. fence along the rear property line is projected closer to Hedges Ave. than the 35 ft. front yard setback. He also confirmed with Mr. Murphy that this portion of the fence would exceed the height limits of the ordinance and also exceed the degree to which a fence could be solid when it's in the front yard. Mr. Burns asked Mr. Murphy how he addressed this situation.

Mr. Murphy stated that he reduced the linear length of the fence to bring it back to the front yard setback line to be in compliance with the ordinance. There will be no fencing within 35 feet of Hedges Ave.

Mr. Burns confirmed with Mr. Murphy that he will fulfill a request from the Borough Engineer, Mr. DeNave, to provide a new sidewalk along Main Street and provide a scoring pattern that's two foot by two foot on these sidewalks.

Mr. Murphy testified he had responded to a number of items in Mr. DeNave's earlier report in September. These items are very technical in nature. He will not bother to address these items unless the Board has specific questions.

Mr. Murphy brought up that the Board had wanted to know how the trash was going to be handled outside. Two trash receptacles will be placed outside in close proximity to the front door and the side door on the east side. The trash receptacles will be black, in keeping with the aesthetics of the site.

Mayor Plambeck noted to Mr. Murphy that after the HPC report, there may be some discussion tonight regarding the possibility of pulling the building farther forward.

Mayor Plambeck asked how far it would be pulled forward and what impacts and benefits would result from this action.

Mr. Murphy testified that he has looked at that option and believes it is feasible from an engineering perspective to shift the building forward.

Mr. Burns brought up the opportunity that additional parking may be created. He discussed the possibility of a shared use of the area reserved for loading. He pointed out that the applicant has the ability to control the timing of deliveries. The applicant will not have deliveries arrive at the site during the peak morning hour. Mr. Burns understood the Board and public's concern that there may not be enough parking on-site during that time period. Mr. Burns stated that 4 additional parking spaces will be made available only from 7:00 a.m. to 9:00 a.m.

In response to this new parking proposal, Mr. Murphy submitted Exhibit A-14, a sketch depicting the proposed parking.

Mr. Murphy stated that in keeping with the recommendation of the HPC, the proposed building will be shifted to stay in line with the existing buildings on Main Street. This action will create additional space within the area behind the building.

Mr. Burns asked Mr. Murphy how much the building will be shifted forward.

Mr. Murphy answered approximately 11 feet, to a setback of 24 feet. By shifting the building forward, another parking space will be added. This will be a single parking space on the east side of the property line. The "no parking" requirement within the front yard will be maintained. Also, 4 spaces within the loading zone will be established. These spaces will have perpendicular stripes. One employee parking space will be added on the west side, behind the freezer. Therefore, the shifting of this building will yield a total of 6 spaces. The total number of parking spaces has now increased from the original number of 15 to 21 spaces.

Mr. Murphy clarified that the newly proposed employee space will be adjacent to the freezer and will be screened to the north and to the west by landscaping. This space will be signed on the ground as employee parking. The employee will arrive before any loading takes place and he/she will not leave during loading.

Mr. Burns confirmed with Mr. Murphy that this parking space will not be a conforming space since the access would require a motorist to come across another parking space to get there. Mr. Burns reminded the Board that the applicant could delete this particular space if need be.

Mr. Burns asked Mr. Murphy to review the concept of how these parking spaces in the shared loading area would work.

Mr. Murphy testified that there will be 4 shared customer spaces directly behind the building. Customers will be allowed to park there during the peak morning hours 6:00 a.m. to 9:00 a.m. At approximately 9:00 a.m., those spaces will no longer be available for use by the customers. The peak hours will be over with. The store will want to use that particular area for loading. That situation will be “policed” by a sign to be posted at the back of the building stipulating that no parking will be allowed in these spaces after 9:00 a.m. There will also be stipulations painted on the ground specifying that no parking will be allowed in this area after 9:00 a.m.

Mr. Murphy said he understood that many times parking signs are ignored. A store employee will put down parking cones after 9:00 a.m. to prevent customers from using these 4 spaces.

Mr. Burns asked Mr. Murphy if the proposed building now lined up with the existing buildings on Main Street to the east.

Mr. Murphy answered yes. The building now conforms to the HPC’s request in that regard.

Mr. Foster asked Messrs. Burns and Murphy to remind the Board of when deliveries would normally be made to the site. He asked if one of the deliveries would be made before 7:00 a.m.

Mr. Burns answered that one delivery of doughnuts will be made early in the morning hours and another delivery in the afternoon between 2:00 and 3:00 p.m. Ice cream deliveries will be made one per week between 8:00 and 10:00 p.m. A Pepsi truck will come once a week to the site, 1:00 to 2:00 in the afternoon. Dairy products will come to the site three times a week between 10:00 and 11:00 in the morning. Basically, there will be an average of 3 deliveries per day. All of these deliveries will be timed not to coincide with the morning peak hour.

Mr. DeNave returned to the issue of moving the building forward. He asked Mr. Murphy if he had looked at the impervious coverage and the maximum lot coverage.

Mr. Murphy answered yes. He confirmed with Mr. DeNave that he did not have a problem with these issues. What is being proposed is in conformance with the ordinance.

Mr. DeNave brought up the drainage. He pointed out that some additional storage will be needed.

Mr. Murphy testified that he was confident that a conforming detention system could be designed. Another row of pipes may have to be added.

Mrs. Rush noted that there will be a turn-over of employees. She asked if the employee parking space, at times, will not get used. She was concerned if that space would be blocked at times because of customer vehicles.

Mr. Murphy answered that situation had been taken into consideration. He believed there would not be a turn-over of employees during the peak hour. That particular employee would stay in the building during the peak hour and afterwards.

Mr. Foster confirmed with Messrs. Murphy and Burns that if the Board wanted them to go ahead and present a plan with the building moved closer to Main Street, the gentlemen would then revise the site plan and its calculations regarding lot coverage and building coverage.

Mr. DeNave asked what would be the total number of parking spaces in the lay-out.

Mr. Murphy answered 21 spaces, including the employee space. It also includes the double use of the loading area.

Mayor Plambeck confirmed with Mr. Murphy that there would be a small expansion of pavement with the location of the building now moving forward.

The Board and Mr. Burns discussed the stacked parking space which ran parallel to the freezer.

Mr. Foster confirmed with Mr. Burns that presumably an employee could park in that particular space at 6:00 in the morning and that the employee would probably leave the space at 1:30 p.m., not at any peak hours. Mr. Burns said that at 9:15 a.m. a Dunkin' Donuts employee would put cones around the space to prevent any customers from parking in that space. The space then becomes a loading space after 9:15 a.m.

Mr. Montague confirmed with Mr. Burns that the delivery vehicles will be small box trucks measuring 28 feet to 30 feet in overall length.

Returning to the traffic issue, Mr. Montague asked Mr. Burns what would be his assumption on people parking on Hedges Ave.

Mr. Burns answered that he and the applicant know that parking is allowed on Hedges Ave.; however, they don't want their customers parking on Hedges Ave. The applicant has no objection with any way in which the Borough chooses to deal with these public parking issues. If the Borough Council decides to prohibit parking on Hedges Ave. from 7:00 a.m. to 9:00 a.m., that is fine with the applicant. If the Borough Council decides to prohibit parking at any other time, that is also fine with the applicant.

Mr. Foster brought up the sight triangle at the corner. He reminded Mr. Burns that this sight triangle will have to be backed up by an easement which will have to be recorded. There should be an easement from the property owner to the Borough. Mr. Burns agreed with this arrangement.

Mrs. Rush asked about the measurements for the front yard setback.

Mr. Murphy answered that the building will be set back approximately 24 feet from the front yard property line.

Mr. Montague confirmed with Mr. Murphy that's more than 24 feet from the curb. Mr. Murphy clarified that the curb line is about 13 feet in front of the property line. Therefore, the face of the building would actually be set back 37 feet from the property line.

Mayor Plambeck noted that testimony was given stating that the applicant will be following the HPC's recommendations regarding the landscaping. How does moving the building forward now affect the proposed landscaping?

Mr. Burns answered that the applicant would maintain the same sidewalk pattern and landscape spacing, even with the shortening of the front yard.

Councilman Harris asked if the sidewalk lighting would remain.

Mr. Burns noted that there had been discussions with the applicant's architect and the HPC that possibly the lighting levels can be met without any lighting along the walkway. One suggestion that hasn't yet been shared with the HPC is to install a typical residential carriage lamp. This light would match the decorative fixtures in the parking lot and would have a residential style appearance. The applicant's architect has been asked to look at this item. Mr. Burns said a more definite answer will be given at the next hearing.

Moving on to another issue, Mr. Montague recalled that Mr. Burns had mentioned another traffic study had been worked on. Can details now be given on this study?

Mr. Burns noted that the initial reports on the traffic counts in July were given. Updated counts in October were also given. Mr. Burns believed that the next traffic information to be given to the Board and the public will probably be coming from the Board's traffic expert. Dunkin' Donuts will have their expert look at the traffic at their Madison store.

Mrs. Rush said she approved of the extra parking being proposed.

Mayor Plambeck felt that from the streetscape point of view the extra parking and the circulation sounds like an improvement. With the revised changes, the proposed building will now be farther away from the residential area.

Mr. Sennett asked if the loading zone would be delineated by horizontally striping as it was on the previous plans.

Mr. Murphy answered that the loading zone will still be striped horizontally in yellow. Also, the front of the loading spaces will be "boxed out" in yellow, rather than white. This would make a motorist think twice about entering this section. At some point, the

motorist will see “no parking” on the ground and on a sign against the back of the building.

Mr. Sennett asked if concrete bollards would be installed where the cars would nose into the building. Would these bollards interfere with the loading?

Mr. Burns said bollards could be installed or a curb could be installed against the building. He felt that there would be enough room for a car and bollards. The loading zone is only required to be 15 feet, so there will be more than enough room to operate within those parking spaces. It would still function. The bollards would not block the entrance or a loading zone.

Mr. Montague opened the floor up for questions from the public.

Bernie Vella, 58 North Summit Ave., brought up the site remediation. Mr. Vella was concerned with Mr. Burns’ response to Mr. Foster’s request that nothing could be done on the site until DEP approved the site. Mr. Vella felt that the Board and the public should be looking for DEP’s approval. He asked if Dunkin’ Donuts is on record to do the remediation.

Mr. Burns answered no.

Mr. Vella asked if Dunkin’ Donuts was going to be the one to do the remediation.

Mr. Burns answered no.

Mr. Vella asked then how are they responsible to do the remediation.

Mr. Burns explained that Dunkin’ Donuts is not responsible to the DEP to do the remediation. They are assuming an obligation to this Board that a certain level of clean-up would be achieved before they would move forward with their work. Mr. Burns pointed out that Dunkin’ Donuts didn’t contaminate this site, they don’t own the site. They are a tenant at the site, so they are not responsible for remediation.

Mr. Foster asked Mr. Vella if he was saying that the DEP polluted the site.

Mr. Vella answered no. He stated that the DEP are the ones that had that site as being a contaminated site and they have rated that site by saying that the way to cure it is to have remediation requiring formal design.

Bettina Thompson, 11 Minton Ave., brought up the issue of the two trash receptacles. One receptacle will be at the front of the building and one on the side. She asked how often those receptacles would be emptied and who would be responsible for emptying them. Would it be the owner of the site or Dunkin’ Donuts?

Mr. Burns answered that it would be the operator's responsibility. The operator is really a franchisee of Dunkin' Donuts.

Ms. Thompson asked if there would be any guarantee as to how often these receptacles would be emptied. She pointed out that other coffee shops in the area often have overflowing trash cans in front of their establishments.

Mr. Burns stated that the Borough probably has a maintenance code that addresses this issue of overflowing cans. He stated that Dunkin' Donuts will empty them when they're full. Beyond that, he will leave any further action up to the Board.

Jay Stewart, 69 Highland Ave. noted that he is both a Borough resident and Chairman of the Chatham Borough Environmental Commission. He stated his question was really a request to the applicant's attorney for material the Environmental Commission would like to see concerning the contamination of the site. This will help the Commission to evaluate and make recommendations to the Board as to what conditions to impose or timing to look at with regard to whether anything is going to go forward.

Mr. Stewart stated that the Commission would be interested in having a map that delineated the groundwater plume, its location, and how near it is to the proposed structure. Also, the Commission would like delineation of any existing soil contamination that still remains on the site. It's important for both the Board and the applicant to know where the soil contamination is located so it doesn't get redistributed.

Mr. Stewart pointed out that the groundwater contamination is important not just in terms of the remediation, but because there are volatile organic contaminants which can off-gas in the soil. There's a New Jersey program dealing with vapor intrusion that requires that any structures that are within 100 feet of a volatile organic plume be evaluated on whether any of those vapors can seep into the building and cause indoor air contamination.

Mr. Stewart felt it was important for the Board and the applicant to know whether the construction plans need to be modified to include some kind of a vapor capture system if the plume is going to be around for a while.

Mr. Stewart reiterated his question asking the applicant to provide information to the Borough Environmental Commission delineating the existing soil and groundwater contamination.

Mr. Burns agreed to obtain this information from the applicant's environmental consultant. He noted that the applicant's environmental consultant (EWMA) has recommended that the proposed building should have a passive vapor venting system, analogous to a radon system. This arrangement would allow anything in the soils to rise up through a vent pipe through the roof. If this proves to be an appropriate safeguard, the applicant will absolutely want to do it.

Mr. Stewart thanked Mr. Burns for his answer.

Maryann Mason, 55 Main Street, brought up the applicant's noise analysis. She asked which traffic data was used – the July traffic counts or the October counts.

Mr. Burns clarified that the noise analysis did not take traffic into consideration. It looks at the mechanical equipment which would serve the building.

Ms. Mason asked if any consideration was given for the increase in traffic in this analysis.

Mr. Burns answered that he wasn't aware of any. He pointed out that there's plenty of traffic on Main Street that generates noise. He could not say whether that is subject to the same regulations that control stationary sources. Mr. Burns said he has never been asked to do a noise study of automobile traffic, even if it's considered a mobile source.

Ms. Mason asked if an air quality analysis will be done for the traffic and CO emissions.

Mr. Burns answered that there were no plans to do such an analysis.

Ms. Mason asked if left turns out of Hedges Ave. will be prohibited.

Mr. Burns answered that the applicant has no control over traffic movements on Hedges Avenue. Those situations are determined by the governing body.

Ms. Mason asked if the applicant's traffic analysis had recommended that left turns be allowed out of Hedges Ave.

Mr. Burns answered no. He clarified that the testimony was that the left-turn traffic coming out of the Dunkin' Donuts site is projected to use the driveway to Main Street, rather than the Hedges Ave. because the Hedges Ave. left is at a lower level of service than the driveway would be.

Mr. Burns and Ms. Mason discussed the level of service on Hedges Ave. Mr. Burns pointed out that the level of service on Hedges Ave. is currently an "F" and will remain an "F".

Ms. Mason asked if the applicant's traffic study had any discussion of mitigation or mitigation techniques for increased traffic associated with this project. Will a traffic signal be adjusted or a left turn be prohibited?

Mr. Burns answered no. The applicant's traffic engineer felt the prohibiting left turns out of the store's driveway would be a bad thing for Hedges Ave. because he felt all the traffic would be forced out to Hedges Ave. which already is at a Level F. No proposal was made to prohibit left turns out of the Dunkin' Donuts' Main Street driveway.

Christine Grobert, 7 Hedges Ave., asked, in regard to deliveries, what would be the definition for “early morning”.

Mr. Burns answered that the “early morning delivery” would take place approximately 4:00 to 4:30 a.m.

Mrs. Grobert pointed out that her house is across the street from the proposed business and driveway. She asked if the small box delivery trucks had a back-up alarm that she would have listen to every morning at 4:00 a.m.

Mr. Burns said he would find out.

Mrs. Grobert noted that testimony had been given stating approximately 4 to 5 employees will be working on average during the day at this facility. Would that number of employees increase during peak hours or would it remain at 4 to 5.

Mr. Burns answered that the busiest time of the day would be the morning peak hours. Four to five employees would work during those hours. In later shifts, the employee count would be lower.

Mrs. Grobert asked if it wasn't customary on plans, like what the applicant is proposing, to put in some sort of traffic signage so the town traffic officer could give his opinion on signage.

Mr. Burns answered that a standard site plan would show the proposed traffic controls like a stop sign as a motorist approaches the driveway on Main Street. Mr. Burns confirmed with Mr. Murphy that these traffic controls are included in this plan set.

Mrs. Grobert asked Mr. Murphy if he could point out these traffic controls.

Mr. Murphy pointed out the stop bar and stop sign located at the Main Street driveway and at the Hedges Ave. driveway.

Mrs. Grobert confirmed with Mr. Murphy that currently there is no signage stating no left turns and other prohibitions.

Michael Dean, 181 North Passaic Ave., noted that behind the proposed site is a neighboring property with a house. That neighboring property is also contaminated. Will it be part of the applicant's clean-up plan?

Mr. Montague said that situation is not part of this application. That property is still owned by Exxon Mobil.

Mr. Dean asked if the Board will request that the neighboring property be cleaned up as part of this application.

Mr. Foster pointed out that Board is limited in their scope of questions and making requirements concerning the property unless there is something that would adversely affect the proposed development of the applicant's property.

Mr. Dean asked if the applicant's further environmental submissions are going to identify the end result of having this site cleaned up with a contaminated site behind it.

Mr. Montague pointed out that this applicant has to take care of his own site. He's not required to address the issue on the other site.

Mr. Dean asked, in the applicant's upcoming traffic studies, what streets, beyond Route 124, he will be focusing his traffic counts on.

Mr. Burns answered that the traffic counts will not be done on any other streets beyond Main Street. The cut-through traffic on the other streets is an existing problem. Mr. Burns felt that cut-through traffic is not a problem that's unique to Dunkin' Donuts. It's a problem relating to the fact there is so much traffic on Main Street, drivers are forced to leave the main thoroughfare and cutting through residential neighborhoods. The cut-through traffic issue cannot be dealt with at the Planning Board level, but at the Borough Council level.

Mrs. Rush informed Mr. Dean that the traffic engineer, who has been hired by the Planning Board, will be looking at the Madison Dunkin' Donuts. The applicant's engineer will be looking at the intersection of Hedges Ave. and Main Street. Another traffic count will be taken at Minton Ave. and Main Street where the Shell station is located. Those locations would be the principal spots where traffic counts will be taken.

Gabriella Ferrara, a business owner at 231 Main Street ("Gabriella's Ice Cream Store") came forward. She noted that at the last hearing there had been testimony that the applicant will install a fence around the dumpsters and a concrete enclosure. Ms. Ferrara asked what will be the gallon size for the inside trash containers. Also, what considerations has the applicant given to the health and safety issues inside his proposed building? Sometimes unpleasant smells and rodents can become issues in these types of businesses.

Mr. Burns noted that the applicant has advised the architect of the ordinance requirement that says basically the food garbage should be inside the building and the other garbage outside. As a result, space was created inside the building for two trash containers. Mr. Burns said he couldn't recall the actual size of these containers.

Mr. Burns stated that he is not an expert on health issues; however, the plan before the Board conforms to the ordinance. In a survey taken by the applicant, it was found that most of the food establishments in the Borough do not conform to the ordinance. They put their wet garbage outside. Mr. Burns said that the Dunkin' Donuts garbage will be picked up as needed in order to ensure that it does not create a problem inside the building.

On another issue, Ms. Ferrara noted that the applicant is proposing some parking next to the freezer. What kind of safety measures will be taken to protect this outdoor stand-up freezer? Also, what kind of coolant will be used? Will the freezer be cooled from the top or from around the walls? This factor will play a major safety role if a vehicle smashes into it. Ms. Ferrara noted that drivers have smashed into her building 6 times.

Mr. Burns clarified that the space by the freezer is parallel to the freezer, not perpendicular. A vehicle will not be able to drive head-on into the freezer.

Ms. Ferrara asked if the loading spaces were right next to the freezer.

Mr. Burns answered that the parking spaces which will share space with the loading area will not be up against the freezer. They will be up against the back of the building and also to the side of the freezer.

Ms. Ferrara felt that particular location of spaces may still be unsafe judging from what happens at her own business.

Ms. Ferrara asked if the coolant would be cooled from the sides. If it is cooled from the sides, and an accident happens, there could be a release into the atmosphere.

Mr. Burns said he did not know how the coolant was designed. He believed that the site plan is designed in such a way that there will be a low risk of any vehicle coming into contact with the freezer unit.

Ms. Ferrara respectfully asked that the applicant puts concrete pylons around the freezer. Motorists will jump the curb when they are in a hurry backing out of a space and hit the gas pedal instead of the breaks.

Mr. Burns thanked Ms. Ferrara for her suggestions. He clarified that pylons and bollards were the same thing.

Ms. Ferrara pointed out that the loading and unloading of the van at Dunkin' Donuts, with many racks involved, may produce noise. She asked that the applicant take this noise into consideration for the nearby residents.

Ms. Ferrara also asked if any consideration had been done about enforcing regulations prohibiting customers from parking in front of residents' homes.

Mr. Burns stated that the applicant takes a neutral view concerning the issue. Dunkin' Donuts does not want or need this parking. The applicant can accept if the Borough decided to limit the parking in any way or leaving it alone. The applicant has not done any study of what would be involved in terms of police enforcement.

Ms. Ferrara asked where the children, visiting the store, would park their bikes. She was concerned about the young bike riders flying through the parking lot and around the corner, with major traffic going on.

Mr. Burns noted that no bike rack was shown on the site plan. He believed that the testimony given last time stated that the site is designed in a safe manner. There are sidewalks on both sides of the streets. The kids on bikes could probably ride down Hedges Ave. to Main Street, and walk to the front door of the store. That would probably be the safest route.

Ms. Ferrara asked the Board to consider whether they wanted to go through a string of mini-malls or do they want to maintain “our down home Main Street”.

Mr. Burns indicated that he would respond to Ms. Ferrara’s question. He noted that the Board had made a decision to allow eating and drinking establishments in this particular zone. This decision was made within the last few years. The same category that is being proposed tonight is the same category that permits any other coffee shop, deli, bakery, or pizzeria. The applicant is not asking the Board to change the use categories that exist. Mr. Burns explained the personal history of Amul Modi, the principal of Shailja, LLC. Mr. Burns reminded Ms. Ferrara that the proposed store is a permitted use. He claimed that the applicant has worked hard to make this business fit into the neighborhood.

George Caviness, 27 Hedges Ave., asked how many cash registers will be in the store.

Mr. Burns answered that he personally didn’t know; however, he will find out from the applicant’s architect.

Mr. Caviness brought up 10 Hedges Ave., the vacant house behind the proposed site. He asked if the applicant is in negotiations to purchase that property.

Mr. Burns answered no.

Mr. Caviness asked what Dunkin’ Donuts is going to do for the town of Chatham.

Mr. Burns answered that Dunkin’ Donuts is going to work hard to be a good member of the community. They have already worked with the HPC. They have also gone up against corporate Dunkin’ Donuts to come up with a design which they and the HPC believe will meet the character of Chatham.

Mr. Caviness asked Mr. Burns that the applicant petition the Borough that there be no right turn out of the Hedges Ave. driveway. He also asked that the applicant petition the Borough for no through-traffic on Hedges Ave. to Weston Ave. with a fine of \$500. Also, he asked that the applicant petition the Borough to have speed bumps installed on Hedges Ave. Mr. Caviness requested that the applicant change his hours of operation to 7:00 a.m. to 9:00 p.m. He also requested that the applicant buy 10 Hedges Ave., remediate it, turn it into a park and donate it to the town. The last request was that the

applicant petition the Borough that resident guest parking be only allowed on Hedges Ave.

Mr. Burns said he has written down all these requests and will get answers from the applicant. Some of the answers will be “yes” and some will be “no”.

Mr. Caviness said he understood. He thanked Mr. Burns for his time.

Ken Johnson, 43 Roosevelt Ave., noted that he has received “first party knowledge of someone requesting from 140 Main Street, which is the operation of Chatham Dental, for some parking spaces regarding the employees of Baskin Robbins.” Mr. Johnson asked why there were these outside requests made when he assumed a self-contained operation for parking was being proposed for this business.

Mr. Burns answered that he had no knowledge of any such request, so he can’t answer that question. He added that the applicant’s plans meet the Borough’s parking ordinance. Their concerns about the parking situation have been taken into consideration. The applicant is working to try and create more parking to provide more safety.

Mr. Johnson asked Mr. Burns if more parking spaces were obtained from Chatham Dental, for the Baskin Robbins employees, that would be more favorable to the applicant’s business.

Mr. Burns answered that at this point he didn’t think it would be particularly necessary. If the applicant’s parking plans as shown in Exhibit A-14 were approved, Mr. Burns felt any additional parking, such as the spaces at 140 Main St., weren’t necessary.

Mr. Johnson said he just wanted to pass this situation on to the Board.

Mary Jane Dobbs, 10 North Summit Ave., asked if she could have a copy of the independent research traffic counts that have been done at the existing Dunkin’ Donuts.

Mr. Burns said if the Board didn’t object, he could contact Gary Dean and send them to Ms. Dobbs before the next meeting.

Mr. Montague indicated the Board did not object to that request.

Ms. Dobbs asked if a business plan had been submitted to Dunkin’ Donuts Massachusetts discussing the volume of business, traffic counts, and number of employees, etc., with the hopes of using this particular facility.

Mr. Burns said he didn’t know.

Ms. Dobbs asked if he could find out. Ms. Dobbs said she would like to see “genuine numbers” concerning the volume of business that they’re looking for at the proposed site.

Mr. Burns said he would be happy to ask his client for this information.

Ms. Dobbs asked if there has been any type of data or submission to the Board about the volume of traffic for the Baskin Robbins part of this establishment. She pointed out that the hours between 3:00 p.m. and 7:00 p.m. are just as bad, traffic-wise on Main Street, as the early morning hours. Ms. Dobbs asked if any study had been done on those particular hours.

Mr. Burns answered no. He had asked the applicant's traffic engineer why he didn't do a study of those hours, the engineer felt the peak hours and the worst case was in the a.m. hours. Therefore, the traffic did not do those afternoon/evening hours. Mr. Burns pointed out that Mr. Meth, the Board's traffic engineer, will be covering that particular data when he studies the Madison Dunkin' Donuts.

Ms. Dobbs then asked what type of truck will be delivering ice cream at the hours of 8:00 to 10 p.m. at night.

Mr. Burns answered a box truck.

Ms. Dobbs asked what type of truck will deliver the Pepsi supplies.

Mr. Burns answered that the typical Pepsi truck is a box truck.

Ms. Dobbs brought up the garbage issue. She felt the Board should make a condition that all garbage from this facility should be stored indoors. She believed there should not be an outdoor dumpster. Ms. Dobbs felt such a dumpster would be impossible to police.

Mr. Montague reminded her to ask a question, not make a comment.

Ms. Dobbs asked if anyone considered whether the garbage could be kept indoors. Is it possible to account for all garbage being kept indoors?

Mr. Burns answered that theoretically the building could be made larger to store garbage inside; however, that would be contrary to discussions the applicant has held with the HPC and contrary to the intent of the ordinance, which is to limit the size and mass of buildings.

Ms. Dobbs asked if it would be possible to redo the site with no driveway on Hedges Ave. at all. Could there just be an entry and exit onto Main Street and leave Hedges Ave. completely out of the picture.

Mr. Burns recalled that possibility was mentioned to Betty Dolen, the applicant's traffic engineer, at a previous meeting. Ms. Dolen didn't believe that arrangement would be possible because the DOT has the final say on highway access. The DOT would require a business to make use of its secondary access way so that in the DOT's view the business would be providing the most efficient method of access, egress and so on.

Ms. Dobbs asked if the DOT would care if Dunkin' Donuts prohibited a right-hand turn onto Hedges Ave. from that driveway.

Mr. Burns answered that he didn't think the DOT would care about that prohibition. He said if the Board wants him to, he will get the final answer from the applicant about this prohibition.

Ms. Dobbs asked Mr. Burns what was his position on left-hand turns onto Main Street from this facility.

Mr. Burns felt the applicant would not agree with prohibiting this particular turn. Mr. Burns felt that would not be a good idea for anybody on Hedges Ave. or anyone else. He believed motorists would then simply go out to Hedges Ave. and then make the left turn there.

Ms. Dobbs and Mr. Burns discussed a no left turn onto Hedges Ave. and no left turn for vehicles leaving the Dunkin' Donuts driveway.

Mr. Burns believed the applicant would be resistant to that idea. Prohibiting those particular left turns may lose him business. Mr. Burns predicted very few left turns coming in and out of that site in the morning. He felt the majority of the vehicles will make a right turn in and a right turn out. Mr. Burns added that he also didn't know how the residents of Hedges Ave. would feel about no left turn coming out of their street.

Joe Marts, 14 West Coleman Ave., asked Mr. Burns if there was any indication that this property could not be sold rather than rented because of the Environmental Clean-Up Responsibility Act.

Mr. Burns answered no, none that he is aware of

Mr. Marts asked Mr. Montague when the citizens would be allowed to offer comments versus asking questions.

Mr. Montague answered that at the very end of all the hearings, the Board will open up the floor to the public. If someone from the public wants to speak and give testimony and submit the appropriate credentials, they will be allowed to do so. This will probably happen in the December time frame. Right now, the Board is giving the public the chance to question the applicant and clarify exactly what he is saying he is doing.

Mr. Marts asked if the Board will take adequate steps, if this project is approved, to ensure that the applicant cannot have any garbage trucks arriving at the site at 3:00 or 4:00 in the morning. He also asked if the time for snow plows be limited, and not have them plow the site at 3:00 or 4:00 in the morning. Mr. Marts asked if these stipulations could be included in the Board's resolution.

Mr. Montague wasn't sure if the Board had the authority to stipulate these conditions. He will check on this matter. Possibly these particular issues should be directed to the Borough Council.

Mr. Marts asked Mr. Montague if he could direct Attorney Foster to see to it that this property is cleaned up before any shovel goes into the ground for construction. Mr. Marts noted that his son worked on this particular site as a professional geologist 10 years ago. Mr. Marts believed that the residents are entitled to have this site cleaned up before there is any construction. He felt the DEP considers the applicant's property and 10 Hedges Avenue as one site.

Mr. Montague noted that it is 11:00 p.m. He informed the public that another hearing will be held on December 13<sup>th</sup>. The public will be given time to provide testimony and makes statements at the conclusion of everyone's presentation. He thanked everyone for attending.

Mr. Burns confirmed with Mr. Montague that this application will continue to December 13<sup>th</sup>. When the applicant submits revised drawings, the public will be re-noticed.

Tonight's hearing officially ended. The public departed.

Councilman Harris felt the environmental issues seemed confusing to him. He wasn't sure what information could be obtained from DEP concerning this site. Also, it's not clear to him what the DEP's responsibility is regarding this site.

Mr. DeNave, the Borough Engineer, reported that he has read the letter from EWMA, the environmental consultant for the applicant. The letter contains the name of the DEP case manager. The case manager could be contacted to see what information he may have. Mr. DeNave agreed with Mr. Burns' comments that the Board may not get a letter from DEP; however, the Board could still receive some indication of where the DEP stands on this project. He noted that Mrs. Pignatello had asked for the test results on this property. Mr. DeNave believed those results could probably be obtained through the applicant, the owner of the property, or the case manager.

Councilman Harris asked if it would be reasonable to believe that DEP would ever say it's okay to build on this site.

Mr. DeNave answered that you could expect the DEP to tell you that you can't build on this site.

Mrs. Pignatello said the closest notification you would get in that particular situation is a NFA (No Further Action) letter.

Councilman Harris noted that people tonight requested a final answer from DEP on this site; however, he realized that may not really happen.

Mr. DeNave said he knew of a number of sites that have been built on and that have active monitoring operations still being done. Mr. Foster pointed out that the Exxon station on Main Street has been having remediation going on for the last several years. Mayor Plambeck believed that every gas station in town has either completed remediation or is going through remediation.

At Mr. Montague's request, Mr. DeNave will ask the case manager on what information is available on this property.

Mayor Plambeck recommended that Mr. DeNave ask the case manager about the status for the adjacent property. Hopefully, the same case manager will have material concerning the neighboring site.

Mr. Jankowski said sometimes in the cases of residential heating oil tanks that have been remediated, sometimes a NFA letter doesn't arrive for a year.

Mr. DeNave said he would call the case manager tomorrow and submit a report to the Board Chairman.

Bauer application – 26 Girard Ave., Block 107, Lot 29, Minor Subdivision - continuation  
Mr. Foster noted that this minor subdivision was approved on October 4, 2006 with conditions. He confirmed that the Board had received copies of the proposed resolution.

Mr. Foster read aloud the conditions of approval. He noted that he had a draft to review with Mr. Taylor, the Zoning Officer. If this draft is acceptable to Mr. Taylor, a revised report can be created to show what the Board had concluded back in October that there was full compliance after with all the appropriate requirements of the ordinance. A deed concerning the subdivision has been made by the applicant's attorney, Stephen Pribula, Esq. and sent to Mr. Foster.

Councilman Harris made a motion to approve the resolution and its conditions for the minor subdivision. Mr. Gerridge seconded the motion.

A roll call vote was taken:

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

Mr. Montague noted that at the next meeting the Board will review a Capital Expenditure. This Expenditure is for an artificial turf field to be installed on the existing athletic field on Lum Ave. Mr. DeNave said he will be giving this presentation on behalf of the Borough. Different fencing, field striping, and drainage will be discussed. No variances will be sought. Mr. Sennett will be recused from this review, since he lives within 200 feet of the property in question.

At 11:20 p.m., the meeting adjourned.

Respectfully submitted:

Elizabeth Holler  
Planning Board Recording Secretary