

OPEN SESSION

The Public meeting was called to order by Chairperson Steve Misiura at 7:35 pm and he read the Open Public Meetings Act statement which stated, "Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act, pursuant to Public Law 1975, Chapter 231. Said notice was advertised in the Trenton Times and the Windsor-Hights Herald, and is posted in the Borough Clerk's office."

The flag salute.

Roll Call

	PRESENT	ABSENT	LATE ARRIVAL
Mr. Hahn	✓		
Ms. Laudemberger		✓	
Mr. Montferrat	✓		
Mr. Moraitis	✓		
Mr. Pratt	✓		
Mr. Searing	✓		
Mayor Kirson	✓		
Ms. McGinty		✓	
Mr. Misiura	✓		
Mr. Olsen	✓		
Mr. Byrne	✓		

Also in attendance: Susan Jackson, Planning Board Secretary; Gary Rosensweig, Planning Board Attorney; Carmela Roberts, Borough Engineer; Tamara L. Lee, Borough Planner

APPROVAL OF AGENDA

Mr. Montferrat made a motion to amend the agenda to reflect that the minutes for September 12, 2011 are to be removed from the agenda and the application for Seymour Investments, LLC will not be presenting their application tonight because of improper notification in a non-authorized paper. Mr. Searing seconded. The agenda was approved with a 9-0 vote.

PUBLIC COMMENT

Mr. Misiura opened the floor to any public comment unrelated to anything on the agenda. As no one came forward from the public, Mr. Misiura closed Public Comment.

INFORMAL PRESENTATION – DIMITRI MUSING, 137 STOCKTON STREET – MUSING ANTIQUES –
REZONING CHANGE

David Coates, Esq. of Turps, Coates, Essl & Driggers, is representing Dimitri and Lisa Musing, owners of 137 Stockton Street also known as the Smith House. They are coming before the Planning Board tonight as an informal presentation to request a zoning change from the current RPO zone to be included in the adjacent CC1 zone. It is the first property on the left from the center of town, right after Railroad Ave. It is the oldest house in the Borough. Mr. Musing will be speaking about the history and background of the property. Mr. Coates spoke about his memories of the house. He spoke how the house had fallen into disrepair and that under the efforts of the Musings, they brought the house back to life. The reason for the request is that the Musings believe that it is necessary to change the zoning because they don't like the idea of living under the exception that they have been living under. They currently have a use variance and want to feel like they have a stake in the area and not the exception. Mr. Musing has prepared a statement on the history of the building, the renovations that had been done and why they are looking for a rezoning of the property. Also present tonight is Llyod Jacobs, a professional Planner who will be making a presentation to explain why this rezoning would be beneficial to the Borough and how it works with the Borough's Master Plan.

Mr. Musing came forward and gave a historical background of the house and some of the details of the restoration of the house by keeping as true as possible to the historical design standards and bringing it up to the current building and fire code levels for commercial buildings as well as ADA compliance. He went on to describe how this house has played an intricate part in the history of Hightstown both as a business and residential building. He asked that the Planning Board consider that this building would be a worthwhile property and is in the best interest to the Borough of Hightstown to be included in the downtown area and the CC1 - Commercial district.

Llyod Jacobs has appeared before the Planning Board many times. He talked about the location of the property being in the RPO - Residential/Professional Office zone with the adjacent property being in the CC1 zone. He entered exhibit A1 showing the area of Stockton Street and the zoning of the properties surrounding 137 Stockton Street. He also entered photos showing the subject property and the surrounding properties. He believes from a planning prospective that there is significant justification for requesting the rezoning of the property. The property is located in the downtown historical district and is adjacent to the downtown commercial district which includes the parking area for the businesses. This structure and location taken together are uniquely important to the the historic value preservation standpoint. By extending the current CC1 zone by one lot to include this property would only enhance the district and provide this property with the flexibility, opportunity and protection needed to sustain its viability and contribute to the Master Plan goals.

Mr. Misiura asked if it is the intent of Mr. Musing to ask for a formal decision. Mr. Coates said that he did not request an informal presentation but to make a presentation. Mr. Rosensweig explained that the discussion with the secretary was to come before the Planning Board just to make a presentation where no formal decision would be made. If it is the intent to have a decision made by the Planning Board then Mr. Musing must file an application requesting the rezoning change and pay all the applicable fees and escrow amounts. There has to be a report included with the application that would address the goals and objective of the Master Plan. Since the Planning Board has put off the reexamination of the Masterplan because of the extension of time, this zoning change request would have to be addressed with the Masterplan. An analysis of why it would make sense for the change to the Masterplan. It doesn't have to be a multipage report but it has to have a planning basis for the board's change so that the board can go back to say this is consistent or inconsistent to the Masterplan. It is appropriate to say in a short rezoning memo or a reexamination memo to state that this is appropriate and that then goes to our professionals for review and then the board will decide whether to make a recommendation to the council or not. Mr. Coates and Mr. Jacobs understand the process that must take place first. Mr. Jacobs is prepared to submit a report to the Borough's Planner so that she may review it and make her recommendation. Mr. Misiura said that the next step is for Mr. Coates to contact the Board secretary and she will advise you on the proper procedure and what needs to be submitted. Mr. Coates will move forward with a formal request for the rezoning of the property and will wait for the professionals and chairman to determine the next step.

Mr. Rosensweig also said that if any board member has an initial comment or reaction it is appropriate to comment and that it is in no way binding. Mr. Pratt stated that the map that was presented isn't totally accurate and would like have an accurate map included in the report. He commended Mr. Musing on the restoration that has been done to the property and that it is good to see that the house was brought back to life. From the Historic Preservation Commission

stand point, what the positive and negative would be from switching from the RPO to CC1 zone would be. Is the home more likely to stay in its current form as it is currently? What ultimately could happen to the house in the future if Mr. Musing was to leave if the building/home is in a CC1 zone? Mayor Kirson wants everyone to think about what would be best for Hightstown in the future and what does this change mean in the future.

The Planning Board will review the process and let Mr. Coates know what exactly needs to be done. An application needs to be filed and as in any formal application the basic procedure still must be followed.

APPLICATION 2011-04 – MINOR SUBDIVISION AND BULK VARIANCES – BLOCK 3 LOTS 18 & 19 – 538 N. MAIN STREET – MR. CHRISTOS KATSIFIS

This is a continuation from the September 12, 2011 Planning Board meeting. Mr. Mark Shane, Esq., from the firm of Shane and White, is representing the applicant, Mr. Christos Katsifis. As stated before this application is being continued from last month and tonight Mr. Lester Nebenzahl of Lester Nebenzahl & Associates, LLC, 61 Carrar Drive, Watchung, NJ. Also present is Gregory Omar from Menlo Engineering. Mr. Rosensweig swore in Mr. Nebenzahl as a professional planner. All others were sworn in at the last meeting and are still under oath. Mr. Nebenzahl gave his qualifications - he received his BA in 1973 from Rider College (University), in 1975 he received his Masters in City and Regional Planning from Rutgers University. He has been a licensed Planner since 1977. He worked for Piscataway Township as their planner from 1978-1984. In 1980, he started a new firm called Hudson Partnership. In the late 80s, the firm was reorganized. He started another company with a traffic engineer called THP Inc. until 2007. He then formed a partnership with Art Bernard. He has given testimony before more than 125 planning and/or zoning boards and practices as the managing member of Lester Nebenzahl & Associates, LLC. Mr. Misiura has accepted Mr. Nebenzahl's qualifications as a professional planner.

Mr. Nebenzahl has reviewed the documents that were submitted with the application; the engineering drawings from Menlo Engineering; all applicable land development laws; and as much of the Masterplan as possible; the professional reviews from Ms. Lee dated 7/06/11 and Ms. Roberts dated 8/12/11; made a site visit on Thursday, 10/06/11 to photograph the property and surrounding area. He entered in exhibit A-3, A-4 and A-5 which represent the photos taken. Exhibit A-3 is photo #1 and is of the existing property. A-4 is photo #2 which is the new subdivided property where the new construction would be built and A-5 is photo #3 which is the corner lot directly across the property on the corner of Sunset Ave. and N. Main Street. He continued with a description of the location and existing conditions of the property. The proposal is to subdivide the lot into two lots with Lot A being the new construction and would be 7533 Sq. ft and have frontage onto Sunset Ave. Lot B would maintain the current dwelling and consist of 11,537 sq. ft. The property is in the R-3 zone where 10,000 sq. ft. is the requirement per single family housing. A minimum lot depth of 100 ft. is required and lot A is proposed at 99.35 ft. A minimum of 35 ft. is required for lot B if the house and garage remains attached via the breezeway. As stated before if the breezeway was removed to make the garage an accessory structure than only 3 ft. is required. All other block, lot and bulk requirements are met. Mr. Nebenzahl continued with his testimony of the current neighborhood and what is the average standard of size of the lots.

The request for lot size is a classic C-1 hardship variance for an undersize lot. Together both lots are 19,070 sq. ft and would not meet the requirements of 20,000 sq. ft. but it is only 930 ft. short and when that is computed in terms of the intensity of the development that is allowed in the zone, it is a diminutive difference. The other part of the hardship is the current garage and structure would dictate where the proposed subdivision line would be. The 99.35 ft. depth of proposed lot A is only .065 short of the requirement of 100 ft. The application meets the requirements of the C-2 criteria where the benefits to be derived far outweigh any substantial detriments. The purposes of zoning would be advanced by the deviations. The proposed subdivision would allow for the use of the property in accordance with the allowable density requirements. With the allowable 20,000 sq. ft. for the two lots, it is 935 sq. ft. short and represents 4.65 % short. It would further advance the purpose of zoning of 40:55D-2 by granting the request of variances. Paragraph A speaks of promoting the general welfare. Paragraph E speaks of promoting the establishment of appropriate population density and paragraph M encourages the more efficient use of the land.

As for the rear yard variance of lot B, the meeting of the requirement of the 3 ft. by the removal of the breezeway from the garage. There is nothing to be gained by removing the structure other than meeting the technical variance situation. The breezeway is glass, it isn't blocking any light and would have no impact on the new construction as the setback would still be the same since the garage would be located in the same location.

As to the negative criteria, Mr. Nebenzahl doesn't see any substantial detriment to the surrounding properties or the neighborhood. The new construction would be a favorable addition to the neighborhood and would appear as a conforming lot from the street view.

Mr. Misiura asked Ms. Lee if she has any questions. With the C-2 variance, Mr. Nebenzahl stated that the benefits outweigh the detriments but he never stated what the benefits are and asked him if he could state them. He stated the benefits as paragraphs A, E, and M of statute 40:55D-2. Ms. Lee asked what he felt the local benefits would be based on the local goals and objectives of the Borough's Masterplan. It would be establishing the population density, add an attractive housing unit for a family who might want to live in Hightstown as well as being an attractive benefit to the neighborhood. With respect to the existing if the breezeway is removed, the lot would be a more conforming lot. This would make the garage an accessory structure which then could be close to the property line. Mr. Nebenzahl would agree with Ms. Lee if the breezeway wasn't a glass structure. Mr. Nebenzahl talked about the other lot sizes in the neighborhood and how the new construction would fit into the neighborhood without any detriment to how the neighborhood looks currently. Ms. Lee stated that to look at the tax map, the lots on N. Main Street are all basically the same depth. Now if one of the lots is subdivided then a slippery slope is being created and has the potential for other property owners to come and request subdivision of their property. Mr. Nebenzahl stated that the only ones that would be able to ask for subdivisions of the property are those that are flag lots with frontage, which is a whole different condition. Ms. Lee stated that at this time the pattern is fairly consistent and to make a change would create an anomaly. To make this change could very well open the door for another anomaly. The objective of a variance that is being requested is to have an anomaly that is consistent with the goals and objectives of the Masterplan. This application isn't consistent with the goals and objectives. At this time, Ms. Lee has no further questions but would like to wait to give her comments until the discussion period.

No other Board professionals had any questions at this time. Mr. Misiura asked if any of the board members have any questions. Mr. Pratt asked how many other lots within the neighborhood has less than 10,000 sq. ft.? There are currently 9 undersize lots in the neighborhood. Mr. Pratt doesn't buy that the property would look like every other property from the front of the street when the lot size would only be 7500 sq. ft. The zoning is for 10,000 sq. ft and was set for a reason. The current lot size was never intended to be set at 10,000 sq. ft. so that it could be subdivided. The garage, glass breezeway and the proposed lot size are a big issue. Mr. Misiura brought up the fact that the house adjacent south of the new lot would lose the rear yard setback and there would only be 19.6 ft. between the adjacent lot line to the existing house.

Mr. Shane asked the Borough Planner if her position would be modified if the applicant removed the garage and breezeway and to modify the lot lines so that the two properties would be closer to the requirement of 10,000 sq. ft? It is always better to minimize the request for variances as based on the law but it is still up to the board to make the final decision based on the application before them. If the applicant decides to change their application, then they are willing to come in with a new set of plans to be reviewed based on either conditions on an approval or just starting over.

Mr. Byrne was hoping that the applicant's planner would have discussed the issue of the rear yard setbacks being smaller with the new property subdivision and the potential impact for safety of the properties that run along the Borough's main roadways. The idea of losing any portion of a rear yard for a child to play away from the traffic is a detriment. Mr. Nebenzahl stated that the new house on Sunset would conform to the current look from the street and that there would still be yardage for any child to play in the backyard for safety reasons. Mr. Montferret asked if there would be any trees removed? One tree would have to be removed in order to put in the driveway and applicant is willing to replace the tree. Mr. Montferret also questioned about sidewalks. Mr. Omar stated that currently he didn't see any sidewalks along Sunset but that the applicant is willing to install a sidewalk. No other board members had any other questions at this time.

At this time Mr. Misiura asked if there was anyone from the public that had any comments on the application to come forward. As no one came forward, the public comment period was closed.

Ms. Lee addresses the issues of this application. It does produce an element of irregularity to the pattern of lot sizes in this neighborhood because there is more regularity in the lots that front Main and to start subdividing these corner lots creates a problem. It does create slippery slopes and does open up the door for future applicants to come in and point to this subdivision with the smaller lot size. There have been plenty of situations where somebody has torn down an

existing house to make room to build two houses. She doesn't feel that density is appropriate when it is being discussed of how it would look from the street when we consider more than that, when we consider lot size and it is basically and effectively our way of controlling the density, and that is not just what it looks like from the street but how many people live in that neighborhood, how much traffic comes through that neighborhood. All of that gets factored into density of the neighborhood and the lot size is the reflection of that character and the Masterplan is written to show that we don't really want to change that and that we really don't want to increase the reflection of that character. There has been trouble with minor subdivisions in the past and the Masterplan is set to get this in control because the Borough was just being picked away by minor subdivision. And although one minor subdivision wouldn't have an impact on the Borough, the accumulation of many subdivisions could have an adverse effect on the Borough as a whole and the Masterplan took that into account. Therefore there is a local planning policy in place that states that any minor subdivision needs to be looked at with extreme care and not do these minor subdivisions when they are not consistent with the overall goals and the overall goal is to maintain the density and this does not do that. Ms. Lee does have a concern with the one lot not having a useable rear yard and the testimony really only related this to the goals and purposes of the Municipal Land Use law suggesting that it was appropriate an appropriate density and she already stated that she doesn't agree with that. But it is really important and one of the main purposes of the Borough's goals and objectives is to preserve the neighborhood. This application starts to change the land use pattern in the neighborhood and ultimately down the road would really have an adverse impact of future decisions and those decisions would not be consistent with goals and objectives of what the Masterplan lays out. With the lot being so undersized from the allowable lot size, it would be inconsistent.

Mr. Misiura asked the applicant if he wished to address any of these issues raised by Ms. Lee. Mr. Shane spoke for the applicant and spoke about the application and the testimony presented by the planner explaining that they addressed the issues of positive and negative criteria and they are hopeful that the Board would see favorably in an approval of the application.

Mr. Montferret made a motion to deny this application. Mr. Searing seconded. Mr. Misiura opened the discussion time. Mr. Montferret said that the reason for his motion is that after visiting the site at least three times and walking it and hearing the different comments from Board members and the Borough's Planner, sums up that this a gateway into Hightstown on Main Street and also for Sunset Ave. And although the applicant's planner made some good points in regard to the positive and negative criteria, it still fell short of the Masterplan and the consistencies that are needed as a guideline for future applications. Mr. Searing is in agreement with Ms. Lee's findings that the lot is a much smaller lot. Mr. Misiura stated that Ms. Lee made some good points, but that there are more to the outward appearance that has to be considered and some of these things these detrimental. As for the existing lot, it is being made worse, it is a dense lot and has a corner conditions. It has the current setbacks to get the dwelling off the road but with the subdivision, the size of rear yard is being taken away and leaving a very minimal rear yard that would be considered a rear yard. Not only is that making this property worse, it may have an impact of the neighboring lots. It is also important to keep in mind that zoning are t absolute minimums. It is really setting the bottom number of what is acceptable and what is not. Mr. Pratt agrees with Ms. Lee. Moving the line to make it a more acceptable lot is not the issue. He wants it to be on record that he takes issue with the applicant's planner, he feels that that his comment was confrontational. The lot sizes and setbacks are set into place for a reason and to subdivide this lot doesn't create any function to the current lot and the surrounding lots and creates detriments to the neighborhood. Mr. Byrne is in agreement with Ms. Lee and her findings. Mr. Misiura adds that there are other similar lots to this that there are opportunities for this to be a precedence for the subdivision. When you look at some of the surrounding corners at a glance on the zoning map, they are very similar in size and configuration that would enable the possibility opportunities to subdivide if we are to go ahead and do this. There were no other comments from the board and a roll call vote was taken.

Roll Call: Mr. Hahn; Mr. Montferrat; Mr. Moraitis; Mr. Pratt; Mr. Searing; Mayor Kirson; Mr. Misiura; Mr. Olsen and Mr. Byrne voted yes. Ms. Laudenberger and Ms. McGinty were absent. The Application 2011-04 is denied 9-0.

APPLICATION 2011-05 – AMERICANA HOSPITALITY GROUP – PRELIMINARY AND FINAL SITE PLAN AND SUBSTANTIAL BENEFIT VARIANCES

Mr. Hahn and Mayor Kirson are recusing themselves from hearing this application.

This is a continuation from the last meeting and the applicant wasn't required to notify. There were some completeness issues that needed to be addressed from the last meeting. Mr. Misiura referred to the Professionals. Documents were submitted however the Engineer said that she didn't receive the survey plan and the Planner didn't have enough time to review it. It is the intention of the professionals to review the survey plan and additional issues and write a more comprehensive review report. Once they are able to review the information and make comments, the board has 120 days to make a decision on the application. Mr. Shane clarified that they did have to re-notice because there were additional information that was missing from the original notice. Mr. Oman, Menlo Engineering, stated that the survey plan was not ready until about two days before the 10 days notice period therefore the plans could not be updated to show the additional topography of the property. They are requesting that they follow the same basic routine as they did in East Windsor where they heard the requests of the professionals at the last meeting and are able to address them at this meeting. The landscape architect is present tonight to also address the issues. Mr. Misiura made sure that it was clear that there would not be any decision made at tonight's meeting but that the board will hear the issues that were in question from the last meeting.

Mr. Oman from Menlo Engineering, previously sworn in, stated that the original surveyor went back out to the site on the adjacent property and located the two existing structures on the site that were a concern that the board's request is for a minimum clearance of 15 ft. from the property line. The closet building to the property line is over 20 ft. away, the second building is closer to 40 ft. away. This is shown on the revised plans. The additional topography information that was obtained showed that there is less drainage actually coming from site. On the northwest corner of the site there are some dirt piles that do encroach onto the eastern most property line, there are different options - moving the piles onto the Public Works property more or build a 25 to 30 ft. length of a 4 ft. high retaining wall right into that corner. These are the issues that needed to be addressed in the review letters. At this time, the Council still hasn't made any decision yet on whether they will lease or sell the property to the applicant. A decision should be reached by the next council meeting and Mr. Shane will notify the Board as soon as he hears anything. There are no further questions for Mr. Omar.

Kenneth R. Grisewood, 672 Milford-Warren Glen Road, Millford, NJ was sworn in by Mr. Rosensweig. He is employed by Menlo Engineering since 1993 as the Senior Landscape Architect with responsibilities in site plans, landscaping design, grading and lighting plans. He received his Bachelor of Science from University of Kentucky in 1980. He passed the landscaping exam in 1983. He is licensed in the state of Kentucky. He is also a licensed Landscape Architect in New Jersey and is a Registered Landscape Architect in the states of New York and Pennsylvania and is a licensed professional Planner. He has testified before many boards in the state of New Jersey including East Windsor, Weehawken, Newark, Chester Township, East Brunswick and Edison to name a few. Mr. Shane has offered him as an expert professional Landscape Architect. His credentials were accepted. Mr. Grisewood has had the chance to visit the site and would like to present the revisions that were made to the site in regard to landscaping and the lighting plans from the original plans submitted to the revised plans. There were some modifications made based on the East Windsor Township Landscape Architect's comments regarding planting materials. The original plan was to try to maintain as much of the natural undercover and adding some evergreens and some new shade trees. That plan has been revised from 16 evergreens, 5 shade trees and underbrush to 48 evergreens, 3 shade trees and a composition of native underbrush. They have incorporated a double row of evergreens for a full cover screen year round. These were the only real changes that were made to the landscaping plans. The 2nd component issues were with the site lighting plan. Exhibit A-4 is a black and white photo called "Light Location Cross Section" prepared by Menlo Engineering Associates and dated October 11, 2011. The top portion of the exhibit shows the plan view of the eastern portion of private site and the plan extends eastward toward Oak Lane to show the existing dwellings were. The bottom section of the board shows 3 cross section views showing the existing light standards and the proposed light standards. The closest light to an existing building is in the northeast corner. The existing distance between the light and building is 150 ft. The light standards that are proposed on the plan are for 25 ft. and are 150 watt lights. They are downward oriented lights. They are the type of lights that give little or no upward light. The light poles will be one foot lower than a typical street light. Mr. Grisewood went on to describe the existing light fixtures and the new fixtures that would be installed in its place. He states that the lights that are being proposed will give off no more lights than the street lights and in his opinion the lights will have no adverse effect on the residents on Oak Lane.

Ms. Lee asked if they will be giving the product cut. Mr. Grisewood said that the product cut is on the paperwork that was sent to the professionals.

Mr. Rosensweig asked if East Windsor has requested a night lighting test. Mr. Shane stated that East Windsor is working on the resolution and the conditions and as soon as Mr. Shane receives it he will forward it onto Mr. Rosensweig.

Mr. Searing is asking about the landscaping. In 1999, when the Planning Board gave approval for the parking lot, there was a requirement for arborvitae along the northern section of the parking because they wanted a more intense screening between the trucks that were coming in and out of the AWWTP. He is asking for a more intense screening to separate the diner from the property for noise and possible smell. The applicant is proposing a 6 ft. high fence on the northeastern side.

Mr. Nebenzahl will be testifying in regards to the use of the property. Mr. Nebenzahl is sworn in as the planner and there is no objection to his qualifications as a professional planner. Mr. Nebenzahl reviewed all the plans, applications and all materials that were submitted, and has reviewed all zoning requirements. He has been to the site for a field investigation on July 11 and October 6, 2011. He has also read the review letter from Ms. Lee dated September 5, 2011. He gives some of the highlights that describe the property. He gave an overview of the property conditions as shown on exhibits A-1, A-2 and A-3. He states that the project needs to be looked at as one big picture and not as a portion since without the parking, the project would have issues in going forward as it is presently proposed.

The common access will be provided at the current signaled lighted intersection. There will be curb cut reduction from the current 5 to only 3. The proposed building will be 42,090 sq. ft. and is a mixed use building with a restaurant and retail on the 1st floor, and office space on the 2nd and 3rd floors. There will be the maintained commercial building of 5,454 sq. ft. building on the western side of the property with architectural upgrades to reflect the new buildings. Building C will be expanded from 6,010 sq. ft. to 6,027 sq. ft. and will be refurbished with a 3,100 sq. ft. play area for the daycare center. There are plans for upgraded landscaping and lighting improvements.

The Traffic expert gave testimony at the last meeting that there will be sufficient parking spaces and that there is an upgraded traffic safety improvement.

Mr. Nebenzahl continued with the conditions of the surrounding areas to the proposed application. They need a D-2 variance for the expansion of the parking lot in Hightstown. In paragraph A of the statute where the general welfare and safety and promotion of public health would incur due to the improvements with both the aesthetic look and would give more protection to the residents who live directly behind in Hightstown. Paragraph F of the statute - redevelopment for free where a private developer would come in and redevelop the property at no cost to the municipality. Paragraph H which promotes the free flow of traffic; paragraph I which promotes the visual environment; and paragraph M which encourages the efficient use of land. All of these would promote the positive for the D-2 variance. The additional parking would not be a detriment to the surrounding areas as this is already a busy commercial site. He spoke on the impervious coverage variance being requested. In the R-3 residential zone it is typically 40% but because this is parking for a commercial area, they will have to exceed the 40% and ask for the C-2 variance. The benefits of a C-2 variance are the same as the D-2 variance being asked for. The negative criteria, despite the buffer that is currently in place it is proposed for additional buffers. The residential lots are deep and wooded. As pointed out the wooded area would be ineffective for 6 months of the year and the need for additional buffers would be added to help with the months with no protection. As for the zone plan/Masterplan, there is no detriment as the East Windsor zoning already allows and encouraged for the use. The traffic flow would be improved therefore there is no detriment.

Ms. Lee asked for the exact impervious coverage needed in Hightstown. Mr. Omar stated that in the plans submitted it states that 58,760 sq. ft. would be covered which relates to 76.4% coverage.

Mr. Rosensweig asked if an application to the DEP has been submitted for an LOI. There is an approval for both East Windsor and Hightstown and a copy of that approval will be submitted to the professionals.

Mr. Misiura had a questions in regards to the rear elevations of the buildings facing the Hightstown border. It was stated that East Windsor made some comments about the elevations. Will the Planning Board get a copy of the revised elevations. Mr. Oman will resubmit the revised elevations facing Hightstown. Mr. Misiura has concerns with the land that will be disturbed if there is any contamination. Ms. Roberts stated that the land is not contaminated. What we do know is that the land was used as a landfill. That it was properly and legally closed by the Borough and the DEP. Mr.

Rosensweig pointed out that a Landfill Disturbance Permit must be filed and the applicant is responsible for the permit. The Borough doesn't have any control over the permits. He has been in contact with Mr. Raffetto, the Borough's attorney to discuss this issue. Mr. Shane will look into the issue on the Landfill Disturbance permit.

Mr. Searing asked about a walking egress from the property to Oak Lane. Has there been any other consideration for a pedestrian walking path. It will not be a condition but just a good thought.

Mr. Shane said that they will submit their revised plans for the next meeting which will include the architect's revised elevations. The only professional that might need to be present at the next meeting will be the Engineer unless the Planning Board feels the need to ask more questions of the other professionals.

Ms. Lee said that in regards to the planning testimony that has been given she is satisfied, this is a D-2 variance so what we are considering is not a use variance but an expansion of the existing parking lot, so the question is whether the expansion happen and still be consistent with the goals and objectives of the Masterplan. She doesn't see an issue and as she stated in her report, other things can be looked at such as aesthetics and the aesthetic improvements to the site. The landscaping and lighting are one of the major issues that needed to be addressed and those improvements can be considered as part of the aesthetic improvements.

At this time, Mr. Misiura asked if any members of the public would like to come forward for comments and seeing no one coming forward, he closed public comment.

There will be a continuance of this application on November 14, 2011 at the First Aid Building. No notice will be necessary. Next Friday all materials must be submitted to the Planning Board office.

COMMITTEE AND PROFESSIONAL REPORTS

Mr. Misiura - the committee hasn't meet on Minute Maid and are now asking for dates in November/December.

Mr. Searing - has no zoning reports at this time.

The Historic Preservation Committee has new historic signs on houses that list the dates. The homeowners are purchasing the signs. Dan Buriak got a good deal for purchasing the signs in bulk. All the houses in the historic district can participate and the dates are gotten from the national register. The participation has been high and they are on the second round of signs.

Ms. Roberts - the Summit Street Project has been awarded and will be made official at the Council meeting on Monday night. The milling and paving project bids will be read tomorrow and hopefully will be awarded Monday night. She also would like to initiate a discussion about at what point can applicants make a resubmission. If an applicant submits something within two weeks of a meeting which gives the professionals enough time to receive, review and write a report. It also makes a problem for the applicant to have the 10 day notification and makes it hard to prepare for the meeting. Ms. Lee also agrees with Ms. Roberts and stated that if the applicant doesn't make the date requirements then they need to be taken off the meeting agenda. Mr. Rosensweig said that we are trying to apply the checklist but some of the applicant's attorneys who are trying to avoid the checklist. All parts of the checklist must be complete before being heard by the board and must be included in the application. For the resubmission, we just need to be diligent and make sure that the items are submitted by the time frame given. The problem with the 31 days really doesn't give enough time to deem the application complete, for the professionals to write their reviews and to contact the applicant and allow them to notice in enough time. It would be beneficial to have a 45 day period to determine completeness of an application. This is an ordinance change so a memo would have to be written and given to the council for their approval. Put this on the next agenda for discussion and a revision. Also check into the fee schedule to see if the fee for a rezoning change was approved. Mr. Pratt stated that Mr. Coates approached him on the informal presentation asking him how he feels about the change. If any applicant approaches any member about an application outside of the meeting, it should be noted for the record for the protection of all the board members. Mr. Rosensweig suggested that if this happens just let the person know that if there is any discussion you would have to abstain from any decision.

Mr. Pratt made a motion to adjourn the meeting at 10:20 PM. Mr. Searing seconded. All approved.

Respectfully submitted,

Susan D. Jackson,
Planning Board Secretary
Hightstown Borough