

**MINUTES OF THE
MENDHAM BOROUGH JOINT LAND USE BOARD
TUESDAY, MARCH 18, 2025
GARABRANT CENTER, 4 WILSON ST., MENDHAM, NJ**

CALL TO ORDER/FLAG SALUTE

The regular meeting of the Mendham Borough Joint Land Use Board was called to order at 7:30 p.m. and the open public meeting statement was read into the record.

ROLL CALL

Mayor Kelly – Present	Mr. Egerter – Absent
Ms. Bushman – Absent	Ms. Garbacz – Present
Councilmember Traut – Present	Mr. Molnar – Present
Mr. Smith – Absent	Mr. Kay – Alternate 1 - Present
Mr. Sprandel – Present	VACANT- Alternate 2
Mr. D’Urso– Present	Mr. Pace – Alternate 3- Present
	Mr. Chambers– Alternate 4 – Absent

Also Present: Mr. Ferriero – Board Engineer
Mr. Germinario –Board Attorney
Ms. Caldwell – Board Planner

APPROVAL OF MINUTES

November 12, 2025	Tabled until the April 15, 2025 Regular Meeting
December 3, 2025	Tabled until the April 15, 2025 Regular Meeting
December 17, 2025	Tabled until the April 15, 2025 Regular Meeting
January 21, 2025	Tabled until the April 15, 2025 Regular Meeting
January 29,2025	Tabled until the April 15, 2025 Regular Meeting
February 18, 2025	Tabled until the April 15, 2025 Regular Meeting

PUBLIC COMMENT

Chairman D’Urso opened the meeting to the public for questions and comments on items not included on the agenda.

Mr. Ritger- 14 Gunther St. – Questioned why all documents for applications are not made available electronically prior to meetings. Ms. Smith stated that it is not a requirement. Mr. Ritger noted that residents cannot always make it to the Phoenix House to see paper copies. Ms. Smith asked what documents were being referred to because the application and documents were posted on the Borough’s website under Current Applications and explained that since Mr. Ritger had mentioned this previously, a separate page was created.

There being no further questions, the public session was closed.

NEW BUSINESS

- a. Appointment of Planning Board Liaison to Environmental Commission

Mr. D’Urso asked for nominations for Board Liaison to the Environmental Commission. Mr. Sprandel made a motion to nominate Mr. D’Urso, and Mr. Molnar seconded. There being no other nominations, Mr. D’Urso was appointed as Liaison.

RESOLUTIONS

01-25 106 Mendham, LLC
106 East Main St.
Blk 801 Lot 12

Mr. Germinario summarized the 106 Mendham, LLC, 106 East Main St. application, and the conditions outlined in the resolution. Mr. Kay made a motion to memorialize the resolution and Mr. Molnar seconded.

Roll Call:

In Favor:, Council Member Traut, Mr. D'Urso, Ms. Garbacz, Mr. Molnar, Mr. Kay and Mr. Pace

Opposed:

Abstain: Mayor Kelly, and Mr. Sprandel

Motion Carried

The resolution follows.

BOROUGH OF MENDHAM JOINT LAND USE BOARD**RESOLUTION OF MEMORIALIZATION**

Decided: February 18, 2025

Memorialized: March 18, 2025

IN THE MATTER OF 106 MENDHAM, LLC
SITE PLAN WAIVER APPLICATION
BLOCK 801, LOT 12
APPLICATION NO. JLUB #1-25

WHEREAS, 106 Mendham, LLC (hereinafter the "Applicant") applied to the Borough of Mendham Joint Land Use Board (hereinafter the "Board") for the grant of a Site Plan Waiver pursuant to Ordinance §195-34D by application dated 12/18/24; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 2/18/25; and

WHEREAS, the Board has determined that the Applicant has complied with all land use procedural requirements of Chapter 124 of the Ordinance of the Borough of Mendham, and has complied with the procedural requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., including without limitation, public notice pursuant to N.J.S.A. 40:55D-12; and

WHEREAS, the Board makes the following findings and conclusions, based on the documents, testimony and other evidence comprising the hearing record:

1. The property which is the subject of the application consists of 1.31 acres (57,185 sf) located in the Limited Business (LB) Zone, with frontage along East Main Street and Cold Hill Road. It is developed with a two-story building containing a chiropractic office, a real estate office, and bank (8,250 sf total) on the ground floor and a COAH apartment (850 sf) on the second floor. Pursuant to Ordinance §215-21, business, professional and administrative offices are permitted uses in the LB Zone, as are banks and one accessory COAH apartment per building. The property currently complies with all applicable bulk requirements for the LB Zone, with the exception of an existing non-conforming front yard parking setback of 7.1 ft. (20 ft. required).

2. The Applicant proposes to divide the existing ground-floor real estate office into two separate offices, referred to on the plans as Suite 'C' (2,387.46 sf) and Suite 'D' (1,363.50 sf), with the former continuing to be occupied by the real estate office, and the latter to be occupied by a photographer's office. Suites 'C' and 'D' will share a new vestibule (48.68 sf) to be constructed at the entrance door on the southeast side of the building. Two new toilet rooms will also be constructed in Suite 'D'. No exterior work is proposed, and the existing parking of 39 spaces, including 2 ADA spaces, will comply with the requirement Ordinance §195-45A (34 spaces). Other than adding the name of the new tenant to the existing sign, no new signage or signage changes are proposed.

3. The Applicant has submitted the following documents that depict and/or describe the improvements associated with this Site Plan Waiver application:

- Site Plan, consisting of one (1) sheet (11"x17"), revised 9/1/15, prepared by Dynamic Engineering, Inc.
- Architectural Plan, consisting of three (3) sheets (11"x17"), prepared by Salustro Partnership, Architects, LLC, dated 7/8/24

4. In support of the application, the Applicant has submitted the following documents, which are part of the hearing record:

- Land Development Application, dated 12/18/24, signed by the Applicant
- Application Checklist with letter confirming no new signage is proposed other than a name change
- Ownership Disclosure Statement, dated 12/18/24
- Certificate of Paid Taxes and Sewer Fees, dated 12/20/24
- Site Inspection Form, dated and signed 12/18/24
- Zoning Compliance Permit Application, dated 10/18/24
- Zoning Officer Denial of Application, dated 10/23/24
- Letter from the Applicant to the Land Use Board Chairman, dated 10/17/24
- E-mail from the Construction Official, dated 8/23/24
- Exhibit A-Retained Premises/Surrender Space
- Previous Mendham Borough Planning Board Resolution (PB #03-14)
- Resolution of Findings and Conclusions Board of Adjustment, dated 7/7/10
- Resolution Amended Site Plan with Variances, dated 8/9/10
- Resolution Preliminary Site Plan Approval with Variances, dated 8/11/08
- Certified Property Owners List, dated 12/24/24

5. The Board's planning and engineering professionals and/or consultants have submitted the following reports concerning their reviews of the application, which are part of the hearing record:

Paul Ferriero, PE, CME, Board Engineer,
dated 1/28/25

Jessica Caldwell, PP, AICP, Board Planner,
dated 2/7/25

6. In the course of the public hearings, no exhibits were marked and are part of the hearing record.

7. In the course of the public hearings, the Applicant was represented by Anthony Sposaro, Esq., and the Applicant presented the testimony of the following witnesses, which testimony is part of the hearing record:

Robert Berlant, Applicant's principal owner

8. Based on the hearing record, the Board has made the following findings and conclusions relative to the Site Plan Waiver sought by the Applicant:

Pursuant to Ordinance §195-34D, the Board may waive site plan approval "upon a showing by the Applicant that the proposed change is so inconsequential as not to require a formal site plan." Based on the hearing record, the Board finds that the changes proposed herein are, in fact, so limited as to be inconsequential from a site plan perspective. The new tenancy of a photographer's office is a permitted business office use, and the interior changes needed to divide the realtor's space are minimal, and can be adequately reviewed by the Borough's construction official.

NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby approve the application and grant the Site Plan Waiver requested by the Applicant, as described hereinabove, pursuant to Ordinance §195-34D.

This approval is subject to the following conditions, which shall, unless otherwise stated, be satisfied prior to the issuance of a zoning permit for the improvements associated with the Site Plan Waiver.

1. All application, escrow and inspection fees shall be paid in full and current at the time of issuance of zoning permits and construction permits. Engineering inspection fees will be paid out of the Applicant's escrow account, and the Applicant will replenish said account to the extent required to pay for said inspection fees.

2. This approval is subject to all other approvals required by any governmental agency having jurisdiction over the subject property.

3. This approval is subject to the payment in full of all taxes and assessments due and owing to the Borough of Mendham and/or any agency thereof.

The undersigned does hereby certify that the foregoing is a true copy of the Resolution adopted by the Borough of Mendham Joint Land Use Board memorializing the action taken by the Board at its meeting of 2/18/25.

*Lisa Smith
Board Secretary*

23-22 V-Fee Mendham Apartments
84-86-88 East Main Street
Blk 801 Lot 20

Mr. D'Urso needed to recuse himself and Mr. Germinario stated that the Vice Chair was not present, so an acting Chairperson needs to be nominated. Mr. D'Urso nominated Mr. Sprandel and Mr. Pace seconded the nomination. On a voice vote, all were in favor and Mr. Sprandel was appointed as acting Chairperson.

Mr. D'Urso recused himself.

Mr. Germinario summarized the V-Fee Mendham Apartments, 84-86-88 East Main Street application, and the conditions outlined in the resolution. Councilmember Traut made a motion to memorialize the resolution and Mr. Sprandel seconded.

Roll Call:

In Favor:, Council Member Traut, Mr. Sprandel, and Ms. Garbacz

Opposed:

Abstain: Mayor Kelly, Mr. D'Urso Mr. Molnar, and Mr. Kay and Mr. Pace

Motion Carried

The resolution follows.

BOROUGH OF MENDHAM JOINT LAND USE BOARD

RESOLUTION OF MEMORIALIZATION

Decided: January 29, 2025

Memorialized: March 18, 2025

**IN THE MATTER OF V-FEE MENDHAM APARTMENTS, LLC
PRELIMINARY AND FINAL MAJOR SITE PLAN APPLICATION
BLOCK 801, LOT 20
APPLICATION NO. JLUB #23-22**

WHEREAS, V-Fee Mendham Apartments, LLC (hereinafter "V-Fee" or the "Applicant") applied to the Borough of Mendham Joint Land Use Board (hereinafter the "Board") for Preliminary and Final Major Site Plan by application dated 9/19/22; and

WHEREAS, the application was deemed complete by the Board, and public hearings were held on 8/20/24, 8/21/24, 9/17/24, 9/24/24, 11/12/24, 12/3/24, 12/17/24 and 1/29/25; and

WHEREAS, the Board has determined that the Applicant has complied with all land use procedural requirements of Chapter 124 of the Ordinance of the Borough of Mendham, and has complied with the procedural requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., including without limitation, public notice pursuant to N.J.S.A. 40:55D-12; and

WHEREAS, the Board makes the following findings and conclusions, based on the documents, testimony and other evidence comprising the hearing record:

1. The Property which is the subject of the application consists of 577,865 sf (13.27 acres) located at 84-90 East Main Street in the East Business-Affordable Housing (EB-AH) zone. The existing development of the Property comprises 4 one-story buildings containing a total of 133,666 sf of retail space. These buildings consist of the Kings Supermarket (27,504 sf), two strip-mall buildings (24,440 sf and 28,528 sf), and the vacant former Mendham Racquet Club (53,914 sf). Existing development also includes a wireless telecommunications tower in front of the former Racquet Club, and parking areas accessory to the retail buildings.

The subject property is located in the northeastern section of Mendham Borough and is within 800 feet of the border with Mendham Township. The Property is located in a commercial section of the municipality with a mix of office and retail that spans east to the border with Mendham Township. There are also commercial uses to the southeast of the property along East Main Street and on Tempe Wick Drive which transition into single-family homes going easterly along Tempe Wick Drive towards the Mendham Borough border. There is a post office on the corner of East Main Street and Tempe Wick Drive. To the south and west of the site are primarily single-family homes, although the property directly to the southwest of the Property is a 40-unit senior housing community managed by the Mendham Area Senior Housing (MASH) Corporation. To the north and west of the site are preserved wetlands and forest.

2. The Applicant proposes to demolish the former Racquet Club building with all improvements, including the in-ground pool, gravel play area and shed, and construct a mixed-use development consisting of 75-unit inclusionary multifamily residential development with a 20 percent set-aside for affordable housing and associated site improvements, an automobile sales and service facility that also contains premium parking spaces accessory to the multifamily use, an off-street parking garage within the multifamily structure and surface parking, a recreation facility including an outdoor swimming pool, landscaping, utilities, site lighting and stormwater management facilities.

3. The Borough of Mendham (the "Borough") and V-Fee entered into a Settlement Agreement, dated 12/23/19, which provided for the construction of the inclusionary multi-family residential development. The Settlement Agreement was implemented by the Borough's adoption of Ordinance #09-2020 on 8/11/20, which also included provisions permitting the automobile sales and service facility on the Property. Issues regarding the Settlement Agreement and potential variances in connection with the proposed V-Fee development resulted in litigation between V-Fee, the Borough and the Board (MRS-L-1319-23), which was resolved by a Consent Order entered by Judge Gaus on 9/5/24 and the Board's Whispering Woods hearing on 8/20/24.

4. The Applicant has submitted the following documents that depict and/or describe the proposed improvements:

- (i) Preliminary and Final Site Plan civil engineering drawings, prepared by Stonefield Engineering & Design ("Stonefield"), consisting of 29 sheets (C1-C-29), revised to 7/2/24, as further revised by 3 Site Plan Sheets prepared by Stonefield, dated 9/16/24, and marked as Exhibit A-3 at the Board's hearing of 9/17/24, and as further revised by 3 Site Plan Sheets prepared by Stonefield, dated 12/12/24, and marked as Exhibit A-12 at the Board's hearing of 12/17/24
- (ii) Preliminary and Final Site Plan architectural drawings, prepared by Marchetto Higgins Stieve (MHS) Architecture, consisting of 11 sheets (C1 and A1-A10), revised to 5/15/23, as further revised by 4 sheets (A7-A10, "No Cupola" version) prepared by MHS Architects, revised to 11/21/24
- (iii) Planning Report 84-88 East Main Street, consisting of 13 pages, prepared by Topology, as revised to 3/8/23
- (iv) ALTA Survey, consisting of 2 sheets, prepared by Stonefield, as revised to 10/30/23

5. In support of the application, the Applicant has submitted the following documents, which are part of the hearing record:

- Stormwater Management Report, prepared by Stonefield Engineering & Design, dated 10/20/22; last revised 5/19/23
- Ecological Impact Statement, prepared by Stonefield Engineering & Design, dated 10/20/22
- Traffic Impact Study, prepared by Stonefield Engineering & Design, dated 10/20/22
- Revision Memo prepared by Stonefield Engineering & Design, dated 7/2/24
- Revision Memo prepared by Marchetto Higgins Steve, dated 7/3/24
- Letter to Board Enclosing Revised Submission Materials, dated 1/13/23
- Flood Hazard Area Study, prepared by Princeton Hydro, LLC, dated 5/21
- Morris County Planning Board Land Development Review Application, dated 12/12/22
- Sanitary Sewer Permit Application, dated 12/12/22
- Will Serve Letters from PSE&G, dated 12/21/22; Jersey Central Power & Light, dated 10/19/20; and New Jersey American Water, dated 12/7/22
- Certification of Paid Taxes, dated 7/3/24
- 200' Property Owners List, dated 6/28/24
- Omnibus Response Memorandum, dated 9/10/24
- dBm Engineering, P.C. Non-Ionizing Electromagnetic Radiation (NIER) Report, dated 10/4/24
- Stonefield Technical Memorandum regarding Growth Rate Factor Analysis, dated 12/12/24

6. The Board's planning and engineering professionals and/or consultants have submitted the following reports concerning their reviews of the application, which are part of the hearing record:

- (i) Jessica Caldwell, PP, AICP, Board Planner, dated 7/14/24 and 11/26/24
- (ii) Paul Ferriero, PE, PP, CME, Board and Borough Engineer, dated 12/3/22, 1/20/23, 1/23/23, and 7/15/24
- (iii) Marco Navarro, PE, PTOE, Board Traffic Engineer, dated 7/26/24

7. Borough officials and/or agencies have submitted the following reports concerning their reviews of the application, which are part of the hearing record:

John Zarazoga, Fire Marshal, dated 12/13/22

8. In the course of the public hearings, the following exhibits were marked and are part of the hearing record:

- A-1 Aerial Photograph, dated 6/24/24, marked 8/20/24
- A-2 Overall Site Plan Rendering, dated 7/12/24, marked 8/20/24
- A-3 Site Plan Revisions, by Stonefield, consisting of 3 sheets, dated 9/16/24, marked 9/17/24
- A-4 Revised Overall Site Plan Rendering, dated 9/23/24, marked 9/24/24
- A-5 Vehicle Maneuvering, consisting of 2 sheets, by Stonefield, dated 11/1/24, marked 11/12/24
- A-6 Slide Packet of other MHS Projects, marked 1/12/24
- A-7 through A-9 Building Material Samples, marked 11/12/24
- A-10 On-Site Improvement, by Stonefield, dated 12/3/24, marked 12/3/24
- A-11 RF-EME On-Site Measurements of Existing Flagpole Facility, by Fischer RF Compliance, LLC, dated 12/15/24, marked 12/17/24
- A-12 Updated Traffic Report, Growth Rate Factor Analysis, by Stonefield, dated 12/12/24, and Revised Site Plans, consisting of 3 sheets, by Stonefield, dated 12/12/24, both marked 12/17/24
- O-1 Overlay of Site Plan with 11 Porous Paving Locations and 22 Test Pit Locations, prepared by Mary Paist-Goldman, PE, undated, marked 1/29/25
- O-2 Expert Environmental Report and CV of Mary Paist-Goldman, PE, dated 1/10/25, marked 1/29/25
- O-3 Expert Traffic Report and CV of Bernard Tetreault, PE, PTOE, dated 1/27/25, marked 1/29/25
- B-1 Letter of Kristi MacDonald, Ph.D, on behalf of Raritan Headwaters Association, dated 1/28/25, marked 1/29/25

9. In the course of the public hearings, the Applicant was represented by Derek Orth, Esq., and the Applicant presented the testimony of the following witnesses, which testimony is part of the hearing record:

- (i) Afton Savitz, PE, Stonefield Engineering, civil engineer
- (ii) Matthew Seckler, PE, PP, PTOE, Stonefield Engineering, traffic engineer
- (iii) Bruce Stieve, AIA, MHS Architecture, architect
- (iv) Michael Fischer, PE, Fischer RF Compliance LLC, RF engineer
- (v) Philip Abramson, PP, AICP, professional planner

10. At the final public hearing, Mendham Alliance for Preservation and Conservation (MAPC) was represented by Objector Counsel Michael Sinkevich, Esq., who presented the testimony of the following witnesses:

- (i) Mary Paist-Goldman, PE, civil engineer
- (ii) Bernard Tetreault, PE, PTOE, traffic engineer
- (iii) Frank Zammataro, President MAPC

Also at the final public hearing, Kristi MacDonald, PhD., Director of Science of the Raritan Headwaters Association (RHA), testified on behalf of the RHA.

The expert reports and CVs of Ms. Paist-Goldman and Mr. Tetreault were marked in evidence as Exhibits O-2 and O-3, and the report/CV of Dr. MacDonald as Exhibit B-1 at the hearing of 1/29/25.

11. At the hearing of 8/20/24, Applicant's civil engineer Afton Savitz, PE, of Stonefield Engineering gave an overview of the Application and testified to the civil engineering aspects of the proposed development. She stated that flood hazard, wetlands and stormwater discharge permits had been issued by NJDEP, and that Morris County permits for ingress and egress to/from the site and East Main Street, including reconfiguration of the existing driveway, had been approved. Approval from the Morris County Soil Conservation District has also been obtained.

Ms. Savitz testified that three access points from East Main Street currently exist: one each on the eastern and western sides of the site and a central divided driveway. All existing driveways allow for full access (i.e. both ingress and egress movements). She explained that the eastern driveway would be retained as full access, and the western driveway would serve as an ingress only. The central divided driveway would be shifted to the west and aligned with an internal roadway that extends to the rear of the site where the two new buildings are proposed. She described the first new building as an inclusionary multi-family residential building containing 75 units, 15 of which are for low and moderate income tenants. This building will be four residential stories over a story containing the lobby and parking-garage, with a height of 59.6 feet. The second new building will be 2 stories and contain a sales and service area for collectible automobiles and a premium parking area for the auto sales/service business and for residents of the residential building.

Ms. Savitz testified that the parking field would be reconfigured, and that existing aisle widths which are not ADA-compliant would be widened. She agreed to suggestions in the Board Engineer's report of 7/15/24 to provide a second easterly access gate to the rear buildings and to provide curbing to delineate pedestrian from vehicular areas. She stated that existing impervious coverage on the site would be reduced by approximately 33,000 square feet, and stormwater management facilities would be installed where none exist on the site now.

Ms. Savitz testified that there would be no light trespass from the site onto neighboring properties, and that over 3000 new plants would be planted on the Property.

At the hearing of 8/21/24, Applicant's civil engineer Afton Savitz, PE, continued her testimony, in which she reviewed the 29-page civil plan set, revised to 7/2/24. She stated that the riparian zone supporting the stream to the northwest of the Property would be revegetated, as required by NJDEP. NJDEP had issued an individual Flood Hazard Area Permit, a Fresh Water Wetlands General Permit #11, for the stormwater discharge outfalls, and a Transition Area Waiver. She agreed with the comment in the Board Engineer's report regarding a phasing plan to address continued retail operations during construction.

She testified that the proposed development was compliant with bulk standards for lot area, lot width, front and rear yards, and that side yards are subject to pre-existing non-conformities on the east and west sides. Building heights conform to the maximum of 60 feet. Existing non-conforming impervious coverage will be reduced by about 33,000 square feet. Variance relief is required for widths of some parking stalls. The proposed number of parking stalls is compliant, with 106 spaces in the garage under the multi-family building, 10 spaces in the exterior courtyard south of that building, 15 visitor spaces shared with retail, and 17 EV spaces. She agreed that revised plans would lower the raised island along the central driveway to flush with grade, to facilitate backing out from the 90° stalls to the west of the drive aisles.

At the hearing of 9/17/24, the Applicant submitted as Exhibit A-3 (dated 9/7/24), three sheets of site plan revisions, to which its civil engineer Afton Savitz, PE, testified. In response to comments from the Board and the public, the parking field was reconfigured to rotate the stalls in front of Kings Supermarket from 60°-angled to 90°. The number of stalls was increased by 10, with one additional ADA stall, shopping cart storage corrals were added near Kings Supermarket. Two speed tables were located on the central drive aisle for traffic calming. Central trash containers were located to the north of the two retail buildings to free up room on the eastern and western driveways.

In response to questioning from Mark Van Den Hende of the public, Ms. Savitz testified that a geotechnical report had been performed for the site and was included in the appendices of the Applicant's Stormwater Plan, which contains information regarding test pits and the seasonal high-water table. The stormwater design provides a minimum separation of one foot from the seasonal high groundwater elevation. Super silt fence will be used to protect regulated areas during construction.

In response to questioning from Frank Zammataro of the public, Ms. Savitz explained that the proposed pervious pavers have traffic load limits which affect their life span.

At the hearing of 9/24/24, questioning of Ms. Savitz by members of the public continued. In response to questioning by Amalia Duarte and Frank Zammataro of the public with reference to the pervious pavers, she and the Board Engineer explained that the required maintenance of the pavers, including frequent vacuuming, will be set forth in O&M manual to be filed with the title to the Property. The manual will specify the frequency of inspections, with all inspection reports to be submitted annually. The permeable pavement used in this project is considered an acceptable BMP (Best Management Practice) for control of total suspended solids (TSS) in stormwater runoff. The site soils are not suitable for infiltrative stormwater control measures.

In response to questions from Bob Ritger of the public, Ms. Savitz explained that the initially proposed retaining wall in the northeast corner of the property will be removed, so as not to interfere with access to Mendham Plywood.

Subsequent to the public questioning of Afton Savitz at the hearing of 9/24/21, the Applicant's next witness was Matthew Seckler, PE, PP, PTOE, traffic engineer, from Stonefield Engineering. Mr. Seckler referred to his Traffic Impact Study (TIS), dated 10/20/22. He stated that

his TIS projects peak hour traffic generation for the 75 residential units at about 30 trips. He referred to Exhibit A-4, which depicts the locations of two speed tables along the central traffic aisle.

Mr. Seckler testified that the number of parking stalls meets State RSIS and Borough Ordinance requirements. He stated that a 23.5-foot clear area will be maintained on the eastern driveway, not including a 4-foot clearance next to the building. On the westerly driveway, there will be an 18.5 foot clear area, not including a 5-foot clearance next to the building. Traffic safety on these driveways will be improved by centralization of garbage dumpsters. The 90° parking facing the westerly building will have more than sufficient distance for backing up.

According to traffic engineering standards, less than 100 peak hour trips does not significantly influence how nearby intersections will operate. Regarding the 9'x18' proposed size of some parking stalls, Mr. Seckler pointed out that this size is an industry standard.

At the hearing of 11/12/24, Applicant's traffic engineer Matthew Seckler continued his testimony and referred to A-5, a Vehicle Maneuvering Exhibit, dated 11/11/24, comprising two sheets, depicting turning radii for delivery trucks to Kings and CVS. He noted that two parking spaces to the north of the dumpster behind CVS had been striped out for a loading zone. Exhibit A-5 also shows how 9'x18' stalls accommodate various sized vehicles. It also depicts flexible delineators around the eastern building's bump-outs so people can walk along the building safely.

After Mr. Seckler's testimony at the hearing of 11/12/24, the Applicant's next witness was Bruce Stieve, AIA, of MHS Architecture. He referred to a slide exhibit marked A-6, which showed examples of other projects designed by his firm. Responding to questions from the Board Attorney, Mr. Stieve stated that the auto sales and service business will be restricted to collectable and exotic cars, not commonly used cars, such as those sold by a franchised dealership, and it will service only the vehicles it sells. Regarding the residential units, he testified that their bedroom mix complies with affordable housing standards. After questions from the Board about the height of the multi-family building, he agreed to adjust the pitch of the roof so that its mean height does not exceed the Ordinance maximum of 60 feet.

Responding to questions from the Board, Mr. Stieve stated that 144 parking spaces are required for the residential building, but a 10% EV credit applies to that count, so the adjusted requirement is 130 spaces. Parking spaces provided are 106 in the garage under the residential building, 10 parking spaces in the exterior courtyard south of the building, 15 shared visitor spaces in the retail lot south of the pool, and two employee spaces, totaling 133 spaces. 22 EV spaces, including one for handicapped, will also be provided. A loading zone for the residential building is provided on its northwest side. Residential amenities will provide 12,600 square feet of outdoor recreation, including an outdoor pool. Mr. Stieve also testified regarding a sign package that was submitted to the board. The sign package included details showing the entrance monument signs being relocated near the new site entrance driveway on East Main Street. These signs would be the same size and scale as the exiting signage but would be reconfigured to better reflect the upgrades to the shopping facility. In addition, all of the existing building mounted signage and light boxes would be removed and replaced with new signage that would be similar in size, scale, and location as the original and would include new decorative goose neck light fixtures that would replace the existing continuous light strip on the shopping center.

The hearing of 11/12/24 was then opened to public questions, and in response to questions from Bob Ritger, Mr. Seckler clarified that the existing non-conforming width of the eastern driveway will be widened and existing asphalt would not be replaced with concrete. The safety of that driveway will be improved by implementing the recommendations of the Borough Fire Marshal and clearing away existing obstructions. In response to questions of Robert Marino from the public, Mr. Seckler agreed to add a stop sign near the side of the Kings building. In response to a question of Rick Blood of the public, Mr. Seckler agreed to angle the westerly dumpster to provide more clearance for a front-end loader. In response to questions of Glenn Moran from the public about the accuracy of his traffic counts, Mr. Seckler stated that he conducted counts along this roadway in September 2024 and found traffic volumes lower than the counts performed in 2019.

In response to questions from Mark Van Den Hende regarding the foundations of the proposed building, Mr. Stieve responded that the foundations had not yet been designed for this project, since that is typically done at a later phase of the design process.

At the public hearing of 12/3/24, Mr. Orth referred to revised elevations for the multi-family building dated 11/21/24, reflecting adjustments to the roof line to conform to 60 feet building height in accordance with Ordinance §215-74B and Mr. Stieve's prior testimony. These drawings replaced A7-A10 in the MHS architectural plans set, and two versions were submitted, one with the cupola and one without the cupola.

Matthew Seckler, the Applicant's traffic engineer, then referred to Exhibit A-10, entitled Onsite Improvement Exhibit, prepared by Stonefield Engineering, dated 12/3/24. He testified that this Exhibit depicts a widening of the eastern driveway in response to concerns expressed by the Board and the public. The proposed driveway width varies from 23.5' to 28 feet, transitioning around

existing utility poles and building bump-outs. The Applicant agreed to request that the utility company relocate its poles.

In response to questions posed by the Board and its Engineer, Mr. Seckler addressed the increase made by NJDOT in the annual traffic growth rate factor. He stated that traffic counts done in the autumn of 2024 in front of the Property were actually less than those done in 2019. Using the higher growth rate factor, he said, would result in a de minimis increase of approximately a half-second in delay times and intersection levels of service. He agreed to prepare a supplement to his TIS addressing the growth rate factor analysis in greater detail. Further in response to concerns of the Board and the public, Mr. Seckler referred to Exhibit A-10 showing two hatched areas in the Kings parking lot of about 400 square feet each for shopping cart corrals.

Mr. Orth next presented the testimony of Michael Fischer, PE, of Fisher RF Compliance, LLC, a radio-frequency exposure expert, who referred to reports prepared by Andy Peterson, PE, of his firm, dated 8/12/24 and revised 10/4/24. These reports had used FCC prescribed methodologies and software to conservatively determine the upper limit RF exposures to the residents of the new residential building from the existing cell tower on the site. Mr. Fischer noted that Mr. Peterson's initial report had been reviewed by the Board's RF expert, Dr. Bruce Eisenstein, and his revised report, in response to Dr. Eisenstein's comments, was accepted by Dr. Eisenstein in his review dated 11/8/24. Mr. Fischer testified that the calculated maximum exposure level was approximately 8% of the FCC limit. In response to a suggestion from the Board, Mr. Fischer agreed to conduct actual on-site RF measurements, rather than solely relying on calculations, and report back to the Board with his results.

Next to testify on behalf of the Applicant was Philip Abramson, PP, AICP, professional planner. The witness testified that the proposed development is consistent with all use and bulk standards applicable to the EB-AH zone, with the exception of four variances required pursuant to N.J.S.A. 40:55D-70c. A first variance is required from Ordinance §215-74(F)(2)[a], which requires parking stalls located more than 750 feet from the front yard property line (East Main Street right-of-way) to measure 9 feet wide by 20 feet deep (9'x20'), while Applicant proposed some stalls sized 9 feet wide by 18 feet deep (9'x18'). A second variance is required from Ordinance §215-8D(1)(a), which allows only one free-standing sign per lot, and §215-8F, which requires relocated pre-existing nonconforming signs to comply. Since Applicant is proposing to relocate and construct two pre-existing non-conforming free-standing signs to the area of the central driveway, a variance is necessary for more than one free-standing sign pursuant to N.J.S.A. 40:55D-70c. A third variance is required from Ordinance §215-8D(1)(b), which limits sign area to 25 feet, while the proposed Mendham Village Shopping Center sign has an overall area of 31.42 square feet, requiring a variance pursuant to N.J.S.A. 40:55D-70c. Although not mentioned in Mr. Abramson's testimony, the report of the Board's Planner dated 11/26/24 identifies a fourth variance, with respect to the height of the Mendham Village Shopping Center free-standing sign. It is proposed at 15 feet (without the decorative copper horse), which exceeds the 10-foot maximum set by Ordinance §215-8D(1)(c).

Mr. Abramson's testimony presented his analysis of the justifications for granting the foregoing variance relief pursuant to N.J.S.A. 40:55D-70c(2) ("C-2"). He referred to the judicial precedent of *Pullen v. Township of South Plainfield*, 291 N.J. Super. 1 (App. Div. 1996), in terms of considering the benefits of the entire project in determining the public benefits of a zoning deviation, beyond the benefits of the deviation itself. The C-2 benefits identified in Mr. Abramson's testimony included the following:

- Redevelopment and modernization of a '60s era strip shopping center into a modern mixed-use community - addressing longstanding shopping center issues involving drainage, lighting, landscaped buffers, environmental and traffic permitting.
- Fulfillment of the Borough's Constitutional Mt. Laurel affordable housing obligation, in accordance with the Settlement Agreement of 9/25/19, the Master Plan Amendment of 4/16/20 and the overlay zoning Ordinance #09-2020, adopted 8/11/20.
- Environmental upgrades of the site, including 2088 new plantings, 33,000 square feet reduction of impervious coverage, 26,377 square feet of new conservation easements protecting wetlands transition areas, 21,968 square feet of conservation easements protecting flood hazard and riparian areas, and water quality and flowrate upgrades from a state-of-the-art stormwater management system where none exists today.

In his C-2 analysis of the MLUL purposes of zoning (N.J.S.A. 40:55D-2), Mr. Abramson identified the following:

- Purpose "a" - "... appropriate use of development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;" insofar as the Borough affordable housing plan specifically identifies this site as suitable for this inclusionary mixed-use development.
- Purpose "h" - "... the location and design of transportation routes which will promote the free flow of traffic ...," particularly with regard to the reconfigured access points which provide an efficient connection from East Main Street to the existing and proposed commercial components and the new residential component of the site.
- Purpose "i" - "to promote a desirable visual environment through creative development techniques and good civic design and arrangement;" in terms of the overall visual upgrade of the shopping

center and the creative integration of new housing with existing retail.

Referring to the negative criteria of the C-2 variance analysis, Mr. Abramson made the following points:

- With respect to the non-complying size of some parking stalls, 9'x18' is conforming to the State Residential Site Improvement Standards and is an industry standard. The deviation allows more parking spaces with less impervious coverage, with resulting improvements in drainage and traffic circulation.
- With respect to the signage variances, the proposal of two free-standing signs serves the new mixed-use character of the site by identifying its separate commercial and residential components. Moreover, no new free-standing signs are being proposed, only relocation of the old signs, with attendant upgrading of the visual environment and improved traffic safety by removing these two signs from the sight triangles. Similarly, the sign size variance will not make the existing free-standing sign any larger.

After Mr. Abramson completed his testimony at the hearing of 12/3/24, his testimony and that of Mr. Seckler and Mr. Fischer were opened to public questioning. In response to a question from Frank Zammataro concerning the cumulative effect of long-term exposure to RF radiation, Mr. Fischer explained that radio frequencies are non-ionizing and therefore have no long-term cumulative effects. He also stated that his firm's determination of RF exposure took into account reflection and interference from surrounding vegetation and structures. In response to a question from Barbara Meyers, Mr. Seckler testified that his traffic study did look at pedestrian accessibility within the shopping center and at pedestrian connections between the residential and retail portions of the site, but did not address pedestrian traffic on Main Street.

In response to a question from Robert Marino, Mr. Seckler confirmed that stop signs would be provided where the cross-traffic aisle in front of Kings intersects the central boulevard and at the exit of the boulevard onto Route 24/East Main Street. In response to a question from Bob Ritger regarding the need for a variance for the non-conforming width of the eastern driveway/alley, Mr. Seckler observed that is a pre-existing condition that would be improved by widening. In response to a question posed by Rick Hartmann regarding the need for a foundation design plan, the Board Engineer explained that the approval of that is not part of site plan review by the Board, but rather is reviewed by the construction department at the time building permits are applied for.

The seventh public hearing of the V-Fee Application was held on 12/17/24. On behalf of the Applicant, Mr. Orth stated that he would provide further testimony from Applicant's RF engineer, Mr. Fischer, and from their traffic engineer, Mr. Seckler. Both witnesses had prepared supplemental reports. Mr. Fischer's report, dated 12/15/24 and marked as Exhibit A-11, addressed his field measurements of RF strength in the vicinity of the existing cell tower, pursuant to the Board's request at the previous hearing. Mr. Seckler's report, dated 12/12/24 and marked as part of Exhibit A-12, provided a Growth Rate Factor Analysis detailing the impact of recently promulgated higher traffic growth rate factors on his previous estimates of traffic generation associated with the proposed development. Exhibit A-12 also consisted in part of three revised Site Plan sheets, with the revisions made in response to concerns raised by the Board and the public.

Mr. Fischer testified that his field measurements of RF intensity in the vicinity of the cell tower indicated a level 600 times less than the Maximum Exposure Level set by the FCC, equivalent to 0.16% of that level. He opined that the proposed residential building itself would further attenuate the RF level to which the future residents of that building would be exposed. Since RF exposure is non-cumulative, he foresaw no potential public health problems connected with the proximity of the tower to the proposed building.

Mr. Seckler outlined the changes to the site plan reflected in three sheets in Exhibit 12. Additional stop signs had been added along the central boulevard. The central boulevard had been widened (35 feet behind parking spaces, 23 feet to textured island) to facilitate backing out from the 17 parking spaces to the west of the egress aisle. All of the parking spaces in the main retail parking field south of Kings have been widened from 9'x18' to 10'x18' and have been reoriented from angled to perpendicular. The eastern driveway/alley is shown to be widened, as testified at the last hearing, except for areas around the existing utility poles. With respect to his Rate Factor Analysis, included in Exhibit A-12, Mr. Seckler concluded that the increased traffic growth rates would result in no substantial changes in the traffic volumes and levels of service projected in his TIS.

Regarding the widening of the eastern driveway, at the request of the Board, Mr. Orth, on behalf of the Applicant, agreed to investigate the Applicant's legal authority to remove the steps on the southeast side of the driveway and to do so if authorized. In response to input from the Board Planner, he also agreed to add a separate entrance for the preferred parking garage in the auto sales/service building. In response to the concerns of the public and the Board, he also agreed, subject to NJDEP requirements, to install a fence and supplement landscaping along the western and northern property lines to better shield the adjoining residential properties from headlight glare.

In response to questions posed by Robert Marino from the public, Mr. Seckler testified that traffic entering the site would not cause backups on East Main Street. He also clarified that the

widened width of the easterly driveway would be 28.3 feet overall, with a 4-foot walkway, leaving a 24.3 foot wide drive aisle.

The eighth and final public hearing of the V-Fee Application was held on 1/29/25. On behalf of the Objector Mendham Alliance for Preservation & Conservation, Michael Sinkevich, Esq., presented the expert testimony of Mary Paist-Goldman, PE, a civil engineer. The witness referred to Exhibit O-1, which she described as an overlay on one of the site plan drawings displaying the eleven proposed porous pavement areas (PV-1 through PV-11) in blue and the twenty-two test pits (SPP-1 through SPP-22) in red. She cited the NJDEP's BMP (Best Management Practices) Manual as requiring at least one foot of clearance between the bottom of the porous paver system to the depth of the seasonal high groundwater table. Ms. Paist-Goldman opined that the number of test pits was insufficient to establish the depth of the seasonal high ground water table in the vicinity of the proposed porous pavers.

The witness also opined that the Applicant's Ecological Impact Statement (EIS, 10/20/22) was not compliant with the relevant requirements of the Borough Ordinance §124-43. She cited NJDEP's Freshwater Wetlands General Permit 11, issued 9/19/23, as indicating wetland disturbance of 112 square feet and transition area disturbance of 1,071 square feet associated with the proposed stormwater outfall. In her opinion, the EIS's findings that these wetlands disturbances would not result in unavoidable adverse impacts to the site's wetlands and transition areas is inconsistent with the NJDEP permits and renders the EIS insufficient. Ms. Paist-Goldman also opined that the EIS was insufficient because it identified only one existing stormwater outfall, while the Applicant's site plans and stormwater management report identify two outfalls.

The witness next referred to the NJDEP's Flood Hazard Area Verification and Flood Hazard Area Individual Permit, issued 9/19/23. Citing a report prepared by One Water Consulting, LLC, dated 2/2/23, she stated that the V-Fee permit application lacked accurate information regarding regulated water courses and the project's impacts on them. She testified that threatened/endangered species are present on the project site, but referred to no documentation to support this claim. In her report dated 1/10/25, marked Exhibit O-2, Ms. Paist-Goldman raised a number of issues suggesting that NJDEP's permitting decisions regarding the site's wetlands and flood hazard areas were incorrect and/or based on incomplete information. Her report also opined that the project's stormwater management design is not compliant with the Borough Ordinance §215-12.5.

Under questioning by the Board and Mr. Orth, the witness acknowledged that she lacks a NJDEP certification to conduct stormwater management reviews. She also admitted that the One Water report from which she had drawn much of her critique of NJDEP's permitting decisions was, in fact, sent to the NJDEP under cover of a letter dated 2/2/23 from the Chairperson of the Borough's Environmental Commission, and the information contained in that report was therefore known to the NJDEP when it issued the permits for this project on 9/19/23.

The Objector's counsel next presented the expert testimony of Bernard Tetreault, PE, PTOE, traffic engineer, whose Report dated 1/27/25 was marked as Exhibit O-3. In his testimony and his Report, Mr. Tetreault premised his concerns regarding the site's traffic safety on his assertion that "the applicant's proposed 116 parking spaces for residents falls significantly short of both RSIS and the 150 spaces required by the Borough's ordinance." He further asserted that the Applicant was seeking "a C2 variance to reduce the required number of parking spaces" (Tetreault Report, p. 2). Under questioning by the Board and its Planner, both of these assertions proved to be inaccurate.

Referring to page 10 of her report of 7/14/24, Board Planner Jessica Caldwell, PP, AICP, explained that the parking ratio of two spaces per dwelling unit, which Mr. Tetreault had applied, is applicable under RSIS (N.J.A.C. §5:21-4.14(b)) only if the Applicant does not specify the number of bedrooms per unit. But in this case, the Applicant has specified the bedroom mix, and therefore, Ms. Caldwell pointed out, the total number of required residential parking spaces would be 143.7 (per N.J.A.C. §5:21-4.14(g)(4)). She also pointed out that Mr. Tetreault had neglected to apply the 10% credit for EV parking, which reduces the RSIS parking requirement to 131 spaces, as compared to the site plan's proposed 133 spaces. Mr. Tetreault's Report also inaccurately suggested that the Borough's design standard of 10'x20' applies to this site's residential parking, which is instead governed by the RSIS standard of 9'x18' (N.J.A.C. §5:21-4.15) consistent with Applicant's proposal.

Also at the public hearing of 1/29/25, Dr. Kristi MacDonald provided expert testimony on behalf of the Raritan Headwaters Association. Her report dated 1/28/25 was marked into evidence as Exhibit B-1. In her report and testimony, he opined that stormwater discharges from the proposed development "would have very negative consequences for an already stressed ecosystem." She also stated that a maintenance plan for the proposed porous pavement was required by Borough's Stormwater Control Ordinance (§215-12.5E(2)), but had not yet been provided by the Applicant.

The Objector's counsel, Mr. Sinkevich, also presented the non-expert testimony of MAPC President Frank Zammataro, who stated his view that the site was not suitable for the proposed use, primarily in terms of perceived environmental and traffic impacts. Bob Ritger from the public criticized the Board for having entered into the Consent Order which obviated the need for a d(3) variance with respect to the cell tower's proximity to the proposed residential building.

At the conclusion of the public testimony, legal counsel for the Objector MAPC and Applicant V-Fee gave short summations, and the Board proceeded to a favorable vote on the Application.

12. Based on the hearing record summarized hereinabove, the Board has made the following findings and conclusions relative to the variances and design waivers associated with this Application:

A. Environmental Issues

(i) Sufficiency of the EIS. In her report (Ex. O-1) and testimony (1/29/25), Objector's expert Mary Paist-Goldman challenged the sufficiency of the Applicant's EIS, on the grounds that it lacks a "listing and evaluation of adverse ecological impacts and damages to natural resources which cannot be avoided," as well as a "description of steps to be taken to minimize and mitigate adverse ecological impacts," as required by Ordinance §§124-43D&E.

Contrary to Ms. Paist-Goldman's assumption that any disturbance of the regulated features on the Property necessarily amount to "adverse ecological impacts," the Board finds that the operative word in that phrase is adverse. As referred to by the Ordinance, an "adverse impact" is one which would degrade existing ecological conditions. In its review of the EIS, the Board finds references to the existing low water quality in the project area, due to high impervious coverage and untreated stormwater discharge into the wetlands. The EIS describes existing conditions on the site as having no effective stormwater management, with runoff draining across the parking lot uncontrolled and untreated into the adjoining wetlands.

The Board notes that the new stormwater management system, to be implemented under Applicant's proposal and the conditions of this approval, is one which has been reviewed and approved by the NJDEP and by the Borough Engineer, in terms of reducing both the rate of runoff and its TSS (total suspended solids) content. In view of the positive ecological benefits of this new stormwater management system, the Board finds that the minimal physical intrusion into the wetlands of the new outfall structure does not constitute an adverse ecological impact. Moreover, as the EIS references, existing ecological conditions on the site will be greatly improved by the proposal's 33,000 square feet of reduction in impervious coverage, as well as re-vegetation of the site amounting to another 25,000 square feet and over 3,000 new plantings.

As regards mitigation measures for the relatively minimal wetlands intrusions, the mitigation required pursuant to the project's NJDEP's Freshwater Wetlands General Permit 11 and Transition Area Waiver, as acknowledged in Ms. Paist-Goldman's report, will amount to 23,695 square feet of transition area restoration and another 23,177 square feet of vegetated wetlands enhancement. Mitigation required by these NJDEP permits is, in fact, mentioned in the EIS (p. 10).

While Ms. Paist-Goldman's asserts that the EIS is inaccurate, insofar as it describes only one existing discharge point for stormwater from the site, her report acknowledges (p. 4) that the Applicant's submitted site plans and Stormwater Management Report (Stonefield Engineering, revised to 5/19/23) do, in fact, detail the locations of the two existing stormwater outfalls on the site. The Board finds that this alleged discrepancy was not materially misleading, because the EIS (p. 8-10) refers the reader for more detailed information on stormwater discharges from the site to the Stormwater Management Report and the Grading & Drainage Plan.

Moreover, the Board notes that the Ordinance provisions specifying the required EIS contents explicitly allow (§124-43A) the EIS requirements to be met by other materials submitted in connection with a site plan application. This is consonant with the purpose of the EIS, as set forth in Ordinance §124-42, which is to inform the Board regarding the impact of the proposed project on the environment. If that information is provided by other means, including other application submissions and/or testimony, that Ordinance's purpose is fulfilled. The content requirements for an EIS are not meant to operate as a procedural snare to invalidate a development application which, as a whole, adequately informs the Board as to the project's ecological impacts.

The Board's foregoing interpretations of the Ordinance's EIS requirements also apply to the objections raised in Ms. Paist-Goldman's report (p. 5) to the EIS's alleged lack of detail regarding "existing streams, ditches and channels that exit on the north and western portions of the site." Since her report acknowledges that these details are shown the Existing Conditions Plan (Sheet C2, revised to 7/2/24), the Board finds that the Board has been adequately informed of these details, notwithstanding their presence in the EIS.

Many of the environmental objections voiced by the MAPC and the general public during the public hearings amount to "second-guessing" of the permitting decisions made by the NJDEP with respect to wetlands, flood hazard areas and stormwater management. The report of Ms. Paist-Goldman repeatedly invokes the objections raised in the letter prepared by One Water Consulting LLC (2/2/23) with respect to these permit applications. Yet, upon questioning by the Board Attorney, the fact emerged that the One Water report had been submitted (2/2/23) to the NJDEP in the context of its review of the V-Fee Flood Hazard Area/Freshwater Wetlands Permit Application. Therefore, this is not a matter of what Ms. Paist-Goldman refers to (p. 6) as incomplete or incorrect information which misleads the NJDEP in its permitting decision-making. Rather, it is what she characterized in her testimony as "mistakes" allegedly made by the NJDEP in issuing the permits for the V-Fee project.

In this regard, the Board finds that information submitted to the NJDEP as part of its review of environmental permit applications is presumed to have been considered by the NJDEP in arriving at its permitting decisions. The Board further finds and concludes that a review of the correctness of NJDEP's permit decisions is not within its jurisdiction, but lies exclusively with the courts. The Board notes the ruling of *Stochel v. Planning Board of Edison*, 348 N.J. Super. 636, 647 (Law Div., 2000), to the effect that a land use approval cannot be denied based on the project's impact on ponds and wetlands on the site, because jurisdiction over those matters rests exclusively with the NJDEP.

(iii) Stormwater Management

In her expert report (p. 8-9) and testimony with reference to her Exhibit O-1 (marked 1/29/25), Ms. Paist-Goldman contends that the test pit sampling of the seasonal high groundwater levels in the vicinities of the proposed porous paving is insufficient to demonstrate compliance with the minimum separation distance of one foot from the paver's underdrain, as required by the NJDEP's BMP Manual. While she contends that details of this testing have not been submitted, the Board finds that V-Fee's engineering site plans do include this information. On the Grading Plan (Sheet C-8, revised to 7/2/24), the seasonal high groundwater levels are listed for 22 test pits, SPP-1 through SPP-22. These test pits correspond, on the required 2-for-1 basis, with the 11 proposed areas of porous pavement, designated PV-1 through PV-11. This sampling indicated an average groundwater depth of over 6.4 feet, with only three samples below 5 feet. The Stormwater Plan (Sheet C-10, revised to 7/2/24) contains a Porous Pavement Compliance Table, which lists the minimum separation from seasonal high water groundwater depth for each of the proposed porous paver areas PV-1 through PV-11. The average separation was more than 5.7 feet, with only two below 1.5 feet.

While the NJDEP has primary jurisdiction over stormwater management, the Borough does have concurrent jurisdiction under its Ordinance §215-12.5, and the Borough Engineer Paul Ferriero, PE, CME, conducted his own independent review (7/15/24), including 28 conditions to be imposed on the site's stormwater management system. The Applicant has agreed to these conditions, which require (#23) the minimum separation of one foot from the bottom of each porous pavement system to the seasonal high-water table. All of these conditions have been incorporated in this Resolution as conditions of the Board's approval of this application.

Concerning Dr. MacDonald's report (1/28/25) and testimony on behalf of the Raritan Headwaters Association, she objects that a description of the maintenance plan for the pavers - which usually involves periodic vacuuming - has not yet been submitted. But such a maintenance plan is required under Ordinance §215-12.5E(2)(a), and its review and approval by the Borough Engineer is a condition of this approval.

The Board also notes the public testimony of Bob Ritger to the effect that porous paving is allegedly ineffective in stormwater management. Since the NJDEP's exclusive jurisdiction extends to designating Best Management Practices (BMPs) for stormwater management, and since porous pavement has been so designated, the Board has no authority to question this. The conditions recommended by the Borough Engineer and incorporated in this Resolution, however, do require compliance with the porous pavement standards contained in the NJDEP's BMP Manual.

B. Traffic Issues

Regarding traffic generation from the proposed development, the Board recognizes the Traffic Impact Study (TIS) and testimony of traffic engineer Matthew Seckler, PE, PP, PTOE, as probative and credible. His findings are summarized in Table 3 of the TIS, which indicates weekday peak hour trip generation from the proposed 75 residential units at 28 in the morning and 29 in the evening, with Saturday midday peak hour generating 29 trips. As stated in the TIS (p. 6), according to Institute of Transportation Engineers (ITE), a trip increase of less than 100 would not be likely to change the level of service of the adjacent roadway or appreciably increase the volume-to-capacity ratio of an intersection approach. The Board finds that the TIS and Mr. Seckler's testimony represent a conservative analysis which supports the conclusion that the proposed development will not significantly impact the operations of the adjacent roadway network. Furthermore, in response to questions from the Board and the public, Mr. Seckler supplemented his TIS by analyzing the effect of NJDOT's increased annual background growth rates on projected levels of service at the site driveways. His Supplemental Report (12/12/24, marked A-12) in Table 4 shows no significant changes in peak hour levels of service for movements from the proposed driveways when the increased annual growth rates are applied.

The Board also notes that Mr. Seckler agreed in the course of the public hearings to several suggestions from the Board and public which have improved the internal traffic circulation and traffic/pedestrian safety, including two speed tables and stop signs along the central boulevard, widening of the eastern driveway, and providing a protected pedestrian access along the back of the easterly retail building.

With respect to parking, the TIS and Mr. Seckler's testimony convincingly demonstrated that the number of proposed spaces is consistent with RSIS and the Borough Ordinance §215-74F. His findings in this regard are fully supported by those of the Board's Planner in her report (7/14/24). In response to comments from the Board and public, the main retail parking field in front of the Kings Supermarket was reconfigured to provide wider, perpendicular stalls and shopping cart corrals.

The Board notes that Mr. Seckler appeared at three of the public hearings and was subjected to intense questioning by the Board and the public. The Board finds his testimony much more convincing than that of the Objector MAPC's traffic expert, whose conclusions regarding parking sufficiency were not only erroneous, but appeared to have been poorly researched. For example, not only did he cite the wrong provisions of RSIS, but he also cited the wrong Borough ordinances. His report (1/27/23, Exhibit O-3) even mistakes the zone in which the Property is located - referring to the AHO zone and its parking requirements (Ordinance §215-67) rather than the EB-AH zone (§215-74). Therefore, while the Board accepted his expert's report and testimony in evidence, it does not accord it the weight needed to overcome the evidence presented by the Applicant's traffic engineer.

As for the testimony of the non-expert public regarding traffic, the Board observes that the prevailing theme was "too much for this location," in terms of existing off-site traffic conditions. Even if the Applicant's expert testimony had not convincingly debunked that view, however, based on the Appellate Division's ruling in *Dunkin' Donuts v. Twp. of North Brunswick*, 193 N.J. Super. 513 (App. Div. 1984), the Board would still have no authority to deny this Application on that basis.

C. Variances and Design Waivers

(i) Variance Relief

(a) Based on hearing record and the two reports of the Board Planner (7/14/24 and 11/26/24), as well as the testimony of the Applicant's planner, Philip Abramson, the Board finds that variance relief is required pursuant to Ordinance §215-74F(2)[a], which provides for 9'x20' parking stalls within areas located more than 750 feet from the front property line. Since the proposed preferred parking garage is located more than 750 feet from the Main Street right-of-way, it is subject to this provision. This parking garage would have 40-80 parking stalls of dimensions 10'x18', approximately half of which will be for use by residents of the multi-family building and the others for use by the collectible automobile sales and service business. The former are governed by RSIS, which designates minimum 9'x18' stall dimensions, as to which the project complies. The commercially-used parking spaces, however, require a variance since they do not comply with the Ordinance requirement of 20-foot stall depth.

Applying the standards of N.J.S.A. 40:55D-70c(2), the Board finds that the proposed 18-foot depth for approximately 20 parking spaces in the enclosed parking garage represents a better planning alternative than strict compliance with the Ordinance's 20-foot-depth requirement. Referring to the architectural plans (Sheet A-2), the aisle width between the two 90° parking rows is 24 feet, as required by Ordinance §195-45C(1)[a] (Table 2). Lengthening some of the stalls by two feet would necessitate either a non-conforming aisle width or widening the garage building to accommodate the 24-foot aisle width. The Board concludes that both the safety concerns associated with a non-conforming aisle width and the increase in building and impervious coverage needed to maintain a conforming aisle width greatly outweigh the effects of the zoning deviation. The detrimental effects of the deviation are negligible, because the spaces allocated to the collectible car sales/service operation will be isolated and separated by a movable partition from those allocated to residential use.

(b) Based on the second report of the Board Planner (11/26/24) and the hearing testimony of Applicant's planner, the Board finds that variance relief is also required from Ordinance §§215-8D(1)(a) and 215-8F. The former allows no more than one freestanding sign per lot, and the latter states that no non-conforming sign shall be altered or replaced without (subject to certain exceptions not applicable here) being brought into compliance. On the Property, there are two pre-existing freestanding signs, one of which is non-conforming as to sign area and height, and both of which are to be relocated to the proposed central access boulevard. As a result, the relocation of the signs requires a variance pursuant to N.J.S.A. 40:55D-70c.

Applying the C2 variance analysis, the Board finds that the proposed relocation of the two existing signs to the central boulevard is a better planning alternative than strict compliance by eliminating one of the signs. Since the proposed development involves a mixed use, having both residential and retail components, it demands separate free-standing signs to direct motorists to the appropriate areas of the site, particularly to the new residential area in the rear. Moreover, the two signs are being relocated to a location outside the sight triangles, thereby improving traffic safety. The residential free-standing sign, which is being repurposed from the former Racquet Club sign, is itself conforming in area and height.

The Board further finds that the detrimental effects of granting this variance are minimal, since the existing non-conforming sign for the retail shopping center will not be increased in either area and height, and its deviations as to area (31.42 square feet proposed vs. 25 square feet maximum) and height (15 square feet proposed vs. 10 feet maximum) are not excessive. The Board notes that the non-compliant height has been mitigated by eliminating the existing decorative weathervane atop it.

Consequently, the Board concludes that the variance for more than one freestanding sign on this Property is justified pursuant to N.J.S.A. 40:55D-70c(2).

(c) As referred to above, the repurposed shopping center sign also requires variance, pursuant to Ordinance §215-8D(1)(b), for sign area of 31.42 square feet, exceeding the Ordinance maximum 25 square feet, and pursuant to Ordinance §215-8D(1)(c), for sign height of 15 feet, exceeding the Ordinance maximum of 10 feet. The Board finds that those deviations represent a better planning alternative than strict compliance, because the shopping center sign needs to identify the three major tenants - Kings, Wells Fargo and Starbucks - so as to direct motorists who are seeking those businesses. Furthermore, the Board finds that the negative criteria are satisfied, because the sign area and dimensions will not increase, and the height will decrease, relative to the existing signage, so there will be no net adverse visual impact, but rather a slight improvement.

(d) While the foregoing C2 variance analyses focus on the public benefits of each of the zoning deviations in isolation, the Board is also mindful, in evaluating these variances, of the principles enunciated by the Appellate Division in Pullen v. Tp. of South Plainfield, 291 N.J. Super. 1, 9 (App. Div. 1996), which direct the Board to consider these variances in the context of the Applicant's entire development proposal. In this regard, the Board concurs with the analysis presented by the Applicant's planner, Philip Abramson, PP, at the public hearing of 12/3/24.

As regards the Borough's Master Plan and Zone Plan, this development implements the Mount Laurel Settlement Agreement, approved by the governing body on 9/25/19 and endorsed by the Board through the Master Plan Amendment of 4/16/20. The Master Plan recommended an overlay zone, which was adopted by Ordinance §09-2020. Subject to the relatively minor variances addressed hereinabove, the Applicant's proposal, as addressed by this Resolution and its conditions, is entirely consistent with the development envisioned by the Settlement Agreement, recommended by the Master Plan, and implemented by the Overlay Ordinance.

The subject Property is very suitable for this development, insofar as it is served by existing public water and sewer infrastructure and redevelops a long-vacant building site. This development will effectuate an overall modernization and upgrade of a '60s/'70s vintage strip shopping mall. Out of this redevelopment will emerge a modern mixed-use development, with the new commercial element - the collectible and exotic automobile sales/service building - serving as a transition from the established retail area to the new residential area. The upgrade of the mall will also address its long-standing deficiencies, including inadequate stormwater facilities, out-moded lighting, absence of landscaped buffers, inefficient and unsafe access driveways, and lack of compliance with up-to-date environmental and traffic permitting standards.

As testified by Mr. Abramson, the proposed environmental upgrades to this site are nothing if not impressive: a reduction of 33,000 square feet of impervious coverage, 60,000 square feet of new conservation easements protecting wetlands and transition areas, and 49,000 square feet of new conservation easements protecting flood hazard areas and riparian zones. Where stormwater from the retail parking lot now runs off unimpeded and untreated, carrying road salt and motor oil into the wetlands to the north of this site, a state-of-the-art, NJDEP-permitted stormwater system will implement the most current standards for water quality and flow rate reduction. The impact of light-pollution from the mall's antiquated fixtures on neighboring properties will give way to dark-sky compliant exterior lighting consistent with the recently adopted Borough ordinances.

Viewed through the lens of the Pullen doctrine, therefore, Applicant's proposed development certainly meets the positive criteria for the variance relief sought here. In terms of the purposes of zoning set forth in N.J.S.A. 40:55D-2, as addressed in Mr. Abramson's testimony, paragraphs "a", "h" and "i" are applicable here. The public welfare is promoted by the re-use of a vacant location which is very suitable for the proposed mixed-use development, as well as by providing for affordable low-and-moderate income housing to fulfill the Borough's Constitutional obligations. The free flow of traffic is promoted by a new, more-efficient and safer driveway/access system and reconfigured parking field. A desirable visual environment is promoted by the development's creative integration of new housing with existing retail in a modern mixed use setting.

In terms of the negative criteria, the expert testimony presented by the Objector MAPC and the Raritan Headwaters Association with regard to environmental issues has been addressed in Section 12A of this Resolution, and the traffic issues raised by MAPC have been addressed in Section 12B.

The non-expert public testimony raised objections as to the general suitability of this site for the proposed use, the existing traffic congestion on neighboring streets, the proposed building architecture, and environmental impacts. As to site suitability, this falls within the exclusive purview of the governing body, whose adoption of the Settlement Agreement and Overlay Zoning speaks definitively to the suitability of this Property for the proposed development. See e.g. *Wawa Food Market v. Planning Board*, 227 N.J. Super. 29, 40 (App. Div. 1988), cert. denied, 114 N.J. 299 (1988). As to off-site traffic conditions, this also involves the exclusive zoning authority of the governing body. See *Dunkin' Donuts of N.J.*, supra. As regards building architecture, this cannot be the basis of a site plan denial unless specific ordinance design standards are violated. See *Morris Cty. Fair Housing v. Boonton Tp.* 230 N.J. Super. 345 (App. Div. 1989). And as to environmental impacts, the effects of this development on adjoining streams and wetlands falls under the exclusive jurisdiction of the NJDEP (see *Stochel*, supra.), which reviewed all of the issues raised by the general public and the Objector in the course of issuing its permits.

On the basis of the aforesaid findings, the Board concludes that the variance relief herein can be granted without substantial detriment to the public good and that the granting of this relief will not substantially impair the intent and purpose of the zone plan and/or the zoning ordinance.

(ii) Design Waivers

(a) Design waivers are required for a number of spaces in the retail portion of the parking field which are either 9'x18' or 10'x18', when Ordinance §195-45C(2)(b) requires commercial parking spaces to measure 10'x20'. The legal standard for granting waivers from site plan design requirements is set forth in N.J.S.A. 40:55D-51b, and requires a finding that the waivers are within the general purpose of the ordinance and are reasonable in the context of the particular conditions of the property in question. In this case, the Board finds that the purpose of this particular Ordinance provision is to provide parking stall dimensions which can accommodate typical vehicle sizes associated with the businesses in question. As testified by Applicant's traffic and planning experts, 9'x18' stalls are now considered the industry standard for shopping centers, such as this one. Furthermore, the 9'x18' stalls enable more parking spaces without increasing impervious coverage. And the Applicant has accommodated the concerns of the Board and public by providing wider 10'x18' stalls in the main retail parking field in front of the Kings Supermarket to allow for the movement of shopping carts between parked cars. In light of these considerations, the Board finds the approval of this design waiver to be reasonable and in accordance with the statutory standards.

(b) A design waiver is also required from Ordinance §195-45D(4), which requires a minimal 20 foot separation between an on-site driveway and one on an adjoining property. Due to the widening of the existing easterly driveway proposed by V-Fee, it will be moved closer than 20 feet to the driveway on the adjoining property to the east. Applying the legal standards cited above, the Board finds this relief to be eminently reasonable in terms of advancing the very traffic safety concerns which inform this particular Ordinance provision. As evident from the hearing record, the particular conditions of two-way traffic, including trucks and occasional emergency vehicles, on this "alleyway" compel the Board to take all practical steps to widen it. Therefore, the Board finds this relief to be clearly warranted in this context.

(c) A design waiver is also required from Ordinance §195-45B(3), which requires that no off-street parking area shall be located closer than 25 feet to a residential zone. In this case, Applicant is proposing 16 parking stalls about 15 feet from the westerly property line which abuts the Mendham Area Senior Housing (MASH) development. The primary objective of this provision is to protect residential dwellings from headlight glare and vehicle noise, and this effect will be mitigated by the conditions of this Resolution, which require an 8-foot solid fence. The Board finds that these measures will effectively buffer vehicle noise and head light glare into the senior housing areas from these parking stalls. Consequently, the Board concludes that it is reasonable to grant this design waiver.

NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby approve the application and grant the variance and design waiver relief requested by the Applicant, as described hereinabove.

This approval is subject to the following conditions, which shall, unless otherwise stated, be satisfied prior to the Board's signature of the Preliminary and Final Major Site Plan drawings.

1. Revised plans and reports shall note and comply with the following conditions set forth in the report of Borough Engineer Paul Ferriero, PE, CME, dated 7/15/24:

I. Site Plans

A. Sheet C-1 - Cover Sheet

1. The cover sheet needs to be signed by the Applicant.

B. Sheet C-2 - Existing Conditions Plan

1. The plan needs to be signed by the licensed surveyor since it depicts topography while the survey referenced on the site plans does not include topography.
2. The existing channel shall be extended to connect to the 12" RCP outfall located adjacent to the gravel path at the rear of the site near spot grade 536.43.
3. The plan shall be updated to include the additional channels/outfalls referenced in the One Water Consulting letter dated February 2, 2023.

C. Sheets C-3 and C-4 - Demolition Plan

1. The area to be disturbed vs. not disturbed is not clear on the plans because of the number are LODs shown on the plan. The area "inside" the LOD shall be highlighted with a light "gray scale" fill so it is easier to evaluate the impacts on the existing operations on the site.
2. It is not clear how the existing mall will function during demolition/construction. The limit of disturbance includes portions of the loading area behind the supermarket that is currently used for delivery. The existing parking lot northwest of the supermarket is often full and will be disturbed as part of the project. The parking/access in the center of the shopping center will be significantly modified requiring demolition. Detailed phasing plans are required to ensure adequate circulation for customers, emergency services and construction activities. The phasing plan shall include the estimated lengths of time where the disturbed areas will be "unavailable", a sequencing schedule for these areas and provisions for alternative parking/loading/circulation.
3. Any demolition within East Main Street (County Route 510) is subject to approval from Morris County.

Sheet C-5 Site Plan (Overall)

1. The zoning table indicates the proposed building height is 60'. The architectural elevation indicates 60' is being measured from the ground floor to the top ridge line. A building height calculation in accordance § 215-74.B.(4) (F) shall be provided for the building. The cupola shall be deleted from the plans.
2. The plans need to clearly demarcate the portions of the existing parking lot that are proposed to be milled and overlain, reconstructed, and areas of new pavement. The shading used for the various surface treatments on the paving exhibit (sheet C-28) are not clear.

D. Sheet C-6 and C-7 - Site Plan

1. The site plan indicates that the existing free-standing sign will be "repurposed" while the overall site plan indicates at the current time no signage is proposed and compliance with signage requirements of the ordinance are to be determined. Details for the signage are required.
2. The plan does not show the existing dumpsters along both the eastern and western traffic aisles behind the building. The new locations for these dumpsters, as well as their screening/enclosure, need to be added to the plan.
3. The location of the curbed sections in the courtyard must be shown. Curb shall be provided between any vehicular travel areas and pedestrian walking areas.
4. The plan shows rectangles with an X marked through them along the eastern drive aisle. These encroach into the setbacks. The purpose of these features needs to be identified.
5. The existing improvements being removed (for example existing curbed islands) shall be taken off the plan for clarity purposes.
6. The limits of new curbing shall be more clearly identified.
7. Based on the proposed grading, and the existing curb reveal, it appears most of the curbing along the front of the site shall be replaced. The limits of new onsite curbing shall be provided to the satisfaction of the Borough Engineer.
8. Additional detail needs to be shown where parking stalls are "head in" to retaining walls. If the parking area is above the wall, provisions to prevent vehicles from going off of the wall shall be identified.

9. The site plan depicts new curbing along the west side of the site, behind the existing retail building, connecting to the existing curbing that extends to East Main Street. The existing curbing shall be noted to be replaced with new curb and the accessible ramp reconstructed to align with the existing.
 10. An additional do not enter sign shall be provided on the opposite side of the westerly driveway, at the intersection of the front site entrance and two way traffic aisle, and at the end of the one way drive aisle behind the existing westerly retail building.
 11. The width of the mountable island with decorative pavers located in front of the westerly front building shall be labeled on the plan. This mountable island shall not interfere with use of the parking stalls in front of the western building or with snow removal.
 12. The angle of the angled parking stalls for the site shall be labeled for each row of angled spaces on the plan.
 13. The easterly front aisle width between the two opposite rows of angled parking shall be labeled.
 14. All accessible stalls shall be labeled with sufficient information to confirm ADA compliance.
 15. The Applicant's engineer shall address the number and location of EV charging stalls as required by the DCA regulations, for both the proposed multi-family residential development and the modifications being made to the parking for the retail shopping mall. While EV stalls are shown in the under building parking for the residential building, none of the required stalls are provided for the retail parking area.
 16. The engineer shall confirm the total amount of parking being provided for both the residential and retail portions of the project and update the parking calculation as needed.
- E. Sheet C-8 and C-9 - Grading Plan
1. Additional spot elevations shall be provided in the parking area at the center of the residential building (courtyard) parking area to ensure proper drainage.
 2. Spot elevations shall be provided at the ADA and pedestrian access aisle spaces to ensure grades are not be steeper than the 2% maximum in any direction across the area.
 3. The grading shall reflect the where the proposed contour lines leave the top of the curb throughout the site.
 4. The retaining wall supporting the drive aisle and parking spaces along the western property line needs to include provisions for ensuring vehicles do not go over the wall. A similar condition is proposed along the eastern property line in the area east of the auto service building and the loading area.
 5. Additional detail is required along the western property line to show how the proposed contour lines tie into the existing ones.
 6. The sidewalks extending from Main Street into the site appear to have a slope greater than 5%. Handrails are required.
- F. Sheet C-10 and C-11 Stormwater Management Plan
1. Refer to comments within the stormwater management report section below.
- G. Sheet C-12 Utility Plan
1. Approval from NJ American Water is required for the project.
 2. Any costs associated with utility upgrades required to provide service to the facility will be responsibility of the developer.
 3. A note on the plan indicates that the contractor is to confirm the feasibility of connecting to the existing water main. This needs to be evaluated prior to construction by the engineer to determine the full extent of utility improvements if the connection is not feasible.
 4. The locations of any water service "hot boxes" need to be added to the plan.
 5. The locations of transformers and additional service lines need to be shown on the plan. If a new service is extended from Main Street, it shall be located underground.
- H. Sheet C-13 and C-14 Lighting Plan
1. All LED fixtures shall use the same color temperature (3000K).
 2. The hours lighting will be on shall be noted on the plan.
 3. The location of any security lighting (on from dusk to dawn) shall be provided on the plan.
 4. Lighting levels consistent with the Illumination Engineering Society Handbook shall be provided.
 5. The lighting at the Wells Fargo Bank shall be modified to mount the lights in a horizontal orientation, instead of the existing angled mounting.
- I. Sheet C-15 and C-16 - Soil Erosion & Sediment Control Plan
1. The plan requires certification from the Morris County Soil Conservation District.
 2. The side property lines shall be staked by a licensed surveyor prior to any disturbance. This shall be the first item noted in the sequence of construction.

J. Sheet C-17 - C-20 Landscaping Plans and Details.

3. The Applicant shall note the number of trees proposed for removal on the Overall Landscape Plan, sheet C-17 as well as identify the type of trees proposed for removal.
4. The Overall Landscape Plan, sheet C-17 indicates compliance to the required 30 foot minimum buffer. Clearly map and label this 30 foot setback line on the plans.
5. The design proposes 3 types of deciduous trees, with 42 black cherry trees. An additional deciduous tree type shall be implemented into the design with reduction of the black cherry trees.
6. The three (3) graphic large circles along East Main Street shall be identified as to what type of tree they represent. Two are mapped atop existing trees. It is unclear if the existing trees are proposed to be removed. Clarify on the plan.
7. The frontage along East Main Street shall have a more consistent tree lining. Two additional deciduous trees shall be provided along this frontage.
8. The proposed ground surface finish within the plant bed areas shall be defined.
9. The proposed ground surface finish within the parking islands and separator islands shall be defined.
10. The Applicant shall address the proposed ground surface finish beneath the shade trees and small flowering trees and address how the tree trunks will be protected from maintenance scars.

K. Sheets C-21-C-24 - Construction Details

1. Provide a trash rack detail.
2. The striping shown for the angled accessible parking stalls cannot be achieved based on the configuration of the site plan. It shall be corrected as required by the Borough Engineer.
3. The granite block curb detail needs to show the appropriate batter.
4. Accessible ramps shall include concrete curb at the vertical taper and along the bottom of the flush curb to provide a better transition to the ramp. Additional details are required.
5. The pavement detail shall include the NJDOT nomenclature for the HMA.
6. The plan calls out for the conversion of B inlets to E inlets. A detail is required. The existing structures shall be verified in the field to ensure they are large enough for the E grates.
7. A pavement restoration detail shall be provided.
8. The "Dump No Waste Drains to Waterway" nomenclature shall be added to the E inlet grate detail.
9. Revise the storm sewer label to sanitary sewer on the doghouse sanitary sewer manhole detail.
10. Details for the mountable curb/decorative paver island need to be provided.

L. Sheets C-25-C-27 - Truck Turning Movements

1. The turning template assume that the traffic aisle on the east of the site is clear from the obstructions by the dumpster located there. The new location of this dumpster needs to be provided.
2. The Applicant shall confirm the size of the Mendham Borough Fire Truck used in the turning movement analysis is consistent with the size of the largest fire truck used by the fire department.
3. Turning movements for trash collection shall be provided for the site.

M. Sheet C-28 Paving Exhibit

1. The shading used for the various surface treatments is difficult to follow. The shading cannot be distinguished in gray scale. The shading shall be modified to better distinguish between the different surface treatments being proposed.

II. Stormwater Management Report

1. Full scale drainage area maps need to be provided. Drainage boundaries need to be clearly shown, including the drainage area boundaries tributary to each of the pervious pavement systems.
2. The site has been analyzed with an overall analysis point. The terminus of the existing easterly drainage system(s) needs to be identified on the plans in order to quantify runoff at these locations, and to confirm whether there are separate discharge points that leave the property, or whether the existing storm sewer system is interconnected into one system. The survey depicts two 12" RCP (one opposite the walking path behind the shed, and one further into the wetlands). Information on where the existing inlets located on the easterly side of the property drain shall be provided.
3. An existing inlet and discharge pipe are missing from the westerly side of the existing parking lot. The missing inlet is located just north of an identified utility pole, and discharges in proximity to wetland points WB-1 and WB-2, into the existing channel. There needs to be a separate analysis point for this existing runoff, that includes runoff from part of the existing parking lot and associated storm sewer system that discharges along the westerly property line towards the rear corner of the property

- separate from any runoff that discharges towards the easterly property line. This is needed in order to confirm existing drainage patterns are being maintained in the post developed condition. If there are any changes being proposed to the existing stormwater drainage system, any change in water quality treatment for runoff from these areas would need to be accounted for in the analysis.
4. The existing storm sewer system located along the westerly corner/side of the tennis club building appears to discharge towards the north westerly corner of the property via an outfall to the existing stream. The engineer/surveyor shall confirm this and update the existing plans accordingly. The amount of existing runoff that drains to the westerly property line and the easterly property line needs to be quantified.
 5. The stormwater management hydrologic analysis shall be revised to include all stormwater outfalls and discharge points from the site. Compliance with the stormwater rule requirements for all discharge points from the site needs to be demonstrated.
 6. The Applicant shall confirm whether there exist any stormwater management systems that mitigate existing runoff (drywells, underground basins, water quality devices etc.). Any such measures need to be accounted for in the existing conditions analysis.
 7. The stormwater management rules specify "In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts that may reduce pre-construction stormwater runoff rates and volumes." Based on the topography and spot grades provided in the northwesterly corner of the property, it appears the area would act to reduce runoff leaving the site. The invert of the 12" RCP pipe that discharges to this area is lower than the downstream spot grades that have been provided. Additional spot grades along the property line shall be provided and the area accounted for in the analysis.
 8. The analysis is predicated on the post developed runoff hydrograph meeting the existing runoff hydrograph at every point in time. The analysis does not take into consideration any routing of the proposed pervious pavement areas that could shift the hydrographs. Inflow and bypass areas shall be analyzed separately, with inflow areas routed through the pervious pavement systems. While the pervious pavement areas address water quality, they will potentially impact the discharge hydrography by shifting the time of concentration. This needs to be accounted for in the effort to "match the hydrograph."
 9. The Tc calculations indicate no change in Tc between existing and proposed conditions. Tc flow paths for existing and post developed areas need to be provided. Impervious and pervious areas need to have separate Tc calculations. Runoff areas draining to the pervious paver systems need separate Tc's from areas that bypass the pervious pavement areas.
 10. The McCuen-Spiese sheet flow limitation and the velocity verses slope for shallow concentrated flow (NEH Chapter 15) needs to be utilized for post developed Tc calculations.
 11. The amount of drainage area tributary to each pervious paving system needs to be quantified to ensure compliance with maximum drainage area limitations.
 12. The plans need to clearly demarcate the portions of the existing parking lot that are proposed to be milled and overlain, reconstructed, and areas of new pavement.
 13. The water quality calculation indicates 0% TSS removal is required for existing vehicular surfaces. The amount of existing vehicle surfaces that are being redeveloped, or are having their existing water quality treatment modified, shall be quantified since this would require the greater of meeting the existing treatment system, 50% TSS removal, or 95% TSS removal if runoff discharges into the 300-foot riparian zone.
 14. The impervious areas for the weighted water quality calculation (proposed) do not match the total used (1.06 acres + 4.32 acres totals 5.32 acres whereas the denominator in the calculation used 5.11 acres). Clarify why the proposed and required water quality calculations would have different total areas.
 15. Routings need to be provided to demonstrate the water quality design storm is contained in the pervious paving systems without any overflow.
 16. Stage storage and discharge calculations shall be provided for each pervious pavement system.
 17. Drain time calculations need to be provided to ensure each pervious paving system drains within 72 hours.
 18. The stormwater plan information for the catch basin identified as OS-1 shall be corrected. The basin appears to be a curb inlet that is not connected to the adjacent pervious pavement system.
 19. The plans shall clearly demarcate where the existing impervious areas are being replaced with pervious areas. Notes shall be provided for these areas indicating that the subsoil below the existing impervious areas will be scarified and topsoil being placed over the scarified soil areas.
 20. The BMP Manual indicates the choker course in permeable pavement systems must consist of clean, washed AASHTO No. 57 broken stone. The permeable interlocking paver detail indicates dense graded aggregate is being proposed, which is not consistent with the BMP Manual. Also, the joint material (#8 or #9 aggregate) shall specify that it is clean, washed.
 21. The stormwater conveyance system (storm sewer analysis and roof drainage system) needs to be designed for the 100-year storm event to ensure design assumptions are achieved.
 22. The inspection port details shall include that they are rated for HS-25 vehicle loading.

- The location of the inspection ports needs to be provided at the upstream and downstream ends of the perforated underdrains within each of the pervious paving systems.
23. The separation distance from the bottom of each pervious pavement system to the seasonal high-water table needs to be provided. One foot minimum separation needs to be provided.
 24. The plans indicate portions of the downstream stream conveyance systems will be removed. The means for controlling runoff during construction needs to be provided.
 25. The construction requirements listed within the NJDEP BMP Manual on pages 8-9 within Chapter 9.6, Pervious Paving Systems, shall be provided within the notes on the permeable interlocking paver detail.
 26. Grade separated areas must be designated on the plans for stockpiling snow and ice separate from the pervious paving systems.
 27. Major Development Project List (required for Tier A MS4 NJPDES Permit) needs to be completed by the Applicant.
 28. The NJ Geoweb indicates an unnamed tributary to the North Branch Raritan River, classified as FW2-TPC1, is adjacent to the subject property.

III. Architectural Plans

1. The plans indicate "Proposed Lot A" and "Proposed Lot B". No subdivision application has been made so these designations shall be removed.
2. The location of the Pedestrian Warning Device shall be shown. Plans shall indicate whether this is on the garage for the residential building, the auto service building or both, and whether the flashing strobe will be visible outside the building or off site.
3. EV stations associated with accessible stalls shall be identified.
4. All building mounted fixtures shall be specified and consistent with the site plans.

2. Revised plans and reports shall note and comply with the following conditions set forth in the report of Board Planner Jessica Caldwell, PP, AICP, dated 7/14/24:

A. The proposed automotive servicing operation shall service only the collectible or exotic automobiles sold by the automobile sales operation. The automotive service operation shall be conducted in accordance with the Ordinance definition for automotive service station in §215-1: "Any establishment servicing motor vehicles with gas, oil, lubrication services, lubricants and other service work and vehicle maintenance supplies and parts and equipment not requiring extensive or prolonged mechanical work for installation. Service work regularly offered should be limited to oil changes, lubrication, minor tune-ups, installation of batteries, tires, wiper blades and similar equipment, wheel balancing and alignment and the replacement of minor mechanical parts, such as hoses, spark plugs, ignition wiring, points, alternators, water pumps and similar parts not requiring major engine or drivetrain dismantling."

B. The premium parking facility is not a principal permitted use and must be conducted as an accessory use to the residential use and/or the collectible automobile sales/service use.

C. In accordance with Ordinance §215-74(B)(3), 20% of the total number of units actually constructed shall be affordable to low- and moderate-income households with the balance being market-rate units. No more than 50% of the market-rate units shall be two-bedroom units and no more than 50% of the remaining market rate units shall be one-bedroom units or studio units. The Applicant may include up to two (2) three-bedroom market rate units. The affordable units shall be family rental units and shall not be age restricted. The affordable units shall consist of moderate-income, low-income and very-low-income units and the affordable units shall provide a preference for qualifying veterans. The following is a description of the unit types required for the affordable housing as shown below and Deed restrictions shall be provided to the Board Attorney and Board Planner for review and filed with the County prior to any certificate of occupancy issued for any building on the subject property.

D. If applicable, the Applicant shall specifically abide by §61-3 (Residential development fees) and §61-4 (Non-residential development fees) as well as other applicable sections with Chapter 61 of the Borough of Mendham Code.

E. A minimum of 15% of the total required off-street spaces for multifamily residential must be EVSE, so a total of 22 EVSE spaces are required.

F. In accordance with Ordinance §195-45(B)(3), any parking area located between the principal building and the minimum front yard setback shall be landscaped or screened.

3. Revised plans shall incorporate all revisions set forth in Sections 4 and 5 of this Resolution.

4. Revised plans shall note and comply with the following conditions from the Fire Marshal's Report of 12/13/24:

A. The proposed building shall be outfitted with a full sprinkler suppression and standpipe system as defined by the NFPA 13 and by the NJ Uniform Construction Code. This system shall

include coverage in all common areas, limited unprotected areas, storage spaces and residential units. Due to the size of the structure, multiple standpipes shall be distributed throughout the structure to support firefighter efforts. In connection with a sprinkler suppression and standpipe system, the following items are required:

- a. A copy of the sprinkler and standpipe installation plans shall be submitted to Mendham Borough Fire Prevention for comment.
- b. A copy of all hydraulic sprinkler calculations including documentation of available water supply.
- c. All Fire Department Connections shall be fitted with a 2½ inch Siamese Connection as approved.
- d. The suppression system shall be monitored by a 24-hour fire alarm monitoring company.

B. Applicant shall provide fire flow calculations. There is a strong concern that there will be an adequate amount of water to support firefighting activities within the building located on this site. Typically, water supply is calculated to ensure enough water is available at an appropriate pressure for the fire sprinkler systems to operate properly. Sprinkler designers then add a "hose allowance" based upon the requirements of NJPA 13.

C. The proposed building shall be outfitted with a full fire/smoke detection system as defined by the NFPA 72 and by the NJ Uniform Construction Code. In connection with a fire/smoke detection system, the following items are required/requested.

- a. A copy of the fire detection and alarm system installation plan shall be submitted to this Bureau for comment.
- b. The Fire Marshal reserves the right to locate any remote annunciator monitoring panels.
- c. The fire detection system shall be monitored by a 24-hour fire alarm monitoring company as indicated on the plans.
- d. A copy of the NFPA-72 acceptance forms shall be submitted to the Fire Prevention Bureau prior to a certificate of occupancy being issued.

D. There is a strong concern regarding access to the structure by firefighting apparatus beginning with the entry and driveways to the property. The proposed East driveway is currently consistently obstructed with dumpsters, delivery vehicles, and other storage. Section 503.1.1 of the 2015 International Fire Code New Jersey Edition states that "The Fire Code Official may require and designate public or private fire lanes as deemed necessary for the efficient and effective operation of fire apparatus, access to building openings by fire fighters or egress of occupants." Section 503.2.1 states "fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), exclusive of shoulders, except for approved security gates in accordance with Section 503.6 and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm). Applicant shall establish a fire lane with an unobstructed width of not less than 20 feet that encompasses the entire east driveway, east side of building, south side of building, and driveway in between the building and recreation area.

E. In accordance with Borough Ordinance 106-12 through 106-16, the following shall be submitted to the Fire Marshal for approval:

- a. Signage. In accordance with the current Manual on Uniform Traffic Control Devices, "NO STOPPING OR STANDING" "FIRE LANE" signs shall be erected which designate a fire lane or fire zone.
- b. Pavement markings. All painted line delineations shall be four inches in width and shall be applied in accordance with the current Manual or Uniform Traffic Control Devices. The wording shall read "FIRE LANE" and shall also comply with the requirements of the Current Manual on Uniform Traffic Control Devices.

F. In accordance with Borough of Mendham Ordinance 62-9, a key box is required to be installed on all structures containing a fire alarm system. The Fire Marshal shall determine the type, manufacturer style and number of boxes to be installed along with their locations. The manufacturer's original color and texture of the boxes shall be maintained and not compromised.

G. The Fire Marshal shall review and approve the location of all proposed exits, equipment access, and storage areas.

H. The Fire Marshal shall review and approve the location of the Fire Department Connection and any fire hydrants on the property.

I. All fire service equipment rooms and utility rooms in common areas and throughout all structures shall be labeled in accordance with the New Jersey Uniform Fire Code, 2015 International Fire Code, New Jersey Edition.

J. All fire exit doors shall be properly labeled in accordance with the New Jersey Uniform Fire Code, 2015 International Fire Code, New Jersey Edition. The exterior of the exit doors shall be labeled as "Fire Door Do Not Block."

K. All work conducted must be permitted and approved by the Mendham Borough Construction Department in accordance with the NJ Uniform Construction Code and any other applicable standards.

5. Revised plans shall incorporate the following provisions:

- (1) A gated entrance shall be added on the east side of the access to the residential area.
- (2) The boulevard access island shall be flush with grade.
- (3) Wayfinding signage shall be added for the site, including Mendham Plywood.
- (4) Cart corrals shall be provided in the Kings parking area as shown on Exhibit A-10.
- (5) There shall be no trash storage in the walkway along the proposed alley on the east side of existing easterly building.
- (6) Parking and trash enclosure north of CVS location shall be modified in accordance with exhibits presented at the public hearing.
- (7) A widened alley behind eastern building shall be provided along the property line per Exhibit A-10 with retaining wall as required. Utility companies will be approached regarding relocation of existing poles. If the existing poles cannot be relocated, the aisle width will vary as shown on the Exhibit.
- (8) Premium parking/sales/service:
 - a. Nothing associated with the sales/service will be outside.
 - b. Select "collectible" vehicle sales only. No exterior signs.
 - c. Service limited to minor work like oil changes, tire changes, etc.
- (9) Overall signage modification to the shopping center shall include consistent signage and goose neck lights.
- (10) Speed tables will be added along central boulevard access in 3 locations.
- (11) Ornamental weathervanes on top of the proposed freestanding signs shall be removed.
- (12) Rigid demarcation to be implemented near the easterly gate to delineate vehicular and pedestrian traffic.
- (13) Steps along the eastern property line will be removed if possible.
- (14) Pedestrian access will be provided by a gate through the fence along the western property line.
- (15) The dumpster on the western side will be re-oriented to provide better access for the trash collection vehicle.
- (16) Add stop signs for south bound vehicles at the intersection of the drive adjacent to Kings and in front of the Bank.
- (17) Per Ordinance §195-31, no topsoil shall be exported from the site.
- (18) Revised plans shall provide an 8-foot solid PVC fence along the western property line with MASH.
- (19) A separate entrance shall be provided for the preferred parking area in the automobile sales/service building.
- (20) Revised plans shall locate speed limit signage in parking areas and access drives.
- (21) Revised plans shall provide for at least one ADA parking stall in the vicinity of Kessler on the west side.
- (22) No cupola shall be on the roof of the residential building.
- (23) The west side gate entrance to the new building shall be no lower than 14 feet, to provide clearance for emergency vehicles.

6. A maintenance plan for porous pavement shall be submitted for approval by the Borough Engineer and shall be filed with the title of the Property.

7. The project's sewer allocation fee shall be paid prior to the issuance of a zoning permit.

8. The easterly driveway shall be striped as a no-parking fire lane as required by the Borough Fire Official.

9. Revised plans shall depict the transition from overhead to underground utilities.

10. Applicant agrees to allow post-construction access to the residential building by Borough officials/agents to measure RF radiation.

11. All application, escrow and inspection fees shall be paid in full and current at the time of issuance of zoning permits and construction permits. Engineering inspection fees will be paid out of the Applicant's escrow account, and the Applicant will replenish said account to the extent required to pay for said inspection fees.

12. This approval is subject to all other approvals required by any governmental agency having jurisdiction over the subject property.

13. This approval is subject to the payment in full of all taxes and assessments due and owing to the Borough of Mendham and/or any agency thereof.

14. Pursuant to Ordinance Section 124-22, the variance relief granted herein shall expire within one year of the memorialization of this Resolution unless the construction or alteration of the improvements requiring variance relief has actually been commenced during that time period, provided that the running of the one-year time period shall be tolled during the pending of any appeal of the Board's decision to a court of competent jurisdiction.

The undersigned does hereby certify that the foregoing is a true copy of the Resolution adopted by the Borough of Mendham Joint Land Use Board memorializing the action taken by the Board at its meeting of 1/29/25.

Lisa Smith
Board Secretary

Mr. D'Urso returned as Chair and Ms. Caldwell asked to be excused because she was not part of the following application

COMPLETENESS

04-25 Black Horse Tavern & Pub
1 West Main St.
Blk 301 Lot 1

Mr. Ferriero summarized his completeness letter dated February 26, 2025. Mr. Ferriero recommends that the application be deemed complete.

Motion by Mr. Molnar, seconded by Mr. Kay and unanimously carried to deem the application complete.

Roll Call:

In Favor:, Mayor Kelly, Council Member Traut, Mr. Sprandel, Mr. D'Urso, Ms. Garbacz, Mr. Molnar, Mr. Kay and Mr. Pace

Opposed:

Abstain:

Motion Carried

The motion carried.

HEARINGS

04-25 Black Horse Tavern & Pub
1 West Main St.
Blk 301 Lot 1

Present: Mr. Calli – Attorney

Mr. Melillo – Landscape Architect

Mr. Germinario reviewed the public notice and found it to be adequate.

Mr. Calli explained that the application submitted needed very little relief and would be calling on one witness. Mr. Calli stated that the applicant has received Historic Preservation Commission approval for the improvements that are going to be presented. Mr. Calli stated that the improvements are street side, outside patio improvements

which include retaining walls, and outside lighting for the patrons to have seasonal outdoor dining. Mr. Calli noted that the project is compliant with the code.

Mr. Melillo was sworn in and qualified as an expert in landscape architecture.

Mr. Calli noted that there will be colored rendering of the project that was presented to the Historic Preservation Commission that was not previously distributed to the Board. Mr. Melillo described the submission as a site plan rendering of the exterior improvements which was marked as Exhibit A1 and dated March 18, 2025.

Mr. Melillo explained that the plans show the existing building and entry drive and the area of improvements proposed are the entry drive to the front of the building and from the southern end of the building to the street. Mr. Melillo noted that the entry way proposed is more of an entry way for more of a drop off for traffic to better come in and out. Mr. Melillo noted that there is a proposed waiting area for the guests and a nice seasonal patio that is enclosed with a stone wall that will match the materials of the building. Mr. Melillo noted that the existing sign will remain as is, but some lighting changes are proposed. Mr. Melillo stated that bollards are proposed to separate the patio from the traffic. Mr. Ferriero noted the LED strip lights that have already been installed and are lit up green tonight and that are on all night. Mr. D'Urso stated that the lights violate the lighting ordinance and need to come down. Mr. Calli stated that the applicant will comply with the code moving forward. Mr. Ferriero stated that the code states that you can't have an exposed source and by definition, the LED lights are an exposed source, and the Board would either have to grant a design waiver, or the lights will need to come down. Mr. Ferriero noted that in his letter, a design waiver would need to be granted for the string lights. Mr. Calli noted that the applicant was not aware that the light was non-compliant and if it is the Boards desire is to be removed, they understand. Mr. D'Urso stated that the lighting code is simple and does not allow for colored lighting. Mr. D'Urso noted that outdoor dining was mentioned but there was nothing in the application indicating dining and only stated patio. Mr. Calli stated that there is no furniture plan currently. Mr. Calli explained that the civil engineer spec'd out the patio area. Mr. Melillo explained that he was asked to demonstrate how many tables and chairs could be shown, which is what shows on the plans, but the type has not been chosen. Mr.

Melillo noted that the outdoor lighting would be turned off once the outdoor dining service stopped along with seasonally. Mr. D'Urso questioned if the trellis light was a flood light. Mr. Melillo noted that on sheet L1 the light will be mounted to the top of the trellis pointing straight down. Mr. Melillo stated that all lighting sources proposed will comply with the Borough code. Mr. Ferriero noted that it was said that the outdoor lighting will be turned off when the outdoor serving is done. Mr. Melillo corrected his statement by saying the new lighting associated with the dining will be turned off once service is done for the night. Mr. Ferriero clarified that the string lights and trellis lights will be turned off. Mr. Melillo added that the 2 up lights on the tree would be turned off as well if the Board wanted. Mr. D'Urso asked if the RGBW means red, green, blue, and white. Mr. Melillo stated that it does. Mr. D'Urso noted that colored lights are not allowed in the ordinance. Mr. Calli stated that the applicant will comply with the code, and the lights will be white. Mr. Germinario stated that if RGBW lights are installed they would have the capability to change colors. Mr. Calli stated that the applicant is willing to buy just the white lights. Mr. Calli noted that the rendering sheet 2 of 3 that the HPC reviewed which shows an as built condition will be marked as Exhibit A2 dated March 18, 2025. Mr. Melillo explained that this page is the view from across the street and at the HPC request the retaining was added and will match the existing stone. Mr. Ferriero noted that there is no elevation view on the plans. Mr. Calli stated that the elevation view can be a condition. Mr. Calli noted that page 3 of the rendering would be marked as A3 and dated March 18, 2025. Mr. Melillo explained that this page shows the same as page 2 but a little closer view where there is a wall separating the dining area, existing building, drop off area, and shade tree in courtyard. Councilperson Traut asked what material would be used for light post and how they would be anchored. Mr. Melillo stated that it would be painted metal and would be anchored with concrete. Mr. D'Urso noted that the string lights as an open source and Mr. Ferriero explained that a design waiver would be needed for them.

Mr. Melillo noted that adjacent to the doors going in and out of the building there was proposed a small planting bed on the patio, through the course of construction it was found that a planting bed could not be done and are proposing bluestone. Mr. Ferriero asked if a raised planter could be installed in place of planting bed so that there is a barrier to the outdoor dining area. Mr. Melillo stated that there is a hostess stand missing from the plan,

and the applicant would like to use that area for that instead. Mr. Ferriero noted that the stand can also be used as a barrier.

Mayor Kelly asked if the stone between the curb and the sidewalk would stay there. Mr. Melillo stated that there was talk of replacing the stone with pavers. Mayor Kelly stated that the stone washes onto the sidewalk and causes a tripping hazard. Mr. Molnar asked if there is additional drainage proposed. Mr. Melillo stated that the patio is pitched towards a trench drain and tied into the site's stormwater management. Mr. D'Urso asked if the pavers would replace the stones between the curb and sidewalk and Mr. Melillo stated they would replace the stone with pavers. Mr. Ferriero commented that this would make for better stabilization and won't wash away in every storm. Mr. Sprandel asked where the drainage would be tied into. Mr. Melillo stated that it would be tied into the drainpipe that collects the roof leader water and goes to the back.

Mr. Ferriero noted that the wall washer lights are not permitted, so the strip that is there will have to be taken down. Mr. Ferriero noted that on the plan it shows a building mounted up light which was shown on the detail but not on the plan. Mr. Melillo stated that on A2 the intent of those for a wash of light. Mr. Ferriero explained that they need to be removed because it is not permitted in the code. Mr. Ferriero noted that there are requirements for outdoor dining regarding the number of seats allowed and that these things are approved by the zoning officer.

Mr. D'Urso asked if there were any public comments or questions.

Ms. Swiencki- 5 Mountain Ave. stated that a fence along Mountain Ave. was removed and replaced but the landscaping was not replaced. Ms. Swiencki asked for the landscaping to be replaced. Ms. Swiencki stated that she spoke with someone from the company and it hasn't been done yet. Mr. Calli noted that the conversation happened at 2pm and they couldn't do anything in that short period of time. Mr. Ferriero asked for a small plan that shows that area so that it can be memorialized and be part of the approval. Mr. Calli agreed.

There being no further questions of comments, public comment was closed.

Mayor Kelly asked where the existing drainage daylighted to. Mr. Melillo said they do not know until the drainage gets cleaned out and they will find where it runs and make sure it goes the right way.

Mr. D'Urso asked for Mr. Germinario to list the conditions.

1. LED strip lights are removed from the building.
2. Lighting on outdoor dining area will be turned off when the outdoor dining is shut down for the evening. (10 o'clock Sunday-Thursday and 11 o'clock Friday and Saturday).
3. All light sources to comply with the new code except for the design waiver granted for the string lights.
4. All LED lights to be white, not RGB.
5. Add to the plans an elevation view of the retaining wall around the seating area.
6. Updated impervious coverage reflecting the removal of the planting bed by the entrance.
7. Eliminate wall washer lights
8. Comply with outdoor dining ordinance.
9. Plan for relandscaping the area by the rear fence on Mountain Ave.

Ms. Garbacz made a motion to approve the application with conditions as outlined in the resolution, and was seconded by Mr. Molnar.

Roll Call:

In Favor:, Mayor Kelly, Council Member Traut, Mr. Sprandel, Mr. D'Urso, Ms. Garbacz, Mr. Molnar, Mr. Kay and Mr. Pace

Opposed:

Abstain:

Motion Carried

The motion carried.

ADJOURNMENT

There being no additional business to come before the Board, Motion was made by Council Member Traut and seconded by Mr. Sprandel. On a voice vote, all were in favor. Mr. D'Urso adjourned the meeting at 8:35PM.

Respectfully submitted,

Lisa J. Smith

Lisa Smith
Land Use Coordinator