

Note: We are not submitting this for publication or for billing to the Borough.

For Notice Under Sunshine Law

**MOUNTAIN LAKES PLANNING BOARD
AGENDA
January 26, 2021**

NOTICE: Please take notice the Meeting of the Planning Board of the Borough of Mountain Lakes will be held on January 26, 2021 at 7:00 p.m. **as a remote meeting.** Formal action may be taken. The public will be able to participate in the special meeting via computer or telephone.

To Participate via computer please use the following link: <https://zoom.us/j/185478511>
or iPhone one-tap : US: +19292056099,,185478511# or +13126266799,,185478511# Or Telephone: Dial (for higher quality, dial a number based on your current location): US: +1 929 205 6099 or +1 312 626 6799 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 6833 or +1 253 215 8782 Webinar ID: 185 478 511

1. CALL TO ORDER
2. STATEMENT OF CHAIRMAN
3. ROLL CALL
4. REORGANIZATION
 - Election of Chair and Vice Chair
 - Appointment of Planner, Engineer and Administrative Officer/Secretary
 - Designation of Official Newspapers
 - Re-adoption of By- Laws
5. REVIEW OF MINUTES: December 17, 2020
6. MEMORIALIZING RESOLUTION:
 - Park Lakes Tennis Club, Inc. App. #20-274
7. PUBLIC COMMENT
8. PUBILC HEARINGS:
 - Highview Commercial, LLC Appl. # 20-273
 - 372 Route 46E Blk. 2, Lots 2, 5. 5.01
 - Major Site Plan & Minor Subdivision Zone B
 - Setbacks: Front (2), Rear & Side, Pervious Buffer (2),
 - Front Landscape Area (2), Parking Stalls,
 - Signs: Area (2), Number, Height (2), Proximity to the Lot Line & Illumination,
 - Accessory Structure Height, Improved Lot Coverage
9. COMMITTEE REPORTS
10. OTHER MATTERS
11. ADJOURNMENT

Cynthia Shaw, Administrative Officer

Dated: January 14, 2021

Distribution:

Board Chairman and Members
Board Attorney

Borough Engineer
Borough Clerk

Bulletin Board
Citizen & Daily Record

Town Web Site
Applicant

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
PLANNING BOARD**

APPOINTING AND RETAINING THE BOROUGH PLANNER

WHEREAS, the Municipal Land Use Law, provides that the Board may employ a Planner as it may deem necessary, not exceeding, the amount appropriated by the governing body for its use; and

WHEREAS, the Board has determined it has the need to retain a planner to provide professional services including, but not limited to advice and consultation, attendance at meetings when requested, Master Plan review and preparation of documents and representation of the Board in suits and other proceedings and other services as may be required from time to time; and

WHEREAS, the appointment of the planner may be made without public bidding as an exception to the bidding requirements of the Local Public Contracts Law, as provided in N.J.S.A. 40A:11-5(1)(a)(i) as a professional service because planning services are rendered by persons authorized by law to practice their recognized profession, whose practice is regulated by law, and because such services are of a qualitative nature which will not reasonably permit the drawing of specifications or the receipt of such competitive bids; and

WHEREAS, the award of this contract is compliant with the provisions of N.J.S.A. 19:44A-20.5;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mountain Lakes that it does hereby appoint Paul Phillips of Phillips Preiss Grygiel, Leheny, Hughes, LLC as Board Planner to serve from January 1, 2021 to December 31, 2021 or until a successor is appointed; and

BE IT FURTHER RESOLVED that the Secretary of the Board is hereby directed to cause to be printed once, in an official newspaper of the municipality, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and the contract are on file and available for public inspection in the office of the Borough Clerk.

Offered by:

Seconded by:

Vote:

Date: January 26, 2021

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
PLANNING BOARD**

APPOINTING AND RETAINING BOARD ENGINEER

WHEREAS, the Municipal Land Use Law, provides that the Board may engage the services of an Engineering Firm as it may deem necessary, not exceeding, the amount appropriated by the governing body for its use; and

WHEREAS, the Board has determined it has the need to retain an engineer to provide professional services including, but not limited to advice and consultation, attendance at meetings, plan review and representation of the Board in suits and other proceedings and other services as may be required from time to time; and

WHEREAS, the appointment of the engineer may be made without public bidding as an exception to the bidding requirements of the Local Public Contracts Law, as provided in N.J.S.A. 40A:11-5(1)(a)(i) as a professional service because engineering services are rendered by persons authorized by law to practice their recognized profession, whose practice is regulated by law, and because such services are of a qualitative nature which will not reasonably permit the drawing of specifications or the receipt of such competitive bids; and

WHEREAS, the award of this contract is compliant with the provisions of N.J.S.A. 19:44A-20.5;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mountain Lakes that it does hereby appoint William Ryden, of Anderson and Denzler Associates, Inc., as Board Engineer to serve from January 1, 2021 to December 31, 2021 or until a successor is appointed; and

BE IT FURTHER RESOLVED that the Secretary of the Board is hereby directed to cause to be printed once, in an official newspaper of the municipality, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and the contract are on file and available for public inspection in the office of the Borough Clerk.

Offered by:

Seconded by:

Vote:

Date: January 26, 2021

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
PLANNING BOARD**

**APPOINTING AND RETAINING ADMINISTRATIVE OFFICER/
BOARD SECRETARY**

WHEREAS, the Municipal Land Use Law, provides that the Board may employ legal counsel, experts and staff as it may deem necessary, not exceeding, the amount appropriated by the governing body for its use; and

WHEREAS, the Board has determined it has the need to retain the current Administrative Officer/Board Secretary, Cynthia Shaw, for the calendar year 2021.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mountain Lakes that it does hereby appoint Cynthia Shaw as Administrative Officer/Board Secretary to serve from January 1, 2021 to December 31, 2021.

Offered by:

Seconded by:

Vote:

Date: January 26, 2021

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
PLANNING BOARD**

DESIGNATION OF OFFICIAL NEWSPAPERS

WHEREAS, Chapter 231 of the Public Laws of the State of New Jersey for 1975, known as and herein designated as the "Open Public Meetings Act", N.J.S.A. 10:4-6, et seq., requires notification of meetings of public bodies, as therein defined, in the manner therein set forth, and

WHEREAS, N.J.S.A. 10:4-8 requires public bodies to designate which newspapers shall serve as "Official Newspapers" in their jurisdiction,

NOW, THEREFORE, BE IT RESOLVED, for the purpose of compliance with the aforesaid "Open Public Meetings Act" and N.J.S.A. 10: 4-8, that the Planning Board of the Borough of Mountain Lakes hereby makes the following designations for the calendar year 2020:

1. The Morris County Daily Record, and/or The Citizen, as the newspapers to receive notices of meetings as required by any and all sections of the "Open Public Meetings Act", and N.J.S.A. 10:4-8, as those newspapers are most likely to inform the local public of such meetings.
2. The location for posting of notice of meetings shall be on the front doors of the Borough Hall, 400 Boulevard, Mountain Lakes, New Jersey.
3. The sum of \$25.00 is hereby fixed as the amount to be paid by any person requesting individual notice of meetings as provided in Section 14 of the "Open Public Meetings Act" (N.J.S.A. 10:4-19).

Offered by:

Seconded by:

Vote:

Date: January 26, 2021

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
PLANNING BOARD**

ADOPTION OF BY-LAWS

WHEREAS, the Municipal Land Use Law, specifically, N.J.S.A. 40:55D-8, provides that every municipal agency shall adopt and may amend reasonable rules and regulations which are not inconsistent with law, for the administration of its functions, powers and duties and in accordance with N.J.S.A. 40:55D-10b every municipal agency shall make rules governing hearings;

WHEREAS, the Board determined that the By-Laws attached hereto are reasonable and consistent with law and should be adopted as the rules and regulations for the year and shall continue in effect until and unless otherwise replaced or amended;

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Mountain Lakes as follows:

1. The By-Laws as attached hereto are hereby adopted and shall govern the administration of the Board's functions, power and duties for the year 2021 and shall continue in effect until and unless otherwise replaced or amended.
2. Copies of the By-Laws shall be maintained in the office of the Administrative Officer and Board Secretary and shall be available to any person who requests same upon payment of a reasonable fee for such copy.

Offered by:

Seconded by:

Vote:

Date: January 26, 2021

**BY-LAWS OF THE
PLANNING BOARD
OF THE BOROUGH OF MOUNTAIN LAKES, NEW JERSEY**

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PART I
ADMINISTRATION

Rule 1:1. Organization, Officers, General Provisions

1:1-1. Title of the Board. The Title of the Board shall be: "The Planning Board" of the Borough of Mountain Lakes, New Jersey.

1:1-2. Annual Meeting; Officers. The annual meeting of the Board shall be held on the fourth Thursday of January of each year or at such other time as designated by the Board, at which time the Board shall elect, from its Class IV members, a Chairperson and a Vice-Chairperson. The Board shall also appoint a Secretary, a Board Attorney, a Board Engineer, and a Board Planner all of whom shall serve for one year and until their successors have been appointed. The Board may appoint such other officers or assistants and employ such experts or staff as it may deem necessary.

1:1-3. Chairperson. The Chairperson, subject to these rules, shall decide all points of order and matters of procedure governing the meetings, unless otherwise directed by a majority of the Board in session at the time. He shall have, subject to these rules and the governing statutes, all the powers and perform all the duties normally appertaining to this office. He or his designee shall swear all witnesses giving testimony before the Board.

1:1-4. Vice-Chairperson. The Vice-Chairperson shall preside at all Board meetings and hearings in the absence of the Chairperson.

1:1-5. Secretary. (a) Subject to these rules, and under the direction of the Chairperson, the Secretary shall conduct all official correspondence, compile the required records, maintain and keep in order the necessary files and indices, and generally perform the secretarial work of the Board. He shall notify the Municipal Clerk of all meetings of the Board and shall provide the Clerk with a list of the matters scheduled for hearing at each meeting. The Secretary shall give all notices of meetings required to be given by the Open Public Meetings Law, the Municipal Land Use Law or any other applicable law or ordinance.

(b) The Secretary shall attend all meetings of the Board, and shall have the care and custody of all records, documents, maps, plans and papers of the Board, for the care and custody of which no other provision is made by statute. When the "yeas" and "nays" are taken, he shall call the roll of the members and the Chairperson shall be called last.

(c) He shall make records of, and keep on file, the minutes of the proceedings at each meeting or hearing held by the Board and shall enter therein with the other

proceedings, such resolutions and orders as are adopted and a copy of the minutes of the meeting. He shall issue notices of meetings and shall perform such other duties as usually appertain to his office.

(d) He shall publish the notice and serve copies of the Board's resolution as provided in Rule 2:8-5.

1:1-6. Committees.

(a) No more than four Planning Board members may be assigned to a committee and no committee meeting may be held with more than four Planning Board members present, unless public notice of the meeting has been made in accordance with the Sunshine Law. It has been the custom, however, to have new members meet and become acquainted with the workings of the Subdivision and Site Plan Committee, as long as the Sunshine Law can be observed.

(b) Non-Planning Board members may serve on any committee if it is appropriate.

(c) Standing Committees are:

1. Subdivision and Site Plan Review
2. Master Plan

(d) Ad hoc committees may also be appointed and Planning Board members may serve on joint committees with other boards.

1:1-7 Training. Members and Alternate Members as required by law must take land use law and planning courses approved to satisfy the statutory training requirements and to comply with the requirements of the Municipal Land Use Law in that regard. The Planning Board Chairperson will meet with new members to acquaint them with local board procedures. Each new member will also be given a packet of basic planning board materials.

Rule 1:2. Meetings.

1:2-1. Regular Meetings. The regular meetings of the Board shall be held at the Municipal Building, 400 Boulevard, Mountain Lakes, New Jersey, at 7:30 P.M. on the 4th Thursday of each month or at such other time as designated by the Board. The Secretary shall annually furnish a copy of the regular meeting dates for the year to the news media designated by the municipal governing body in accordance with the Open Public Meetings Law, N.J.S. 10:4-6 et seq.

1:2-2. Special Meetings. Special meetings may be provided for at the call of the Chairperson or at the request of any two Board members. Such meeting shall be held on notice to its members and the public in accordance with all applicable legal requirements.

1:2-3. Meetings Open to Public. All meetings shall be open to the public, except such executive sessions as authorized by N.J.S. 40:55D-9b and N.J.S. 10:4-6 et seq.

1:2-4. Order of Business. The order of business at all meetings shall be as follows:

- (a) Call to order and open public meeting advertisement notice
- (b) Roll Call
- (c) Review of minutes
- (d) Memorializing resolutions
- (e) Public comments (limited to five minutes per speaker)
- (f) Public hearings
- (g) Other Matters
- (h) Adjournment

1:2-5. Record of Proceedings. The Board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical and/or electronic means. The Board shall furnish a transcript, or duplicate recording in lieu thereof, on request of any interested party at such party's expense.

1:2-6. No New Business. It is the custom, and applicants shall be so notified, that no new business is started after 10:30 PM so that applicants can get the best thinking of the board. Meetings end no later than 11:00 PM if possible.

Rule 1:3. Quorum and Voting

1:3-1. Quorum. A Quorum shall be five members. No meeting of the Board may be held without a quorum being present.

1:3-2. Motions. All motions shall require a second; a motion which does not obtain a second shall be deemed to be rejected.

1:3-3. Voting. All votes shall be taken by roll call, the vote and name of the person casting the vote shall be recorded in the minutes, unless a voice vote is desired and legally adequate.

1:3-4. Absent Members. When any hearing before the Board shall carry over one or more meetings, a member of the board who was absent or was not a member for one or more meetings, shall be eligible to vote on the matter upon which hearing is conducted, notwithstanding their absence provided that said Board member certifies, in writing, to the Board, that they have listened to a recording or read a transcript of the entire hearing for which they were absent.

1:3-5. Exceptions to Voting. There are two cases where the Planning Board customarily does not require a vote:

- (a) The chairperson, after determining that there are no more additions or corrections, may declare that the minutes are accepted as written or as amended.
- (b) He or she also, after ascertaining there is no further business, may declare the meeting adjourned.

Rule 1:4. Alternate Members

1:4-1. Designation. Alternate members of the Board appointed by the Governing Body shall be designated by the appointing authority as "Alternate No. 1", "Alternate No. 2", etc. as appropriate, and each alternate shall retain said designation during the term for which he was appointed.

1:4-2. Participation in discussions; voting. Alternate members may participate in discussions of the proceedings, but may not vote except in the absence or disqualification of a regular member, nor shall any vote be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, alternate members shall vote in the order of their numerical designations.

PART II RULES OF PRACTICE

Rule 2:1. Commencement of Action; Service and Filing of Papers

(a) **Applications to Planning Board.** An application for a subdivision or site plan review or for any other relief shall be commenced by the filing of an application with the Secretary of the Board together with (1) the fee required by ordinance and (2) all materials and documents required by the checklist established by ordinance.

(b) **Other Requirements.**

1. A complete copy of the application and any maps or documents for which approval is sought at a hearing shall be on file and available for public inspection at least 10 days before the date of the hearing during normal business hours in the office of the Planning Board.

2. The application form shall be filled out completely and, where necessary, supplemented by additional information in order to make it clear to the Board what relief is being sought. No application shall be considered complete until all applicable requirements of R. 2:1(a) have been complied with or waived by the Board.

(c) **Fees.** Fees as established by ordinance shall be paid simultaneously with the filing of an application.

1. An applicant shall, in connection with an application to the Planning Board, pay, in addition to the fees hereinabove specified, deposits as necessary to cover special expenses incurred by the Board for the rendering of services by its planning consultant, engineer, attorney and other experts in accordance with the law. The applicant is responsible for replenishing the escrow funds as needed.

2. Applicant shall submit proof that no taxes or assessments for local improvements are due or delinquent on the property for which any application is made, in accordance with the provisions of N.J.S. 40:55D-65(h) and local ordinance.

2:1-2. Certification of Completeness. After a review of any comments from the Site Plan Review Committee, the Board Engineer or other authorized designee of the Board shall examine each application to ascertain that all checklist items required by municipal ordinance are shown or furnished in the application or accompanying documents, or that otherwise a waiver has been requested. If all checklist items are provided and no waivers requested, the application shall be deemed complete and the applicant shall be so notified in writing by the Board Engineer. If any checklist item(s) is/are not provided and no waiver is requested, the applicant shall be advised that the application is incomplete and advised of the missing item(s). If waivers are requested as to any items, but all other items are furnished, the Applicant shall be advised that the application is incomplete, subject to the Board's granting the requested waiver(s), and the Board shall, at its next ensuing regular or special meeting, decide whether to grant or deny the waiver or waivers requested and applicant shall be notified promptly. If an application is neither found to be complete nor found to be incomplete and applicant notified of the deficiencies within 45 days from the date of filing, the application shall be deemed to be complete as of the 45th day following the date of its submission.

2:1-3. Application Number. The Secretary shall assign to each new action an application number, which number shall thereafter appear on all subsequent papers filed in the case.

2:1-4. Amended Applications. An applicant may, prior to the commencement of a hearing, amend his application without leave of the Board and in all such cases new notice shall be given in accordance with Rule 2:3 as in the case of an original application. After commencement of hearing, an application may be amended only with leave of the Board. If the amendment after commencement of hearing is for the purpose of reducing the nature or extent of the variance sought, no new notice will be required. Otherwise, the Board may require new notice to be given in accordance with Rule 2:3.

Rule 2:2. Hearing Date

2:2-1. Hearing Date. As soon as any complete application, or application deemed complete by virtue of requested waivers, is filed in accordance with the foregoing rules, the case shall be placed on the calendar. The applicant shall be notified of the date and time set for the hearing thereon.

2:2-2. Adjournment. The time for hearing may be adjourned from the time fixed therefor, for good cause, upon the motion of the applicant or other person interested in the action, or on the Board's own motion, provided, however, that where such adjournment would extend the statutory period within which the Board is required to act, the consent of the applicant shall be evidenced in writing or shall be made on the record.

Rule 2:3. Notice; Upon Whom Served; Time

2:3-1. Notice; Upon Whom Served. Notice of hearing shall be published and shall be given to all persons and officials entitled thereto by the requirements of N.J.S. 40:55D-12.

2:3-2. List of Owners Supplied by Clerk. Where the Clerk of the municipality (or other authorized official) has furnished applicant with a list of the property owners entitled to notice pursuant to the provisions of N.J.S. 40:55D-12(c), a copy of the official certification and list shall be annexed to applicant's proof of service.

2:3-3. Proof of Service. The service and publication of notices as hereinabove provided is a jurisdictional requirement, and proof of the service and publication of all required notices in accordance with these rules shall be made by affidavit of the person or persons who actually served or mailed said notices as required by law, and proving publication of the notice.

Rule 2:4. Applications.

2:4-1. Form. Every application shall be filed on the appropriate form provided to the applicant by the Board Secretary.

2:4-2. Affidavit of Ownership. If the applicant is not the owner of the premises affected by the application, an affidavit or consent executed by the owner of the affected premises shall be filed with the Board consenting to the filing of the application.

2:4-3. Applications by Corporation or Partnership, Disclosure of Stockholders or Ownership Interests. A corporation, partnership or any legally recognized entity other than an individual applicant or applicants applying for relief from this Board, which involves subdivision of a parcel of land into six (6) or more lots, or a variance to construct a multiple dwelling of twenty-five (25) or more family units, or for approval of a site plan to be used for commercial purposes shall list the names and addresses of all stockholders or individual partners owning at least ten (10) percent of the stock of any class or at least ten (10) percent of the interest in the partnership as the case may be, in accordance with the requirements of N.J.S. 40:55D-48.1.

Rule 2:5. Hearings

2:5-1. Appearances. At the hearing upon the application, the applicant, or any other party, shall appear in person, or may be represented by an Attorney-at-Law of New Jersey. Every corporation or other applicant which is a legal entity

shall be represented by an Attorney-at-Law of New Jersey in accordance with the rules of the Supreme Court of New Jersey.

2:5-2. Oath. At the hearing, the applicant and all witnesses shall be sworn by the Chairperson or his designee before giving testimony.

2:5-3. Order of Presentation. (a) The hearing is called to order by the Chairperson.

(b) The applicant shall then present, by his testimony and the testimony of his witnesses, or by such documentary evidence or exhibits as he may submit, proof of all facts upon which he relies to establish his right to the relief sought in the application.

(c) Following each witness, the Board and then any other persons interested in the action shall have the right to cross-examine that witness.

(d) At the conclusion of the applicant's case any other persons interested in the action shall then be heard and may present any relevant testimony or evidence.

(e) Rebuttal testimony or evidence shall then be admitted in such order as the Chairperson shall designate.

(f) All witnesses may be cross-examined by any member of the Board, the Board Attorney, the Board Engineer, the Board Planner, or any interested person.

2:5-4. Examination by Board; Testimony. The applicant and every other person appearing and presenting testimony at any hearing may be examined by any member of the Board and the Board Attorney for the purpose of eliciting any relevant information which may assist the Board in deciding the application. Any member of the Board, unless disqualified from participation in the matter, may testify as to any relevant matter of which he has personal or official knowledge for the purpose of amplifying the record, including facts ascertained from a viewing of the premises in question and the general area.

2:5-5. Closing of Hearing; Continuances. (a) When the applicant and all other interested persons have had an opportunity to be heard, the Chairperson may declare the hearing to be closed. Thereafter, no further evidence will be received in the action unless the matter is reopened in accordance with these rules.

(b) The applicant or any other interested person, prior to the closing of the hearing, may move the Board for a continuance of the hearing for the purpose of presenting further relevant evidence, which the Board, acting in its sound discretion, may either grant or deny.

(c) In cases where the Board feels that testimony or other evidence should be received in the public interest from any municipal, county, or state official or from any other persons to assist in rendering a just decision, the Board may, on its own motion, continue the hearing to another day certain for such purposes.

Rule 2:6. Evidence

2:6-1. Competent Evidence. Technical rules of evidence are not enforced before the Board. The applicant's right to the relief sought shall be based upon the

consideration of any facts or matters which are in the record, unless they be such as to which the Board is entitled to take judicial notice. The Board may exclude irrelevant, immaterial or redundant testimony.

2:6-2. Documents and Exhibits. When any papers, documents or exhibits are admitted into evidence during a hearing, they shall be marked by the Secretary or Attorney and shall be retained by the Board until the termination of the matter including any appeals.

2:6-3. Judicial Notice. The Board may take judicial notice of the provisions of any ordinance of the municipality, any public statute of the State of New Jersey and any officially reported judicial decision.

2:6-4. Burden of Proof. It is the applicant's responsibility to supply competent and credible evidence that it is entitled to the relief sought.

Rule 2:7. Dismissal of Actions

2:7-1. Voluntary. Any applicant may at any time before the commencement of the hearing voluntarily withdraw his application in which case the action shall be dismissed without prejudice. After commencement of the hearing a voluntary dismissal may be taken only with the approval of the Board.

2:7-2. Nonappearance. If, at the time set for the hearing or continued hearing on any application, neither the applicant nor any one in his behalf appears, and no adjournment has been previously requested, the action may be dismissed without prejudice.

2:7-3. Infraction of Rules. For failure to comply with the provisions of any rule, the Board may dismiss the application.

2:7-4. Reports. (a) The Board may, at any time, request a written report on any particular matter from any officer, board, or agency in connection with a pending case provided, however, that a copy of any such report shall be made available to the applicant and available for inspection by interested parties.

(b) The Board may arrange to take the testimony of any expert witness employed by it.

2:7-5. Transfer of Actions. Whenever an application is filed with the Planning Board, which pursuant to the provisions of the Municipal Land Use Law should have been filed with the Zoning Board of Adjustment the matter may be administratively transferred to the Zoning Board of Adjustment prior to any public hearing, or if determined in the course of the hearing, the Planning Board may, by motion or resolution, cause said application to be transferred to the Zoning Board of Adjustment to be placed on the calendar of said Board.

Rule 2:8. Decision; Resolution of Board

2:8-1. Time. The Planning Board shall render a decision within the time provided by the MLUL, including the provision for the applicant to consent in writing or on the record to an extension of time. Every decision shall be made by proper motion duly made and seconded, with the votes of all members recorded on a roll-call vote.

2:8-2. Form. The action of the Board shall be memorialized in the form of a written resolution containing findings and conclusions which shall be adopted within forty-five (45) days of the decision. Whenever a resolution of memorialization is adopted in accordance with the provisions of N.J.S. 40:55D-10, the date of such adoption shall constitute the date of the decision for purposes of the mailings, filing and publications required by statute.

2:8-3. Relief Granted. Where an applicant has demonstrated his right to relief, the Board may grant such relief as it may deem appropriate and in keeping with the intent and purpose of the zone plan and zoning ordinance, even though the relief granted may be different in kind or degree from that asked for in the appeal or application.

2:8-4. Conditions. The resolution of the Board approving any applications may subject such grant to such conditions as the Board may impose.

2:8-5. Publishing Notice; Service of Copy of Resolution. (a) A brief notice of every final decision shall be published in the official newspaper of the Borough. Such publication shall be arranged by the Secretary of the Planning Board for a reasonable charge. The applicant may also arrange for such publication. Notice shall be sent to the official newspaper for publication within 10 days of the date of any such decision.

(b) A copy of the Board's resolution shall be mailed by the Board within 10 days of the date of adoption to the applicant or, if represented, then to his attorney without separate charge. A copy of the resolution shall also be mailed to all persons who request it and who have paid the prescribed fee. A copy of the resolution shall also be filed in the office of the administrative officer, who shall make a copy of such filed resolution available for public inspection during his office hours and a copy available to any interested party upon payment of a fee calculated in the same manner as those established for copies of the other public documents in the Borough.

Rule 2:9. Disqualification of Members of the Board.

2:9-1. Disqualification of Member. (a) Any member of the Planning Board shall disqualify himself from sitting on the hearing of any matter in which he has a disqualifying interest, such as, but not limited to, the following situations:

(1) Where he owns property located within 200 feet of the property affected by the action.

(2) Where the applicant is related within the third degree of consanguinity to the member by blood or is the husband or wife of any person so related.

(3) Where the applicant or his attorney is the employer, employee, or partner of the member, or is a corporation in which the member is a shareholder with a material interest or has other financial interest.

(4) Where he has any other personal or pecuniary interest in the proceeding.

(b) When a member fails to disqualify himself, any interested party may move the Board for an order or determination that such member is disqualified to act and the Board may thereupon hold a hearing on the matter and take whatever action it may deem appropriate.

Rule 2:10. False Testimony

2:10-1. Perjury. Any person who shall willfully give false testimony under oath in the course of any hearing held before this Board shall, in accordance with the provisions of the County and Municipal Investigations Law (N.J.S. 2A:67A-1 et seq.), be guilty of perjury. The Board shall submit a transcript of testimony it believes may be perjurious to the County Prosecutor for investigation.

PART III MISCELLANEOUS PROVISIONS

Rule 3:1. Relaxation of Rules

3:1-1. Where Rules may be Relaxed. For good cause shown, or where the strict application of any rule would work surprise or injustice, the Board may relax the requirement of such rule, except where the provisions of the rule are also statutory requirements.

Rule 3:2. Meaning of Certain Terms

3:2-1. Person; Interested Person. Whenever in these rules reference is made to "any interested person," "any persons interested in the action" or the like, such term refers to any "interested party" as defined in N.J.S. 40:55D-4.

3:2-2. Gender. The use of the masculine gender in these Rules shall be deemed to refer to the feminine gender and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

Rule 3:3. Application of Certain Laws

3:3-1. Laws Applicable. The provisions of the land use regulations of the Borough of Mountain Lakes, and the Municipal Land Use Law shall be applicable to proceedings before this Board and the Board may exercise all of the powers

3:3-1. Laws Applicable. The provisions of the land use regulations of the Borough of Mountain Lakes, and the Municipal Land Use Law shall be applicable to proceedings before this Board and the Board may exercise all of the powers conferred by said act. These rules are adopted pursuant to the provisions of N.J.S. 40:55D-8, and subject generally to the provisions of Chapter 55D of Title 40 of the Revised Statutes of New Jersey.

Rule 3:4. Amendments

3:4-1. Amendments. Amendments to these rules may be made by the Board at any regular meeting, provided notice of such amendment has been given in writing to each member of the Board at least three days prior to such meeting.

Rule 3:5. Effective Date

3:5-1. Effective Date. These rules take effect upon adoption and supersede any prior rules of the Board.

Adopted: January 26, 2021

**MINUTES OF A SPECIAL MEETING OF THE PLANNING BOARD
OF THE BOROUGH OF MOUNTAIN LAKES**

December 17, 2020

Chair Martin Kane read the Open Public Remote Meeting Notice published in the Citizen on December 9, 2020 and Daily Record on December 8, 2020: Adequate notice of this meeting was posted with the Borough Clerk and on the Front Door on December 7, 2020 and made available to all those requesting individual notice and paying the required fee.

Start: 7:30 PM

ROLL CALL:

Members Present: Kane, Horan, Holliday, Coppola, Shepherd, Stern, Berei, Menard, Russo and Leininger (7:34PM)

Also, Present: Attorney, Glenn Kienz, Engineer, Bill Ryden, Environmental Engineer, Peter Black, Traffic Engineer, John Jahr, Planner, David Novak

REVIEW OF MINUTES: David Shepherd made a motion to approve the minutes of the November 19th Board meeting and Bethany Russo provided the second. The minutes were approved by all eligible members present.

David Shepherd made a motion to approve the minutes of the November 30th Board meeting and Jeff Berei provided the second. The minutes were approved by all eligible members present.

RESOLUTIONS: none

PUBLIC COMMENT: Cathy Hadjiloucas, of 5 Lakewood Dr, questioned how the comments she made at a previous meeting were recorded. Martin Kane said if she had an issue, she could send a letter to the Board with her concerns. Michael Hollick, of 9 Lakewood Dr, asked when the public would know who the new Board members would be. Mr. Kane said they would be appointed at the Council reorganization meeting on January 4th.

PUBLIC HEARING:

Highview Commercial, LLC	Appl. # 20-273
372 Route 46E	Blk. 2, Lots 2, 5. 5.01
Major Site Plan & Minor Subdivision	Zone B
Setbacks: Front (2), Rear & Side, Pervious Buffer (2),	
Front Landscape Area (2), Parking Stalls,	
Signs: Area (2), Number, Height (2), Proximity to the Lot Line & Illumination,	
Accessory Structure Height, Improved Lot Coverage	

The attorney for Highview Commercial, LLC, John Verteri, stated their development application was for the property better known as the Zeris site located at 372 Route 46E. This would be a 3-part application. They propose to subdivide the property, build a Wawa on one lot and a Hilton

hotel on the other. This was a conditional use application. Matthew Sharo was a licensed engineer in the state of New Jersey would be giving testimony on the engineering for both site plans.

Bill Ryden, the Borough Engineer, said the applicant has requested a Waiver from item A31 - Wetland Delineation. The waiver is needed for administrative completeness. Mr. Sharo said there were no wetland on the site. The town's Environmental Engineer, Peter Black, agreed, he felt the waiver could be granted. The Board wished to reserve the right to request information pertaining to the wetlands delineation. Kelly Holliday made a motion to grant the waiver and a second was provided by Mitchell Stern. The Board voted 9 to 0 to approve the waiver with members Kane, Russo, Shepard, Menard, Stern, Horan, Coppola, Berei and Holliday voting in favor.

Matthew Sharo referenced sheet 2, last revised 9/01/20, an aerial photo of the property already submitted. The B-Zone site consists of block 2, lots 2, 5 & 5.01 totaling 4.34 acres. Its located in Mt. Lakes close to the towns of Parsippany and Denville. There is an easement providing driveway access to the Ringo Supply property. That easement will remain. He presented exhibit A-1, a colorized site plan rendering, dated 10/29/20, showing a three story, 112 room, hotel on the west side and a Wawa convenience/food market, with a canopy over fueling dispensers, on the east side. The property will be subdivided into two parcels with the hotel, lot 2, on 2.5 acres and the Wawa, lot 2.01, on 1.8 acres. There will be cross access and maintenance easements between the two properties. They propose a new driveway in the middle of the site. The site can be accessed from Route 46 and Fox Hill Road. They removed the ability to make a left out of one of the Fox Hill Road exits as requested by the Borough Traffic Engineer. The drive aisles meet the driveway aisle requirements. There are 48 parking spaces for Wawa and the hotel has 112 spaces, both meet our Ordinance requirements. The parking spaces are 9' x18' on the hotel side so they require a variance since they are not 10ft wide. The Wawa site meets all the parking requirements. There are bollards around the Wawa building to keep vehicles from jumping the curb onto the walkway. They also propose sidewalks along Rt 46 and Fox Hill Rd.

The lighting on both sites will be the same but each site will control their own lighting. The landscape plan containa different species of low shrubs and ornamental trees. They are reducing the impervious coverage on both lots and are maintaining the drainage standards, so they meet the Mt. Lakes water quality standards and the state standards for stormwater management. They added hoods to the inlets in the fueling operation areas. These cast iron hoods are installed over the pipe that leaves the catch basins keeping anything from going into the water system. The basins will be cleaned out periodically.

Mr. Sharo moved onto signage. The hotel is proposing 2 signs totaling 101sqft. Due to the large right of way the Wawa identification sign is 5ft off the property line along Route 46. The Wawa identification sign on Fox Hill Rd will be 20ft from property line as per the Ordinance. There are numerous signs on the building and on fueling canopies. They propose 7 signs at the Wawa for a total of 378sqft. The sign details were presented on exhibit A-2, dated 10/29/20. The colorized sheet showed the Wawa identification signs, 2 façade signs, the canopy spanner signs, and the signs found under the canopy.

Matthew Sharo introduced the Wawa floor plan and it's four elevations. The tower element of the building is 33ft high. It has stone veneer below the sill and on the columns, the walls above

the sill are tan efface, and the roof is metal. The right side of the building faces the hotel and the left side faces Fox Hill Rd. The Wawa loading zone is on the west side of the building. They have 4 types of deliveries: fresh produce and groceries arrive 4 to 5x per week, dairy arrives 3x per week, vendors come 6x per week, and fresh baked goods come 7x per week. They have 10 to 12 employees per shift and there are three shifts per day. They propose an outdoor ice chest on the south side of the building. It will not be used by the public. To the south of the building is the self-closing trash enclosure containing a compactor, a recycling dumpster, and a shed to hold rakes, salt, shovels, etc. Trash pickup will be 3x per week and cardboard pickup will be 2x per week.

Mr. Sharo moved on to the elevations of the canopy. Under the canopy are 16 fueling positions and 4 kiosks. They will sell 4 types of fuel. North of the canopy are the fuel tanks. There are two 22 thousand-gallon and one 20 thousand-gallon, double walled fiberglass tanks. There are 2 air stalls. The EIS and Wellhead Protection plans were approved by the Borough Engineer.

Martin Kane asked if the Board professionals had any questions. Bill Ryden asked Mr. Sharo to provide testimony on the subdivision. The subdivision plan, dated 7/8/20, showed the existing 3 lots and the proposed two lots. They propose one lot for the hotel (lot 2) containing 2.536 acres and one for the Wawa, (lot 2.01) containing 1.796 acres. Mr. Ryden said tha applicant cord record the subdivision by deed. Mr. Sharo agreed to comply with items 2 – 4 from section B of Bill Ryden's letter.

David Novak, of Burgis Associates, was sitting in for Steve Lydon, the Boards substitute Planner. He referenced the October 16th memo, prepared by Mr. Lydon, and the use of sustainable building practices especially charging stations. Mr. Sharo answered the Wawa did not have any plans to install charging stations. Mr. Novak asked about the use of emergency generators. Wawa uses a generator provider and does not install permanent units. They install an electrical transfer switch along the building to connect to the portable generator. Mr. Novak said the Wawa site has three additional spaces that could be eliminated to reduce coverage. Mr. Sharo answered the Wawa experience determined the number of parking spaces. When the two sites are considered together, they are under the ILC. Will there be any shared parking between the two uses? There is no need to share spaces. They have a pedestrian walkway to access the Wawa from the hotel. Why did they need a 19ft tall free-standing sign for the Wawa? Matthew Sharo said it is a function of visibility. There is a curve in the road as you come eastbound. On the west bound side the height is needed so they don't miss the Fox Hill Rd turn.

Peter Black the Boards substitute Environmental Engineer asked if the applicant had received a Soil Erosion Permit from County. The permit is handled by the Borough. Mr. Black confirmed there was no need get any approvals from the Conrail property. Mr. Kienz suggested Wawa consider install the wiring for electrical charging stations and determine their location now. The units can be installed later. Matthew Sharo said Tesla has a contract with Wawa to install the charging stations. They would have to want to put them in.

Bill Ryden asked about project phasing, will they build both sites at the same time? Mr. Sharo said they had not talked about phasing. What about the site demolition? He would ask the client. Mr. Ryden was concerned about safety issues if one location was ready before the other. He referenced item #11 of his letter pertaining to the movement of soil. Mr. Sharo answered they would be bringing in 18,000cy of fill. The Borough will need a trucking schedule, a trucking

map and clean fill verification. How do they plan to remove the demoltion materials? Mr. Sharo thought they will be removing everything ASAP. Bill Ryden requested all these items be stipulated prior to the approval of the application.

Chairmen Kane moved on to questions from the Board. He asked about the traffic plan for Fox Hill Road. Mr. Sharo said Fox Hill Rd would be widened but their Traffic Engineer would present that testimony. David Shepherd asked if Mr. Sharo could provide any testimony on the fuel tanks particularly the safety measures that would be in play. Mr. Sharo answered there are electronic alarms monitoring the delivery of the fuel. The tanks do not have to be doubled walled, but Wawa installs that type. All the piping is double walled as well. The dispensers have bollards to protect them and they have a sheer valve to shut them down. A sheer valve would come into play if someone left the nozzle in their car and drove away. Wawa employees go through an extension training program and they have periodic retraining on dispensing fuel. Tom Menard asked Mr. Sharo to explain the Stormwater Management Plan. Mr. Sharo responded they are reducing the impervious coverage, so they are not required to do a plan. They collect the stormwater and recharge it to the existing catch basins. Mr. Menard asked who would own the additional lane proposed on Fox Hill Road. They are planning a 10ft easement for the road. He agreed they should consider electric car charging stations at the Wawa site. Meghan Leininger questioned how the hoods for the runoff would work if there was a drought? Mr. Sharo said there was a sump pump in the basin installed higher than the bottom. The bottom of the basin is cleaned regularly to keep any potential contamination out of the water system. Mrs. Leininger asked if the trash compound had a roof, she was concerned about bears. Mr. Sharo answered a roof would make it difficult for the trash to be picked up by a garbage truck since the trucks are front loaded. They have employees on site 24 hours a day plus the trash compactor and recycling dumpster are completely sealed. M. Leininger asked the applicant to consider white roofs on the building. She asked what would happen if someone over filled the fuel tanks. Mr. Sharo said there are alarms to prevent them from being overfilled. Wawa fueling standards exceed what is required by law.

Jeff Berei said he understood the sign on Rt 46 being 19ft tall for visibility but did not understand why the one on Fox Hill Rd needed to be that tall. Mr. Sharo answered it was so the people traveling west on Rt 46 would not miss the turn onto Fox Hill Rd. What was the height of the fuel canopy signage.? The lower end of the canopy is 14ft 10 1/2" in the air so the signage is 3 to 4ft lower. The signs under the canopy are not illuminated because the whole canopy is lit. The illumination is standard across the site and does not change throughout the day. There are 2.2-foot candles at the hotel pavement and 3.19-foot candles at the Wawa. The foot candles at the canopy are brighter, the average is 32-foot candles for safety. J. Berei asked if they could install solar panels on the canopy. Mr. Sharo said the are not proposing any, but they have been allowing third parties to install solar panels. The swoop of the canopy is facing the wrong direction.

Nick Coppola confirmed Wawa had no spill containment mechanism under the fuel tanks. Mr. Sharo responded that was what the second wall tanks were for. If the tank leaks it will trip an alarm that goes to the store and headquarters. How do the trucks come in to fill the tanks? They would enter the site from Rt 46E, go between the building and the canopy, then pull forward along the front curb line and park over the fuel tank pad. Mr. Sharo agreed to come back with the

protocol for a fuel spill. David Shepherd asked what amount of fluid would set off the alarm. Mr. Sharo said there is a pressurized space between the double tanks walls even air would set off the alarm. Mr. Shepherd asked do we have an expert on the gas tanks. Bill Ryden was not an expert, but the applicant does meet the state and federal standards. Peter Black confirmed this was part of the operation procedure for wellhead protection (NJAC7:14B for underground storage tank guidelines). The state inspectors will determine if the tanks are installed correctly and their leak detection is set up right. The state will enforce these requirements.

Bethany Russo questioned the need for a 19ft sign on Fox Hill Rd for those heading westbound on Rt 46. She requested the applicant show the Board a visual exhibit, such as a sight line drawing, so they could understand the need for it. She didn't think the sign was serving any purpose and it was imposing for the neighborhood. John Veteri said they would review that sign with their team. Kelly Holliday said the Board understood the applicant meet the Borough requirements pertaining to lighting. She requested they explain their lighting spillage for the benefit of the public. Mr. Sharo said the signage will give off less light than the light poles. There will be light spillage at the entrance. DOT requires 2-foot candles at the curb they are at .1 spillage onto Route 46. On Fox Hill Rd they are .2 at the entrance and .1 along the property line. None of the residential properties will experience light spillage. She was also concerned about the sign on Fox Hill. Their renderings do not include the bollards. Mr. Sharo said the curb line becomes a tripping hazard so they put in bollards to protect the pedestrians and the building. The Shade Tree Commission asked for you to saving the 4 oak trees on the property. They also asked you to change out the non-native species for native ones. Mr. Sharo said they did switch out some of the plantings for native ones. They did look at the trees and they wanted to save them but could not. They planned to install 913 new trees and shrubs on the site. Meghan Leininger asked about water usage. Bill Ryden responded he did not look at the water usage yet. He was waiting for documentation from the applicant. David Shepherd said the Council had asked for off-site laundry. M. Leininger questioned their ADA parking spaces. She thought it hard for someone handicapped to enter the Wawa without going into the road. M. Sharo said they could shift some of the spaces if needed they will look at that again. Matin Kane asked if the catch basins had a regular scheduled maintenance plan. Yes, there was a regular stormwater system operations and maintenance plan that includes the basins.

Mr. Kane asked if any of our professional had any additional questions. John Jahr, of Brightview Engineering agreed they needed to plan for electric charging stations. He then asked how a pedestrian was getting from the hotel to the Wawa. Mr. Kienz mentioned the pedestrian was seeing the back side of the building. Mr. Sharo said they would use the crosswalk. They moved the crosswalk to the front of the hotel building so it lines up with the front of the Wawa. J. Jahr asked for him to explain the pedestrian traffic around the hotel building and Wawa. M. Sharo said there are crosswalks available along Fox Hill, there are sidewalks around the entire Wawa and hotel. J. Jahr was not sure who has jurisdiction at the corner at Fox Hill Road and Rt 46; NJ DOT or Mt. Lakes. N. Coppola questioned the rendering of the hotel, was it going to be updated? Jeff Berei asked about the delivery trucks used for scheduled deliveries. It was mostly done by tractor trailers with the balance of the deliveries made in box trucks. Chairmen Kane opened the hearing to the public for questions. Walter Nieczko, of 101 Rainbow Trail in Rainbow Lakes, shared the only way a driver could see the sign on Fox Hill Rd was if

they were stopped at the light. Cathy Hajiloucas, of 5 Lakewood Drive, asked if the rumbling from the Conrail trains would affect the fuel tanks. Mr. Sharo responded no. She asked how often the tanks would be inspected. Mr. Sharo answered a third party does an annual compliance inspection and 3x per year does a physical inspection. What about the escape of vapor? Mr. Sharo said at delivery 98% of any vapor that escapes from the truck or nozzle was recaptured. When fueling vehicles, the car itself as well as the nozzle on the pump capture the vapor. Did Mr. Sharo know about the vernal pond found on the Highlands map. He would have to look at the map. She asked him to explain the removal of trash and how noisy the compactor was? The staff brings the garbage out between shifts. If you stood 3ft from the compactor it would be as loud as a fax machine. When do they pick up the garbage? During regular off-peak business hours. Do they have different building designs? Wawa does have different façade treatments. Has there been a hydrology study done? Could someone explain why Soil Erosion was "home rule". Bill Ryden answered the Borough has retained jurisdiction for Soil Erosion plans. They review the plans for Morris County Soil Conservation and must apply all their rules to any review. Who handles the demolition and what about asbestos? Mr. Sharo said the developer will handle the demolition of the existing building. What about foot traffic accessing the Wawa? Mr. Sharo responded there will be a crosswalk on Route 46E and Fox Hill Rd. There are no sidewalks planned for Rt 46W. Mrs. Hadjiloucas was concern about potential run off. If issues arose is there someone to contact at Wawa. Someone could reach out to Wawa through the call-center or the internet. Michael Hollick, of 9 Lakewood Drive, asked if there was a wetland walk through of the site? The Conrail property has been identified as a wood turtle habitat by the DEP. The Zeris property is 150ft from that site. M. Sharo said there wasn't a wetland walk through done at the site since the property was entirely paved. Peter Black agreed, we are already within the disturbed paved envelope. The 150ft buffer would not apply because the area has already been disturbed. Mr. Hollick felt the study should be done. Could the applicant use LEED lights for the outdoor lighting? They are providing LED lights. Could they provide a landscape buffer in the Rt 46 right of way? Bill Ryden answered we will most likely not get permission from the DOT for that. Could the Board come to the effected neighborhoods to see the light spillage? Board members can visit the site individually. Mr. Hollick said the trees on Rt 46 are deciduous and there is a lot of light spillage. Would the applicant consider more landscape screening? G. Kienz said the Board and applicant can review that. Can the Board require additional safety measures for the tanks and storm drains? Mr. Sharo answered the applicant is already doing more than is required.

John Veteri interjected the applicant will follow the law on asbestos removal. The applicant would work with the Board to add more evergreens on the south side of the property. Dena Muniz, of 7 Rainbow Trail, requested a list of variances. They can be found on the Borough web site with the application materials. How many trees will be removed from site? They are removing 76 trees and will plant 56 new trees and 32 evergreens. Will there be any signs on the interstate directing traffic to the Wawa? Not to his knowledge. If there is any ground contamination what happens after the alarm sounds. Mr. Sharo will look into the actual procedure for the Board but does know Wawa has 24-hour service in these types of situations. Ellen Foppes, of 29 Rainbow Tr, was confused about the impervious coverage. The applicant was requesting a variance for coverage on the proposed Wawa site but since this iwa acting as

one site the combined lots are under the 80% ILC allowed. Have you considered using dark sky light fixtures? The lights they are using are all LED and will point downward. Victoria Branchini, of 7 Pinewood Lane, asked does a pedestrian on Rt 46E have to walk all the way around to Fox Hill Road to get to the Wawa. Mr. Sharo said they will investigate adding a sidewalk on the westside of the driveway entrance for pedestrians. Will the new sidewalks be lit? No, they will use the light from the highway. Can customers use the back entrance of the Wawa? Yes, you can use that entrance. For safety reasons would you consider moving the back entrance to the side. They consider this is a safe site. The rear of the building is active with 17 parking spaces and two driveway entrances. Will they be fueling 18 wheelers? No, not at this site. Dr. Green Ford, of 5 Crestview Rd, asked if the hotel shutters, is there a contingency plan? Mr. Sharo did not know. How often will fuel be delivered to the station? Delivery is on demand, every day or two a truck will fill the tank that is empty. Are there any omissions or smells? No, due to federal laws put in place in 2000. Where does the garbage go? Is there a fee paid to the town? The town is not involved in the garbage pickup, they use a private hauler. Joseph Sarnoski, of 4 Ironwood Trail Denville, had a question about stormwater. Lake Arrowhead and Rainbow Lakes have a problem with nutrification. How do you guaranteed there will be no runoff into the lakes? Mr. Sharo said they meet the stormwater requirements, they are planting new trees, and they have less ILC. John Veteri added they are complying with the law in this area. The mitigation of fuel sites is difficult, what if this site is no longer a Wawa? John Veteri said you are speaking about old mom & pop sites before all these laws were put in place. Wawa is working under the new DEP regulations. Adam Verillo, of 76 Highwood Rd Rainbow Lakes, asked can you make a left at the southern driveway on Fox Hill Rd. Yes, you can. Why did they eliminate the left at the northern driveway? That is a question for the Traffic Engineer. Ryan Gorman, of 37 Rainbow Tr, asked when the applicant would have information on water usage and make it available to the public. John Veteri said they have some information, and we will make sure that information is distributed. Mr. Kane said the Board did not have jurisdiction over water. Andy Sadowski, of 29 Highview Rd Denville, asked if the pump island was 35ft off the property line. The canopy will be 50ft from Fox Hill Rd. There are no sidewalks from the train tracks to the site. Mr. Sharo said they could look at adding additional sidewalk. Would the proposed signs block the signage along Rt 46 for other businesses? Mr. Sharo did not believe so. When was the food delivered? Early in the morning during off peak hours. Briana Ostrosky, of 8 Rainbow Tr, asked about the sewer system. They will connect to the water and sewer system on Route 46. What was the combined flow for the site? Is there adequate capacity? Mr. Sharo said all the pipes are adequate to handle the flow. Can you define off peak hours for garbage pickup? Mr. Sharo answered daytime hours but not during the morning or lunch rush. Martin Kane said the resolution should have a condition that there will be no garbage pickup after 9pm. Would Wawa consider adding motion detectors to the lights? What about black out lights or shades for the buildings. Wawa uses tinted windows to control the indoor lights. Kristin Vandermere, of 10 Maywood Denville, asked how they were lighting of the Wawa sign. There is no external illumination on the sign. All signs will be lit from within. There will be red & green LED light for the fuel pricing. What about the lights on the building? Mr. Sharo explained their locations and height on the building, the lamp posts in the parking lot and entrances. Sandy Batty, of 15 Lockley Court, asked is this not a major development of more than 1 acre. Yes, it is but we are

reducing the impervious area, so that reduces the peak discharge rate off site. Since you are changing the grading is the flow is going in the same direction. Yes, it is we must maintain the drainage patterns. Could the signs be dimmed after 10pm. G. Kienz agreed they should investigate that. The lighting does dim with ambient lighting as it gets darker, they will be the brightest during the day. Angela Tsai, of 9 Lakewood Dr, confirmed the downward lighting was for the entire site. Is there a Wawa property the public could visit? Mr. Kane answered the was new site at the corner of Passaic Ave and Fairfield Rd in Fairfield. If there is a spill how are the area residents protected? M. Sharo we will follow the Wellhead Protection Plan plus and the site is curbed. The residents will not be impacted over land. The signage variances are excessive, would the Board consider denying them? G. Kienz said the Board will consider what is presented and deliberate. Would the applicant consider putting into use the new state green infrastructure stormwater management rules that come into effect in March 2021? Sharo said they will investigate that, but they do not have to meet them. Jennifer Lynch, of 1 Fernwood Tr, confirmed emergency generators were not permanently in use even for the tank leak system. Wouldn't there be a delay while the generators were brought in? Mr. Sharo said a generator would not help with a leak. Did the Wawa sell alcohol? No, they do not. For your information, the EPA.gov labels the vernal pond as #13062. Mark Oldenwelder, of 6 Pinewood Lane, asked about vermin control. The trash is stored in sealed compactor. Outdoor employees clean up trash in the parking lots during their shift. What about pedestrian safety how are we going to keep people from getting killed in these sidewalks. The crosswalks are regulation size. Michael Hadjiloucas, of 5 Lakewood Drive, asked why the 1st order of business was a wetlands waiver. G. Kienz said it was a check list requirement and the state require all check list items to be provided or a waiver granted to deem the applicant complete. The Wawa signs will be lit 24 hours and are 19ft tall. Will any of the new trees grow larger than the sign? Mr. Sharo will get that information. He asked the dimensions of the signs. How come the lighting requirements for the restaurant and the gas station are the same. Mr. Kienz answered the Board has Ordinances that they give them direction on signage. Rich Olson, of 60 Highwood Rd Rainbow Lakes, noted the high side of the canopy faces the store. Could it be changed so the high side faces the highway reducing the light spillage for Rainbow Lakes. Mr. Sharo said the building would block the canopy from the Rainbow Lakes residents. The foot candles were .01 in that area. Could they add baffles to the lights on the canopy. The lights already point down. Could they add the trees along the south side? J. Vertri said they would look at adding trees there. Why are there two entrances onto Fox Hill Rd? Mr. Sharo will defer to the Traffic Engineer on that. The Highview application was carried to Tuesday, January 26th at 7PM.

Other Matters –

Committee Reports – There were no committee reports.

Martin Kane made a motion to close the meeting at 11:30PM.

Respectfully submitted,

Cynthia Shaw, Secretary

DRAFT

BOROUGH OF MOUNTAIN LAKES PLANNING BOARD

RESOLUTION

Application No. 20-274
20 Rainbow Trail
Block 18, Lot 19
R-1 & R-A Zone

WHEREAS, Park Lakes Tennis Club, Inc. ("Applicant") has applied to the Planning Board of the Borough of Mountain Lakes (the "Board") for preliminary and final major site plan approval, together with variance relief, to permit the construction of three (3) additional paddle tennis platforms and related structure on property located at 20 Rainbow Trail and designated Block 18, Lot 19 on the Tax Map of The Borough of Mountain Lakes (the "Subject Property"); and

WHEREAS, a public hearing was commenced on October 22, 2020 and concluded on November 30, 2020, during which hearing the Board heard testimony from witnesses on behalf of Applicant, reviewed the materials submitted and the exhibits presented in the course of the hearing, heard argument from Applicant's attorney, heard comments from the Board's consultants, and gave members of the public an opportunity to be heard; and

WHEREAS, the Board has considered the Applicant's submissions as well as testimony, reports, exhibits, and other evidence presented by the Applicant's witnesses, the arguments of Applicant's counsel, the comments from the Board's consultants, and comments from members of the public;

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Mountain Lakes that based upon the foregoing, the following findings of fact and conclusions of law are made:

1. Applicant is the owner of the Subject Property, located at 20 Rainbow Trail and designated Block 18, Lot 19 on the Tax Map of the Borough of Mountain Lakes. The Subject Property is located in the R-1 & R-A Residential Zones.
2. The Subject Property is a parcel of approximately 6 acres, currently developed with tennis courts, paddle (platform) tennis courts, warming hut, a tennis structure (observation platform and rest rooms), paved driveway and parking area, and various small accessory buildings and structures.
3. Applicant has been operating, initially as a tennis club and later adding the platform tennis facilities, for over 70 years at the Subject Property. Over that course of time, various zoning approvals and relief have been granted to permit the continuing operation of the Club at a location where it presently satisfies all of the requirements for a permitted conditional use, other than requiring the location of its facilities to be at least 50 feet from any residential lot line.
4. At the October 22, 2020 hearing, the Board granted a number of checklist “completeness” waivers, and determined that the Application could be deemed “complete” and the hearing proceed.
5. Applicant informed the Board that it was seeking preliminary and final major site plan approval as well as variance relief regarding parking to permit approval of its proposal to add three (3) more paddle tennis platforms to the facility, as well as related decking and walkways.

6. Applicant submitted plans (the latest set for the November 30 hearing) depicting the new courts, decks and walkways entitled “Preliminary & Final Major Site Plan Park Lakes Tennis Club” (5 sheets) prepared by Dykstra Walker Design Group, P.A. as follows: Sheet 1 – Cover Sheet, dated 3/25/20, last revised 11/16/20; Sheet 2 – Topographic Survey Plan, dated 3/25/20; Sheet 3 – Site Layout Plan, dated 3/25/20, last revised 11/16/20; Sheet 4 – Soil Erosion & Sediment Control Plan and Tree Removal Plan, dated 3/25/20, last revised 8/18/20; Sheet 5 – Lighting Plan, dated 11/16/20; hereinafter referred to collectively as the “Plans”.

7. The Board expressed concerns about the adequacy of parking. The Club is proposing 30 spaces (including two ADA compliant spaces), relative to the 101 spaces which would be required under the Ordinance for the expanded facilities, based on the nature and square footage of the improvements. The credible and uncontroverted testimony of numerous Club members, however, was that there were no difficulties or complaints about the existing parking arrangement (a paved and striped area sufficient for 30 spaces).

8. The credible and uncontroverted testimony of the Club members was that the same parking layout had been used since the late 1960’s. The facilities are used only by the Club for its members and activities. The members pointed out that, for the most part, the tennis and paddle seasons do not overlap. As a result, the demand for parking would continue to be below that which would be required if based solely on the square footage of the various improvements. Even in the unlikely event that all 5 tennis courts and all 6 paddle courts were being used by 4 people each, and each player arrived in a separate vehicle, only 44 spaces would be required and the overflow (which historically has not been required) would be accommodated by an off-site parking agreement.

9. Applicant advised the Board that, in order to avoid on-street parking, it had a long-standing agreement with St. Catherine's Church, a neighboring property, to use the Church's parking lot in the event additional parking was needed. At the November 30 hearing, Applicant submitted a letter from the Church (Ex. A-3) confirming this permission. Applicant also submitted that should the Church agreement ever be terminated, the additional 14 vehicles could be parked on a grass area (previously a parking area) to the east of the tennis courts.

10. Questions were raised by the Board concerning negative impacts on adjoining residential properties of lighting on the Subject Property for the paddle courts, the walkways and parking lot.

11. Applicant's engineer testified that Applicant proposed to erect heavy mesh wind screening (13 feet high) surrounding two (2) sides and the rear of all 6 paddle courts, which screening would block the on-court bright lighting and greatly reduce the lighting visibility from any off-site location. The single side left open was to permit play to be viewed from the Club structures, which structures, together with a sufficient evergreen buffer between the courts and the adjoining residential properties, will also serve to buffer any impacts of the lighting.

12. Responding to the Board's request, Applicant supplemented its initial plan set for the November 30 hearing with Sheet 5 of 5, the Lighting Plan. It shows down-facing LED fixtures producing no measurable light spillage from the paddle court lights beyond the Subject Property. This is compliant with ordinance requirements. Applicant's engineer confirmed that this was even before taking the proposed heavy mesh screening into account.

13. In addition, Applicant indicated that the paddle court lighting would have 4-hour timers on each court and a master automatic timer, to be controlled from inside the clubhouse, which would extinguish these lights any night they were in use no later than 10:30 p.m.

Applicant also recognized that the lighting levels to be maintained by the dusk-to-dawn security lights and the motion-activated lights, designed to provide not only security lighting but pedestrian lighting on the walkways and parking lot, were below the standard required by the ordinance. Applicant's witnesses testified, however, that based on actual experience, the lighting was adequate as a practical matter for the entire area. The level was desirable from the perspective of reducing lighting impacts on residential neighbors and that, to the extent any light spillage onto adjoining properties had been observed, it was limited to the rear areas of the commercial properties adjacent to the south. Applicant reiterated that the paddle lights and all non-essential lighting would be extinguished by 10:30 p.m.

14. A member of the public informed the Board that he had observed potential traffic hazards in the manner in which the present driveway is utilized; particularly that vehicles often exited the Subject Property on to the public road at excessive speeds.

15. Applicant agreed to consult with the Borough Engineer to design and install appropriate traffic calming measures in the driveway. These would be subject to review and approval of the Borough Engineer.

16. Applicant's witnesses clarified for the Board that, although a prior approval had required that propane tanks were to be removed, the above-ground tank shown on the Plans had not actually been removed, but would be removed now.

17. Applicant's attorney urged that the requested variance relief for parking could be granted as a "c(2)" variance since it related to this specific property, supported a use which is consistent with the purposes of the Municipal Land Use Law, and reflected a continuation of a decades-long use operating in this fashion and co-existing with its residential neighbors. Given

these factors, counsel argued that the benefits of permitting the variance parking substantially outweighed any potential detriments.

18. The Board accepted the testimony of Applicant's witnesses and concluded that the proposal included elements which adequately mitigated any potential negative impacts.

19. Based upon all of the foregoing, the Board concluded that, with appropriate conditions, the preliminary and final major site plan approval could be granted and that the variance regarding parking could be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance.

BE IT FURTHER RESOLVED by the Planning Board of the Borough of Mountain Lakes that the Application of Park Lakes Tennis Club, Inc. for preliminary and final site plan approval for the additional three (3) paddle courts, decking and walkways as depicted on the Plans submitted to the Board for the November 30, 2020 hearing together with variance relief for the number of on-site parking spaces (30 parking stalls, 9 feet by 18 feet), and with design standard exceptions with respect to lighting levels below those required by the ordinance and permitting those fixtures depicted on the Plans, all with respect to property located at 20 Rainbow Trail and designated Block 18, Lot 19 on the Tax Map of the Borough of Mountain Lakes, be and hereby are approved and granted as detailed in this Resolution, subject to the following conditions:

1. Applicant shall obtain all other necessary permits and approvals with respect to the project which may be required from any Board, body or agency, whether municipal, county, state or federal, having jurisdiction over the Subject Property or the project.

2. Construction and completion of the project, as well as operation of the site, shall be consistent with the testimony adduced in the course of the public hearing and in accordance

with the findings and conclusions of the Board set forth in this Resolution and the conditions of approval set forth herein.

3. All construction activities shall be in accordance with the Borough Ordinances regarding hours of work, maintenance of streets, etc.

4. All taxes and municipal charges, fees and escrows shall be paid by Applicant and shall be kept current. Applicant shall also provide any necessary inspection fees or other fees in connection with construction of the project.

5. Applicant shall comply with any applicable Affordable Housing requirements.

6. Paddle court screening as described shall be installed on the perimeter of all courts using material maximizing the screening capability with respect to spillage of lighting.

7. Additional traffic calming measures shall be designed and installed in the driveway on the Subject Property. The manner, method and design shall be subject to review and approval by the Borough Engineer.

8. All paddle court lights shall be on 4-hour timers and, other than security lighting, all lights on the Subject Property shall be on a master timer and shall be turned off no later than 10:30 p.m.

9. Applicant shall be in receipt of, and shall submit, the Letter of Interpretation from the NJDEP approving the delineation of wetlands on the Subject Property, determining the resource value of these wetlands, and establishing the minimum transition area (buffer) required. Should any of the determinations of the NJDEP require revision to the Plans, such revisions shall be made by Applicant. Should the revisions impact the nature, extent or location of any of the improvements permitted by this approval, Applicant shall return to the Board to seek appropriate revision of this development approval.

10. The above-ground propane tank at the northeasterly corner of the parking lot shall be removed.

11. Applicant shall obtain from St. Catherine's Church a document clarifying the nature and extent of the off-site parking arrangement. Particularly, it shall be clear that the arrangement permits parking for at least 14 cars during the 8:00 a.m. to 10:30 p.m. hours of operation of Applicant's facilities. In addition, Applicant agrees that the use of the grass area to the east of the tennis courts (depicted on Sheet 3 of 5 of the Plans) shall be maintained in such a condition that it can be made available and will then be used for parking of at least an additional 14 vehicles in the event the agreement with the neighboring church is terminated or limited.

12. Applicant's Club Rules shall expressly state that there is to be no on-street parking by those using the club facilities and that parking of vehicles has priority in the on-site paved parking lot relative to the use of the retaining wall as a practice backboard or the use of the surface area for pickle ball or other recreational activities.

13. All conditions of prior approvals remain in full force and effect, except to the extent that they have been fully satisfied, or modified or terminated expressly or by necessary implication by later approvals or by this Resolution.

14. Vegetation along and encroaching into the Rainbow Trail public road right of way shall be kept cleared by Applicant to provide safe site lines at the Club's driveway.

15. Conditions Nos. 1, 4 (to current), 5 (as applicable), 7 (as to design and design approval), 9, 10, 11 (as to Church agreement), 12, and 13 (as applicable) shall be satisfied prior to the signing of the Site Plan documents by the Board and the Borough Engineer.

BE IT FURTHER RESOLVED that this Resolution adopted this ____ day of _____, 2021 memorializes the action taken by the Board, as set forth above, at its meeting on November 30, 2020.

The Vote:

In Favor: _____

CERTIFICATION

I hereby certify that this is a true copy of a Resolution duly adopted by the Planning Board of the Borough of Mountain Lakes at a public meeting duly held on _____.

Cynthia Shaw, Administrator
Borough of Mountain Lakes
Planning Board

HIGHVIEW APPLICATION

LINK TO ALL DOCUMENTS PERTAINING TO APPLICATION

HOLD DOWN THE CONTROL BUTTON AND CLICK on the Link to access documents:

https://boroughofmountainlakes-my.sharepoint.com/:f:/g/personal/cshaw_mtnlakes_org/EgWbMMt8LahCodlftYV7QeQBntGoiPVNicDuXIHUpe6vtw?e=N3vpip