

**BOROUGH OF HILLSDALE
PLANNING BOARD
RESOLUTION NUMBER 2022-11
CASE NUMBER PZ-10-21**

WHEREAS, an application has been submitted by 441 Hillsdale Ave., LLC (the “Applicant”) for property known as 441 Hillsdale Avenue, Hillsdale, New Jersey and identified as Block 1105, Lot 4 (the “Property”); and

WHEREAS, the Applicant applied for minor site plan approval, certain variance relief and design exceptions and waivers; and

WHEREAS, the Applicant was represented by Holly Schepisi, Esq., Schepisi Consulting & Law, LLC, 754 Tiffany Avenue, River Vale, NJ 07675; and

WHEREAS, the Board considered the reports of Christopher P. Statile, PE, dated October 29, 2021, December 22, 2021 and January 20, 2022¹, as well as the reports of Thomas Behrens, Jr., PP, AICP dated November 30, 2021 and January 21, 2022; and

WHEREAS, the Board determined that the application was complete and that a public hearing be conducted by the Board; and

WHEREAS, public hearings were held on December 2, 2021; December 16, 2021; January 25, 2022 and February 10, 2022; and

WHEREAS, the Applicant presented the testimony of Laurie Pellegrino, a real estate manager with Chipotle, with a home office based at 705 Timberbrook Drive, Bedminster, NJ; and William B. Page, PE (“Mr. Page”) of Page Consultants, Inc. 6 Forest Avenue, Paramus, NJ; and

¹ The January 20, 2022 report prepared by Christopher P. Statile, PE is erroneously dated January 20, 2021.

WHEREAS, the Board Engineer, Christopher P. Statile, PE (“Mr. Statile”) and the Board Planner, Thomas Behrens, Jr., PP, AICP (“Mr. Behrens”) were duly sworn and testified at the hearings before the Board; and

WHEREAS, along with the application, the Applicant submitted the following:

1. Site plan entitled “VanRock Properties, 441 Hillsdale Avenue, Block 1105, Lot 4, Hillsdale, Bergen County, NJ”, prepared by William B. Page, PE, of Page Consultants, Inc., 6 Forest Avenue, Paramus, NJ 07652, dated September 14, 2021 and revised to January 10, 2022 and February 8, 2022, consisting of the following:
 - Drawing 1 of 10: Cover Sheet;
 - Drawing 2 of 10: Existing Conditions Plan;
 - Drawing 3 of 10: Proposed Site Plan;
 - Drawing 4 of 10: Grading & Utility Plan;
 - Drawing 5 of 10: Soil Erosion Plan & Details;
 - Drawing 6 of 10: Signage Plan I;
 - Drawing 7 of 10: Signage Plan I;
 - Drawing 8 of 10: Elevation & Signage Plan;
 - Drawing 9 of 10: Lighting & Landscaping Plan, revised to January 26, 2022; and
 - Drawing 10 of 10: General Details.
2. Floor plans prepared by Greenberg Farrow, 92 East Main Street, Suite 410, Somerville, NJ 08876, dated July 21, 2021, consisting of one sheet.
3. Letter of denial issued by Steven Loesner, Zoning Official, dated August 3, 2021.
4. Photographs of the Property consisting of 4 sheets.
5. Traffic Impact Study for Proposed Chipotle Restaurant with Drive-Through, prepared by

John R. Corak PE and Matthew J. Seckler PE, PP, PTOE of Stonefield Engineering & Design, LLC, 92 Park Avenue, Rutherford, NJ 07070, dated September 10, 2021 and revised to December 1, 2021, consisting of 48 sheets; and

WHEREAS, the Applicant submitted proof of notification, by mail or personal service at least 10 days prior to the date set forth for public hearing on all persons owning properties within 200 feet from the extreme limits of the subject premises of the subject application, as set forth on a certified list of said owners furnished to the Applicant by the Tax Assessor of the Borough of Hillsdale and provided proof of service of such notice in accordance with the Land Use Ordinance of the Borough of Hillsdale, as amended and supplemented, and the Municipal Land Use Law (the “MLUL”), N.J.S.A. 40:55D-1 to -163; and

WHEREAS, the Applicant has submitted proof that a copy of said notifications have been published at least 10 days prior to the date set forth for public hearing in the official newspaper of the Borough of Hillsdale in accordance with the Land Use Ordinance of the Borough of Hillsdale, as amended and supplemented, and the MLUL; and

WHEREAS, the Board gave due consideration to all individuals desiring to be heard and after due deliberation, did find and determine that:

A. The Property

1. The Property is located at 441 Hillsdale Avenue, designated as Block 1105, Lot 4 at the southeastern corner of the Hillsdale Avenue and Washington Avenue intersection. Washington Avenue curves around the Property, and becomes Patterson Street, so that the lot has frontages on Hillsdale Avenue on the north side and Washington Avenue on the west and southern sides. One-way access into the site is permitted from Hillsdale Avenue and both access

into and out of the lot is permitted from Washington Avenue at the southern end. Lot 4 is adjacent to the commuter parking area on the eastern (right) side.

2. The Property consists of 22,250 SF (0.51 acre) and is located in the C Commercial Zone (7,500 SF minimum lot size).

B. The Application

3. The Applicant proposes to locate a Chipotle restaurant repurposing the existing building. The existing steps, a concrete trash pad and air conditioning units with pads that are located behind the building are proposed for removal. A new concrete access sidewalk is proposed in front of the building, between the building and the parking spaces.

4. The interior of the existing building is proposed to be renovated to accommodate the new “fast-casual” restaurant. Customers will order from a counter and eat their food at tables in the restaurant or take the food “to go”. Neither table service nor an exterior order/menu board are proposed.

5. The Applicant proposes to reconfigure the existing parking area and install a new parking lot. The proposed lot will contain 18 parking spaces, of which 2 spaces will be barrier-free and an additional 2 spaces will be assigned for mobile order pickup. Access to Hillsdale Avenue will be permitted from the northern end of the lot, with “right turns only” permitted out of the site. Left turns are not permitted out of the Hillsdale Avenue exit. Entrance into and out of the site is permitted on the southern end of the Property, with no restrictions on turning directions.

6. The restaurant is a permitted use in Hillsdale’s Commercial Zone. Thirteen parking spaces are required per the Zoning Ordinance, and the Applicant is providing 18 total spaces.

7. Wall signs are proposed on the north, south and west elevations. A digital pickup area is located behind the building and a clearance bar is located over the pickup lane. Exit and entrance signage is proposed at the exits and entrances.

Proposed Variances

8. Mr. Statile's report, dated October 29, 2021, stated that the application is considered a minor site plan and has been reviewed against the requirements contained in Land Use §310-87 for a minor site plan approval. The following item is deficient: 310-87E(13): Existing drainage within 500 feet.

In addition, Mr. Statile identified the following variance relief from the initial application:

- (a) Front Yard Setback, Washington Ave: 4.1 feet existing where 5 feet is required, a difference of 0.9 feet
- (b) Parking Offset from Street Section 310-58: 0 feet existing where 10 feet is required (prior exit closed with reconfigurations of Patterson Street/Washington Avenue).
- (c) Fences Section 310-56A: 6 feet High (Dumpster Enclosure) where 4 feet is permitted within 25 feet of intersection Patterson Street/Washington Avenue. Otherwise 6 feet high is permitted on Commercial District.
- (d) Accessory Structure (280 SF dumpster enclosure) in Front Yard Space Prohibited, Section 310-55(H)4a.

C. The Hearings

Testimony from December 2, 2021

9. Holly Schepisi, Esq. ("Ms. Schepisi") of Schepisi Consulting & Law, LLC, 754 Tiffany Avenue, River Vale, NJ 07675 appeared at the December 2, 2021 meeting for the Applicant. This is an application seeking minor site plan approval, certain variance relief and

design exceptions and waivers for the Property located at 441 Hillsdale Avenue, Block 1105, Lot 4. The Property is located at the southeastern corner of the intersection of Hillsdale Avenue and Washington Avenue. The lot contains an approximately 22,250 SF area (0.51 acre) and is improved with an existing one-story brick building with associated parking and other associated improvements. The building previously housed a Friendly's Restaurant. The Applicant proposes to convert the building to a Chipotle Restaurant. Associated improvements with the application include repurposing the existing building; removing the existing steps and concrete trash pad; and air conditioning units and pads located behind the building. The Applicant proposes new concrete sidewalks and walkways. There will be no expansion to the existing building footprint. The interior of the building is proposed to be renovated to accommodate the new Chipotle Restaurant. Part of the application seeks approval for what is called the "Chipotlane", which is a pickup window. Table service and an exterior order/menu board are not proposed. The Applicant proposes to reconfigure the parking area and will install a new parking lot containing 18 parking spaces, of which 2 will be barrier free. An additional 2 spaces will be assigned for mobile order pickup. The Property is located in the C-Commercial Zone and the proposed restaurant use is permitted. Wall signs are proposed on the north, south and west elevations. Testimony will be heard that the proposed restaurant does not qualify as a "drive-through" restaurant as set forth in §310-4 of Hillsdale's Ordinance. Patrons will not be able to place an order for any food or beverage at the proposed pickup window and will only be able to pick up orders placed and paid for through a mobile application. Should the Board decide that the proposed use is a drive-through pursuant to §310-4, the Applicant seeks a (d)(1) use variance to permit such use. No bulk variances are currently contemplated by the Applicant. The Applicant requires an exception or waiver from §310-87(E)(13) for existing drainage within 500 feet. The Applicant is in receipt

of Mr. Behrens' November 30, 2021 letter, which differs slightly from the Zoning Official's letter and the Engineer's letter as to certain pre-existing site conditions and the current front yard parking setback as well as the setback for the existing sign. Mr. Behrens' November 30, 2021 letter raised concern as to the setback to the garbage area on the Patterson Street side of the building, which has been determined to be an additional front yard as this is a corner lot, and may require an exception or waiver of §310-55(H)(3), which prohibits accessory structures in a required front yard. Ms. Schepisi stated that the Applicant has submitted the site plan application with attachments, including a copy of the Zoning Officer's denial letter and photographs of the site. The Applicant is in receipt of Mr. Behrens' November 30, 2021 letter, as well as the October 29, 2021 letter from the Board Engineer. Revisions were made to the plan originally submitted to take into account the comments of Mr. Statile's letter. The comments in Mr. Behrens' November 30, 2021 letter will be addressed during testimony.

10. Board Vice-Chairman Steven Riordan recused himself from hearing this application.

11. The first witness to testify was Laurie Pellegrino ('Ms. Pellegrino'), a real estate manager with Chipotle, with a home office based at 705 Timberbrook Drive, Bedminster, NJ. Ms. Pellegrino was duly sworn prior to providing testimony with regard to the subject application. Ms. Pellegrino testified that the Applicant is the landlord at the site and Chipotle is the tenant. Ms. Pellegrino has worked at Chipotle over 13 years. Ms. Pellegrino testified that Chipotle operates in 48 states and Washington, DC, with 82 restaurants in New Jersey. There are nearby Chipotle locations in Montvale, Paramus, Closter and Hackensack. Ms. Pellegrino testified that Chipotle is different than other fast-food restaurants. Chipotle's food is made fresh every day with no artificial flavors, colors or preservatives. Nothing is frozen or canned, and no

shortcuts are taken. There are no microwaves or freezers in Chipotle restaurants. The restaurant's national hours are 10:45 a.m. to 10:00 p.m. seven days a week. There will be 8 to 10 employees on-site at any given time, with an approximate total of 35 to 40 employees for the site, with 50% full-time and 50% part-time. There are 2 separate shifts each day. The first employees of the day begin at 8:00 a.m. with prepping food. Ms. Pellegrino testified that there are 30 seats contemplated for this restaurant. Ms. Pellegrino anticipates food deliveries 4 to 5 times a week, with deliveries arriving between the late evening to very early in the morning. Deliveries are made on a 26-foot box truck. The drivers have a master key and will enter through the front door. The food is placed on a dolly and brought into the coolers and the delivery takes approximately 15 to 20 minutes. Deliveries are made during non-operational hours. Trash removal will take place 4 to 5 times a week and can be increased if necessary.

12. Ms. Pellegrino described the use of the "Chipotlane". In order to utilize same, customers download the Chipotle app on their mobile phones. Orders are placed through the app and customers are given a timeframe during which their order will be ready. Customers give their name at the pick-up window and are given their order. Ms. Pellegrino stated that customers are typically in the "Chipotlane" for 2 minutes and spend 30 seconds at the pick-up window. No orders can be placed or paid for at the window. There are 2 pull-off spaces at the subject location in the event customers are unaware of the process and would like to place an order. If a person arrives before their allotted timeframe and their order is not complete, the pull-off spaces can be utilized. They can then either return to the window at the correct time or a staff member will bring the order to them. The "Chipotlane" can accommodate up to 6 vehicles at one time. Ms. Pellegrino testified that a similar "Chipotlane" exists at the Paramus location on Route 17. The Paramus location is a high-volume site and, to Ms. Pellegrino's knowledge, there is no problem

with cars queuing or insufficient pull-off spaces. According to Ms. Pellegrino, the “Chipotlane” has increased flow efficiency at its locations. It limits the amount of vehicles taking up space in the parking lot. In response to a suggestion in the reports on this application that outdoor seating be provided, Ms. Pellegrino stated that while there is typically outdoor seating at Chipotle restaurants, there is not sufficient space at the site to include it. The existing Friendly’s has 2 benches outside and Ms. Pellegrino stated the Applicant is willing to have similar benches and would replace the existing benches.

13. The Board Attorney, Daniel Lagana, Esq. (“Mr. Lagana”), spoke to the term “drive-through” restaurant as set forth in §310-4 of Hillsdale’s Ordinance and whether the “Chipotlane” qualifies as same. Mr. Lagana recommended that the Board would benefit from hearing the additional testimony of the Applicant’s professionals before coming to a decision on this issue. If the lane is considered a drive through, a (d)(1) variance is required.

14. Board Secretary Kates asked for clarification as to whether there is a walk-up window in addition to the Chipotlane, as some of the documents refer to a walk-up window. Ms. Pellegrino testified that the restaurant will contain only a drive-through lane. Anyone walking up for an order will pick it up inside the restaurant. Ms. Kates was also concerned as to the number of cars that will fit into the lane and where would additional cars go while waiting to get into the lane. Ms. Pellegrino responded that the pick-up times assigned in the app are staggered so that there will not be too many cars picking up orders at one time.

In response to a question from Board member Miano, Ms. Pellegrino testified that approximately 50% of the site’s customers will utilize the “Chipotlane”.

Mayor Ruocco asked what happens if a customer is early for their pick-up time and goes through the “Chipotlane”. Ms. Pellegrino testified that if a vehicle arrives at the pick-up window

and their order is not ready, they will be directed to one of the pull-off spaces. They can then either opt for an employee to bring their food to them or can go around and back through the “Chipotlane” at the correct time to pick up their order. They are moved along so as not to block the lane.

In response to a question from the Board Chair, Ms. Pellegrino stated that deliveries are made anytime between 11:00 p.m. and 8:00 a.m. so as not to interfere during business hours.

Mr. Burleson also asked what are the busiest times of the day, to which Ms. Pellegrino responded 12:00 to 1:30 and 5:00 to 7:00. An area such as this location may be steadier throughout the day. Mr. Burleson further questioned if any of the other local Chipotle restaurants has a “Chipotlane” and Ms. Pellegrino responded that the location at Paramus Route 17 contains one. This is also a pick-up lane only with no menu board.

Mr. Statile asked if the parking lot lights were turned off at closing. Ms. Pellegrino advised that they are turned off one hour after closing for safety reasons in order to provide lighting for employees leaving the facility.

Mr. Burleson asked Mr. Statile if there was a Borough Ordinance regarding the overnight deliveries. Mr. Statile stated there is no restriction for such deliveries other than noise.

15. The next witness to testify was the Applicant’s Engineer, Mr. Page, who testified as to the site plan. Mr. Page’s credentials as a licensed professional engineer of the State of New Jersey were accepted by the Board and he testified after being duly sworn. A site plan was submitted to the Board dated September 14, 2021, consisting of 10 sheets. The plans were placed on the screen for viewing by the meeting participants. Mr. Page testified as to Sheet 1 of the plans, which is the title sheet. Sheet 2 depicts the existing Friendly’s building and other existing conditions on the Property. Parking is available throughout the site. Access to the site is from

Hillsdale Avenue. There is also an entrance/exit driveway at the rear of the site on Patterson Street. There is one-way circulation through the site. The drawing depicts the concrete sidewalks, utilities and other pertinent aspects of the site.

16. Mr. Page testified as to Sheet 3 of the plans which is the site plan before the Board. He referred to the "Chipotlane" which was the subject of earlier testimony. The lane is 17 feet wide and includes a by-pass lane. The plans depict the 2 pull-off spaces for customers whose orders are not yet ready. Two parking spaces are specified for use by customers picking up their orders only. The rest of the parking spaces are available for customers wishing to eat inside the restaurant. He testified that 13 parking spaces are required and the Applicant is providing 18 spaces. The calculation is based on 30 seats in the restaurant and 9 employees.

17. Mr. Page testified as to Sheet 4 of the plans, which is the Grading and Drainage Plan. The existing parking lot is not being substantially changed, with the exception of adding curbing, adding more impervious coverage and eliminating some of the parking at the rear of the site. Approximately 930 SF of pervious coverage in the form of landscaping has been added. The plans depict the dumpster area and a grease trap for the restaurant. The plans also depict the circulation at the site. To avoid a dangerous situation, cars exiting onto Hillsdale Avenue will make a right turn only. The other entrance/exit is off Patterson Avenue. A catch basin has been added. The site contains 2 ADA parking spaces. The curb by the handicap spaces is level with the parking lot for access by persons in wheelchairs or using a cane. Additional curbing will be added to provide for good traffic flow. There is a ramp at the back of the building to make it easier for employees to bring trash from the restaurant to the dumpster area.

18. The next drawing in the set, on Sheet 5, is the Soil Erosion Plan. Mr. Page testified that the plans depict the level of disturbance and the new catch basin. Workers coming to work at the site will enter and exit on Patterson Street.

19. Mr. Page then testified as to Sheet 6, which is the signage plan. There will be a sign “Mobile Order Pickup Area” which will be located near the pick-up window. There will be a sign designating the “Chipotlane”. There is no menu board at the “Chipotlane”. The window is strictly for picking up food previously ordered and is not a walk-up window. The rest of the signs are standard stop signs, crosswalk and handicap signs. The next drawing, Sheet 7, shows the standard Chipotle signs. All signs are conforming with the Borough regulations. The “Chipotlane” is designed to keep vehicles moving, with an average of 2 minutes in the lane and 30 seconds at the window.

20. Mr. Page further testified as to Sheet 8 is a detail of the building itself and shows what the outside of the proposed Chipotle building will look like. There is a Chipotle sign on the side of the building. The pick-up window of the “Chipotlane” is depicted on the plans. The drawing shows the guard rails which are ADA compliant and meet all safety regulations. Sheet 8 includes a chart with the sign requirements, which shows that each of the proposed signs is compliant.

21. Mr. Page then testified to the Lighting and Landscape Plan on Sheet 9. The plan outlines the types of plants to be utilized by the Applicant and where same will be located in the pervious improvements. The plan depicts the proposed foot candles and the intensity of same. One of the proposed lights is 4,000k and the Ordinance provides for 3,500k. The Applicant will reduce same to 3,500k. Various lighting is proposed throughout the site. The lights will be LED and will be shut off one hour after the restaurant closes. The plan includes the notation that the

lighting will be reviewed after 6 months by the Borough Engineer to see if changes need to be made to same.

22. Sheet 10 contains general construction details.

23. Mr. Page provided testimony with regard to the dumpster area to address a comment in Mr. Behrens' report which deemed it an accessory structure requiring a (c) variance for setback as that area would be deemed a front yard. The Property is considered to have 3 front yards and one long side yard. The only place to locate the dumpster not requiring such variance would be across the parking lot in the side yard, which would require employees to cross traffic each time garbage was placed in the dumpster and which would also be an awkward place for a garbage truck to pick up the trash. Based upon site conditions, the rear of the building is the only practicable place in which to locate the dumpster area. As to the suggested bike rack, Mr. Page testified that could be incorporated into the plans.

24. Mr. Page stated he reviewed Mr. Statile's October 29, 2021 comment letter and all the comments have been addressed in the revised plans provided to the Board. He testified that 930 SF of pervious coverage is being added in the form of landscaping. There are currently no plantings on the site other than several street trees. The sidewalks along the frontage of the Property will be replaced at the time the driveway is constructed.

25. A suggestion was made that the Applicant install sidewalks on the Patterson Street side of the site. Mr. Page testified that there are a lot of utility poles and a lot of trees located on Patterson Street. In addition, that is where the "Chipotlane" will be located and there is not a lot of distance to add a sidewalk. Any sidewalk would have to be installed around the utility poles and trees or the trees would have to be removed.

26. A question was posed regarding ground-mounted equipment, and Mr. Page testified that the only ground-mounted equipment at this location is the AC unit in back of the building, which does not interfere with traffic flow. The Applicant is willing to provide additional landscaping at the southerly and westerly sides of the site if requested to do so.

Mr. Page stated he spoke with Mr. Statile, who requested a larger turning radius for the driveway in the rear for cars turning right out of the driveway onto Washington Avenue. The plans depict 5 feet and Mr. Statile suggested 15 feet, and Mr. Page stated he would be willing to work with Mr. Statile and meet at some number in between. If the application is approved, he will work with the Board Engineer and Board Planner to address any concerns raised by them.

27. Mr. Statile asked about lighting at the entrance of the restaurant and at the rear where the employees will bring out the trash, as he does not see any depicted on the plans. Mr. Page testified that the light poles shown on the plans should provide sufficient lighting for these spaces but if additional lighting is requested the Applicant will install same. Mr. Statile suggested lighting on the front and the back of the building that will look nice while illuminating those areas. Mr. Statile commented that the pick-up lane signs should be on bollards.

28. Mr. Behrens asked about the composition of the dumpster enclosure. Mr. Page stated it is a chain link fence with privacy slats. Mr. Behrens was concerned with a garbage truck hitting the enclosure and damaging it. Mr. Page replied that bollards could be placed to protect the enclosure. Mr. Behrens stated that is one solution but it is the Board's decision as to whether they will require a more substantial material be used. The Applicant agreed to utilize a sturdier enclosure such as masonry for the dumpster enclosure. Mr. Behrens appreciated the landscape improvements and suggested continuing them around the building, especially on the northern and westerly sides, where no improvements are proposed. Mr. Behrens also commented that

there is an existing freestanding non-conforming sign that the Board needs to address. Mr. Behrens asked if the Applicant needs the freestanding sign given the wall-mounted sign proposed. Mr. Page replied that the Applicant would prefer to leave the freestanding sign and that it is a pre-existing condition, but it is up to the discretion of the Board. Mr. Behrens asked if the chain-link fencing along the easterly side of the site will remain and Mr. Page confirmed that it will. Mr. Behrens said that aesthetically there are several panels of chain-link fencing along Hillsdale Avenue and that the site might look more attractive if they were removed.

29. Chairman Burlison asked Mr. Page that if he designed a restaurant with a drive-through lane, how would it be different from this application. Mr. Page responded that there would be a lot more activity than what is anticipated by the Applicant. The Chipotle customers will not be stopping to look at a menu board causing traffic backups. Traffic will be moving through the “Chipotlane” a lot quicker than a standard drive-through lane.

30. Chairman Burlison asked the Board Attorney, Daniel Lagana, Esq., at what point the Board should discuss whether the proposed “Chipotlane” conflicts with the Borough’s standard of no drive-through lanes being permitted and requested guidance on how to proceed. Mr. Lagana asked Ms. Schepisi if the Applicant had other witnesses to present or if she would like the Board to deliberate on the Ordinance issue at this time. Ms. Schepisi stated that the traffic testimony would provide additional guidance to the Board with respect to efficiency and flow on the site and will talk to the differences between a typical drive-through and the proposed pick-up window, which is not addressed under the Borough’s Ordinance.

31. Chairman Burlison allowed the Board members and professionals to ask questions of Mr. Page prior to hearing traffic testimony. Mr. Burlison asked Mr. Page that entering the Property from Washington Avenue (the south end of the lot), the circular flow is to

go to the pick-up window and out that same way, there is a crossover section where vehicles will have to cross over traffic in order to get to the “Chipotle”. The testimony was that there is room in the lane for 6 vehicles. Mr. Burleson questioned what would happen if the flow of traffic is blocked and vehicles cannot exit/enter on Washington Avenue and asked how that would be mitigated. If this becomes an issue, Mr. Page testified that the pull-off parking spaces could be utilized. In addition, traffic could be directed to pull into parking spaces instead of waiting to enter the “Chipotle”. He said there is also an exit on Hillsdale Avenue that could be utilized. Mr. Burleson suggested “do not block the box” type striping on the pavement to advise drivers not to block the entrance to the “Chipotle”. Mr. Burleson noted that 2 properties away is a Wendy’s with a very large circular flow. That is a very efficient Wendy’s and there are still cars backed up onto Washington Avenue. He is concerned about whether this site can handle the backup. Mr. Burleson also raised an issue with regard to vehicles turning onto Washington Avenue. He stated the Wendy’s provides for no left turn onto Washington but this site has no such restriction. Mr. Burleson is concerned about the sight line as the roadway is curved. Mr. Page responded that the Friendly’s allows vehicles to make a left turn onto Washington Avenue. In addition, Chipotle’s will have an exit onto Hillsdale Avenue that Friendly’s does not currently have. Ms. Schepisi interjected to state that prior testimony was provided that the peak days for the restaurant are Thursday through Saturday and there will be approximately 40 to 50 customers per hour.

32. Meredith Kates noted, with regard to landscaping, that the Environmental Commission did not receive this application as it is a minor site plan approval so did not issue a report. Ms. Kates sought professional guidance as to referrals if the Board decides to move forward and the departments do not have time to submit their referrals. Ms. Schepisi’s letter

stated the application would be forwarded to the other departments, but the Environmental Commission did not receive it. Mr. Lagana and Mr. Statile stated that referrals are not required for a minor site plan approval. Ms. Kates will hold her questions until the Board decides on the “Chipotlane” issue. Ms. Kates stated that the landscaping is a welcome addition to the area and that Mr. Page was very thorough in addressing the concerns of the Board Planner and Board Engineer.

33. Edwin Alter asked how a car entering the site from Hillsdale Avenue would get to the “Chipotlane”. In response to Mr. Alter’s, testimony was provided that the only entrance was on Washington Avenue and cars can enter the “Chipotlane” from that entrance. There is no entrance to the Property on Hillsdale Avenue. The driveway on Hillsdale Avenue is for egress only. The Washington Avenue driveway is for both ingress and egress. Mr. Alter asked Mr. Statile how wide a parking lot had to be in order to accommodate two-way traffic. Mr. Statile stated 12 feet is required for each lane, or 24 feet for two-way traffic. The proposed parking lot has sufficient width for two-way traffic.

34. Joanne Miano questioned if 18 parking spaces is sufficient for 9 employees and customers and was advised that this meets the Ordinance requirements. Ms. Miano stated that the parking spaces are scattered throughout the site and could be dangerous for people walking through the lot with the two-way traffic. Mr. Statile opined that mostly younger persons would be working at the facility and many would walk, get dropped off or take public transportation. In addition, there has never been an issue on any other sites as to the Ordinance requirements not being sufficient. Ms. Schepisi stated that one of the benefits of this site is its proximity to public transportation. There will be a bike rack for employees to utilize. Mr. Statile confirmed there are

public parking spaces available at the commuter lot next to the Property. There is also on-street parking available.

35. Dan Friedman raised a concern about the proximity of the pick-up window to the front entrance to the restaurant.

36. Zoltan Horvath raised a question about the parking calculation with regard to the number of seats. Mr. Horvath also asked how long it would take a person to eat a meal at a table. Mr. Page replied that the Ordinance requires one parking space for every 4 seats. Based on 30 seats, 8 parking spaces are required. They also calculated one parking space for every 2 employees, requiring 5 parking spaces. Per the Ordinance, 13 spaces are required and the Applicant proposes 18 spaces. He also estimated patrons would be in the restaurant approximately 30 minutes.

37. Mr. Alter asked where the outdoor seating would be located. In response to Mr. Alter's, testimony was provided that this site will not have any outdoor seating.

38. Mr. Lagana suggested that the refuse area be moved closer to the back of the building at the end of the ramp where there are currently 2 parking spaces, and that those parking spaces be moved to where the refuse is currently located. That would provide 4 consecutive parking spaces instead of 2 in one place and 2 in another place. In addition, the refuse area would be better lit at the new location for employees' safety. Mr. Page will speak with the Applicant to see if they are amenable to such change.

39. The meeting was opened to the public to ask questions of the Applicant's Engineer, Mr. Page, and no one appeared to do so.

40. Chairman Burlison asked the Board Attorney how the Board resolves the issue of whether this proposal conflicts with the Borough Ordinance of no drive-throughs. Mr. Lagana

recommended that the Board allow the Applicant to present its traffic expert at this time. The Board can then render its opinion prior to planning testimony being presented by the Applicant. The testimony provided so far is applicable to both a (d)(1) variance and a (c) variance. Mr. Lagana recommended hearing the traffic testimony and then the Board has sole jurisdiction to make a determination as to how to proceed on the question of the approvals required by the Applicant.

41. The application was adjourned to the December 16, 2022 hearing of the Board, and the Applicant waived all timeframes for the Board to act until such date. No additional notice is required.

Testimony from December 16, 2021

42. The Applicant's Attorney, Ms. Schepisi, addressed the Board, stating that this is a continuation of the testimony given at the December 2, 2021 hearing of the Board. Based on the Board's comments and questions at the prior hearing, she recalled the Applicant's Engineer, Mr. Page, to testify as to several changes made to the site plan based on the Board's concerns. Mr. Page was duly sworn prior to testifying at the December 16, 2021 hearing. The Board Attorney, Nylema Nabbie, Esq. ("Ms. Nabbie"), addressed the Board and the Applicant's Attorney. With regard to the application before the Board, the Applicant is proposing what has been referred to as a pick-up window. Ms. Nabbie believes it is incumbent upon this Board to make a determination as to whether or not a (d)(1) variance is required, as drive-throughs are not permitted within the Borough of Hillsdale. If the Board determines that a (d)(1) variance is required, the Mayor and Council member cannot participate in the hearing. The Board needs to review §310-4 of the Borough Ordinance to determine if the application is considered a drive-

through. The Board can swear in Mr. Behrens and get his opinion, but the decision is solely the Board's to make.

43. The Board's professionals, Mr. Statile and Mr. Behrens, were sworn. Ms. Nabbie, at the request of Chairman Burleson, read the pertinent Ordinance provision, §310-4, which includes a definition at the bottom of the page: "Restaurant, Drive-Through. A restaurant from which patrons may purchase food and beverages ready for consumption received via a motor vehicle drive-through window located in the principal structure or accessory structure. Consumption of the food and beverages is designed to occur outside the confines of the Property on which the restaurant is located." Mr. Behrens revisited the testimony provided by the Applicant as to how this might differ from a traditional drive-through, as well as the similarities. This differs in that there is no window to order from or menu board. There is a pick-up window and a designated lane with the typical queuing in a drive-through lane. The first line of the definition is "a restaurant from which patrons may purchase food and beverages ready for consumption received via a motor vehicle drive-through window". It is clear that the food and beverages have to be picked up via a window, but is not clear where the purchasing must occur. The Applicant's standpoint is that the food and beverages are not being purchased at the window so therefore the Ordinance does not apply. The Board has to consider the language. The second sentence of the definition is "Consumption of the food and beverages is designed to occur outside the confines of the Property on which the restaurant is located". The testimony provided so far indicates that the food from the pick-up window is "take and go". There are some seats in the restaurant, but the testimony to date shows this is a pick up and go type of restaurant. The focus needs to be on the first part of the definition. Ms. Nabbie stated that, based on the definition just read into the record, the Board needs to make its determination before proceeding

with the application. At the Board's request, Mr. Behrens placed the definition on the screen for viewing by the meeting participants. Mr. Riordan, Mayor Ruocco and the Council members shut off their screens at this point until the Board determines how to move forward. The Ordinance definition was marked as Exhibit PB-1.

44. Chairman Burleson sees the application as a direct conflict to the Ordinance. The application should be heard moving forward in that context. He made a motion that that the application be heard as such, requiring a (d)(1) variance, which motion was seconded by Joanne Miano. The motion passed by a vote of 6 to 1. Mr. Statile stated, based on the vote, that the application has changed from a minor site plan application to a major site plan application. Ms. Nabbie clarified that as this is now a major site plan application, same will have to go to Borough departments for referrals. Ms. Schepisi asked Mr. Statile to advise what additional waivers and the like are required at this point. Mr. Statile stated the plans are sufficient for major site plan approval and show all the required information, and the application can be deemed complete as to the plans and testimony heard as to major site plan. The application cannot be heard until at least 30 days after the referrals are sent to the Borough departments. In response to a question from Ms. Schepisi, Mr. Behrens advised that the procedure for getting referrals is outlined at §310-88(e). The Applicant does not have to renote, as the original notice referred to the possibility this may require a (d)(1) variance.

45. After discussion, Chairman Burleson made a motion to accept Mr. Statile's recommendation that the application is for major site plan approval and (d)(1) variance, and that same be deemed complete with the exception of department referrals, which are to be provided prior to the next hearing. The motion was seconded by Ed Alter and was passed 7 to 0.

46. The application was carried to January 25, 2022. An announcement was made to this effect and no further notice is necessary. The Applicant waived all statutory timeframes for the Board to act until such date.

Testimony from January 25, 2022

47. Board Vice Chairman Steven Riordan recused himself from the hearing of this application. The Mayor and Council members did not participate in the subject hearing.

48. Revised plans were submitted to the Board based on the questions and comments at the prior hearings. Mr. Statile reviewed the revised plans and presented the Board with his findings. Mr. Statile prepared a report based on the revised plans dated January 20, 2022. He testified there is an issue with designating the application as a minor site plan approval. The Ordinance has a threshold limit on the size of buildings which can be under consideration for minor site plan approval and the subject building exceeds that threshold. There are 3 conditions to be met under the Ordinance for an application to be considered for minor site plan approval: (1) the number of parking spaces, which meets the threshold; (2) the area of the building, which the Applicant exceeds; and (3) no new roads or streets are proposed. Mr. Statile said it is up to the Board to decide if it will waive the condition as to the building area and hear the application as a minor site plan approval or if it will require same to be for major site plan. Holly Schepisi, Esq., the Applicant's Attorney, is requesting the requirement for building area be waived and that the application be considered for minor site plan approval. This is a pre-existing building that will not be expanded under the proposal. The Applicant proposes to convert the existing building to a like-style restaurant.

49. Ms. Schepisi advised the Board that one of the major changes to the revised plans is the elimination of the proposed "Chipotlane" after the Board decided on December 16, 2021 that same was in fact a drive-through lane and would require a (d)(1) use variance. The

Applicant has removed the proposed drive-through lane and will utilize the building as it was used by the Friendly's, as a previously improved 2,445 SF one story restaurant with associated parking and a pre-existing freestanding sign. The only changes being made to the site plan are minor improvements with respect to landscaping and additional parking spaces, as well as several minor additional items which will be testified to.

50. Ms. Nabbie advised the Mr. Burleson that the Board needed to make a determination as to whether it will grant the waiver and move forward with the application for minor site plan in light of the elimination of the drive-through lane. Ms. Kates reminded the Board that referrals will be needed in the event this is heard as a major site plan approval.

51. Chairman Burleson recommended that, since this is a pre-existing building, the building area requirement be waived and the application move forward as a minor site plan. Mr. Burleson made a motion to waive the requirement for building area and for the Board to hear this as an application for minor site plan approval. The motion was seconded by Scott Raymond and passed by a vote of 7 to 0.

52. Ms. Schepisi provided an overview of the application status. The Applicant has appeared at 2 previous meetings of the Board. Testimony was provided at the December 2, 2021 hearing. No testimony was heard on December 16, 2021, but a determination was made by the Board that the application including the "Chipotle" is a major site plan and requires a (d)(1) variance under the Borough's Ordinance. Upon consultation with the Applicant, the "Chipotle" was removed and the Applicant will leave the site as previously used by the Friendly's with a previously improved 2,445 SF one story restaurant with associated parking and a pre-existing freestanding sign. The Applicant is seeking minor site plan approval and to confirm of pre-existing variance relief, as well as a design exception waiver with respect to 500

feet, existing drainage in connection with the Property. The Property is located on the southeastern corner of the intersection of Hillsdale Avenue and Washington Avenue. Access to the site is permitted from Hillsdale Avenue, and both access into and out of the site is permitted from Washington Avenue. The Applicant proposes to convert the building from the former Friendly's to a Chipotle's, repurposing the existing building. Associated improvements include repurposing the existing building; removing the existing steps, concrete trash pad and air conditioning unit; adding a new concrete access sidewalk in front of the building, between the building and the parking spaces. There is no expansion of the building footprint other than the inclusion of a pick-up window for people to walk up and pick up orders. The walk-up pick-up window is proposed on the east side of the building, along with a new concrete patio. There is proposed renovation of the existing building. The Applicant will reconfigure the existing parking area to provide 24 parking spaces, which is 11 more than required by Hillsdale's Ordinance. Two spaces will be barrier free. Four spaces will be assigned for mobile order pick-up. The Property is located in the Borough's C-Commercial Zone, which specifically permits the proposed restaurant use. Wall signs are proposed on the north, south and west elevations. No bulk variances are required. The only variances pertaining to this are for pre-existing non-conformities including front yard setback (4.1 feet existing where 5 feet is required); parking offset from street (10 feet); and for the dumpster enclosure (6 feet high where 4 feet is permitted) within 25 feet of an intersection. Otherwise it is permitted at 6 feet in the Commercial District; as well as for accessory structure for the dumpster. Due to the unusual siting of the Property, 3 sides are considered front yards. In the November 2021 hearing, testimony was given with regard to the proposed Chipotle Restaurant and that Chipotle currently has locations in 48 states and Washington, D.C. with approximately 82 restaurants in New Jersey, including surrounding

communities such as Montvale, Paramus, Closter and Hackensack. Laurie Pellegrino, an executive with the company, testified that the hours of operation are 10:45 a.m. to 10:00 p.m. seven days a week, with generally 8 to 10 employees per shift, 2 shifts per day. The restaurant will have approximately 35 to 40 employees, with about half being full time and half being part time. The first employees begin at approximately 8:00 a.m. to begin food preparation. There will be 30 seats in the restaurant. Deliveries will take place 4 to 5 times a week during off hours, either early morning or late evening before or after business hours. The delivery persons have a key to the restaurant and will bring the products into the restaurant on a hand truck. Garbage pickup will be 4 to 5 times a week based on volume. The only waiver being sought by the Applicant is a design exception from §310-87(E)13, Existing Drainage Within 500 Feet. Although not required, the Applicant has added 2 honey locust trees, one Japanese maple tree and arborvitae plantings to the site. The Applicant has reviewed the letter provided on January 20, 2022 from Board Engineer Christopher P. Statile, PE which referenced the engineering plans prepared by Page Consultants dated September 14, 2021, revised to January 10, 2022. Mr. Page will testify to the removal of the drive-up pick-up window based on the Board's comments and replacement with a walk-up pick-up window. The traffic flow will remain as it was previously testified to. An outdoor patio area was added near the entrance on Hillsdale Avenue.

53. The first witness to testify on January 25, 2022 was the Applicant's Engineer, Mr. Page, who testified as to the revised site plan. Mr. Page's credentials as a licensed professional engineer of the State of New Jersey were accepted by the Board and Mr. Page testified after being duly sworn. Mr. Page testified as to the plans he prepared dated September 14, 2021, revised to January 10, 2022, consisting of 10 sheets. Mr. Page testified as to the revisions made to each sheet of the plans. On Drawing 1 of 10, the Cover Page, the only change is the revision

date. No changes were made as to Drawing 2 of 10, Existing Conditions Plan. As to Drawing 3 of 10, Proposed Site Plan, Mr. Page testified that it was changed to reflect the 24 parking spaces being provided by the Applicant, where 13 spaces are required. Mr. Page further testified that there have been no changes to the Bulk Table on Drawing 3. Mr. Page testified to the additional green spaces as depicted on the revised Drawing 3. The biggest change is the elimination of the drive-up lane. The walk-up, pick-up window has been moved closer to the front of the building. The entrance to the site is on Hillsdale Avenue, the same as it was for the Friendly's. The driveway onto Washington Avenue is for both ingress to and egress from the site. A patio area has been added in the area of the pick-up window. A barrier-safe fence has been placed between the patio area and the parking lot. Four parking spaces have been identified and will be marked for use by the pick-up window only. Two handicap spaces are provided. The drive-up lane has been replaced with a concrete walkway. The site circulation is the same as it was for the Friendly's.

54. Mr. Page testified that the only change on Drawing 4 of 10 is the depiction of the 24 parking spaces now being provided by the Applicant. He addressed the comments of Mr. Statile's January 20, 2022 review letter. One of his comments was to the water drainage, where the water flows on the site from Hillsdale Avenue to Washington Avenue. A catch basin has been installed near the driveway at the rear of the site. Mr. Statile recommended an opening in the landscape area on the side of the Property in order to allow for drainage toward the catch basin. The Applicant agrees with Mr. Statile's recommendation and will provide such opening in the landscape area. Mr. Statile also recommended placing a small island at the end of the row of parking spaces, which the Applicant will install. The Applicant agrees to work with Mr. Statile to address these and any other concerns raised by Mr. Statile.

55. Mr. Page directed his testimony to Drawing 5 of 10, which is the Soil Erosion Plan. There are no changes to this Drawing other than what he already testified to at this hearing. As to the signage plan, Drawing 6 of 10, Mr. Page testified that the only change is the addition of the signage for the handicap spaces, which have been relocated for the prior submission. Mr. Page testified that there were no changes to Drawing 7 of 10, other than the modifications to the front of the building. With regard to Drawing 8 of 10, Mr. Page testified that the only change is the removal of the second door on the front of the building, which would have been used for employees to bring food out to waiting vehicles from the drive-through line. The second door has been replaced with a window. Mr. Page testified that the application conforms with the Borough's sign requirements in size and as to number of signs permitted.

56. Drawing 9 of 10, Lighting and Landscaping, was revised as of December 31, 2021. The revision was the addition of the landscaping on the side of the parking area, as well as the addition of some Boxwoods and Junipers. He testified that the Applicant will work with the Borough so that the landscaping will be to the Borough's satisfaction. Every plant in the plant list on Drawing 9 is an addition from the current conditions at the site, as there is virtually no existing landscaping. The Applicant proposes to install 11 American Boxwoods, a Japanese maple, 6 Green Giant arborvitaes and 2 Skyline Honey Locusts. Mr. Page testified that the proposed landscaping complies with the Borough's requirements.

57. As to Drawing 10 of 10, General Details, same was revised on December 17, 2021, and Mr. Page stated same was revised to include a bollard and protective fencing able to withstand a vehicle impact separating the patio area from the parking area. Additional detail has been added to the dumpster enclosure, which will now be made from CMU block instead of chain-link fencing.

58. The 10-page revised plans were marked as Exhibit SK2 (1 through 10).

59. Mr. Page then testified to a one-page plan (Drawing 3 of 10) he prepared to address the remarks of Mr. Statile in his January 20, 2022 letter. This one-page plan was marked as Exhibit SK3, which has a revision day of January 25, 2022. As to the parking spaces on the side of the parking area, Mr. Statile felt there were in a high-volume area and recommended they be increased from 9 feet wide to 10 feet wide, which has caused the loss of one parking space. The parking spaces being provided by the Applicant is reduced from 24 to 23 spaces, which is still 10 more spaces than required by the Borough's Ordinance. The revised Drawing depicts the drainage area located by the landscape island area, as well as the added landscape buffer at the end of the parking area, which also includes an open drainage area. In addition, to prevent vehicles entering from Washington Avenue from driving opposite the flow of traffic, a 12-inch yellow strip will be placed on the asphalt with the words "Do Not Enter". A 24-inch stop bar has been placed at the exit onto Washington Avenue, along with yellow striping, to help with the flow of traffic. Handicap ramps were added to the site on Hillsdale Avenue.

60. Chairman Burleson recommended moving the quick pick-up parking spaces, which are currently located across the parking lot, closer to the building to avoid pedestrians having to cross the parking lot to pick up their food. He also suggested making the driveway onto Washington Avenue an exit only. Ms. Schepisi noted that the traffic circulation depicted is the same that has existed on the site for over 50 years. Mr. Burleson also recommended fencing or landscaping along the southwest corner as a way to direct pedestrians towards the crosswalk instead of crossing Washington Avenue at the curve to avoid accidents. The Applicant is amenable to such suggestion.

61. Ms. Kates asked Mr. Statile to clarify his January 20, 2022 letter as to EV charging stations to explain if he is requesting that one be provided or if one is required by law, as the law states one is to be provided for modification of an existing building with fewer than 50 parking spaces. Ms. Nabbie addressed this question and recommended that a conversation take place with Mr. Statile, Ms. Nabbie and Ms. Schepisi prior to the next hearing on the application. Ms. Schepisi stated the Applicant will comply if it is deemed to be applicable to this application. Ms. Nabbie is to forward a Client Alert prepared by her firm with regard to this issue to the Board Deputy Secretary, to be sent to the Board members and Board professionals.

62. With respect to the EV charging station, Mr. Alter had difficulty reconciling an EV station with a fast food restaurant having a quick turnover. Ms. Schepisi believes the application is exempt because it is under 25 parking spaces. However, the adjacent municipal parking lot would be an ideal place to locate an EV charging station. Mr. Alter also raised concerns with pedestrian safety and recommended a walkway be striped for patrons parking on the south side of the site.

63. Scott Raymond was concerned with regard to the seating area near Hillsdale Avenue, despite the impact-reducing fencing proposed by the Applicant. Mr. Raymond suggested adding bollards to that area. Mr. Raymond also requested that landscaping be incorporated into the new buffer area at the end of the striped parking area. Mr. Raymond also requested additional landscaping be installed throughout the site. Mr. Raymond asked if the landscaped islands would have mulch or grass on them and Mr. Page testified that if bushes were located on such areas they would be surrounded with mulch, otherwise the areas will have grass. Mr. Raymond also recommended landscaping be installed on the west side of the site at the dumpster area. This is a highly-visible trafficked area in Hillsdale and the site is in great need of

sprucing up. Mr. Raymond suggested landscaping be added to the front of the building, as well as upgrades to the landscaping on the westerly side of the site. Another concern raised by Mr. Raymond is that the pick-up area parking spaces are located across the parking lot from the building. That does not make sense. Ms. Schepisi noted that Mr. Page testified that the pick-up area parking spaces are in that location because the handicap spaces are located next to the building. He noted that 2 of the 4 pick-up spaces could be moved next to the handicap spaces, leaving 2 pick-up spaces in their current location. Ms. Schepisi stated the Applicant wants to be a good neighbor and is willing to work with the Board professionals to increase the landscaping on a site which has no landscaping.

64. Seth Greip asked if vehicles were permitted to make a left turn off Hillsdale Avenue into the driveway. Mr. Greip was advised by Mr. Page that vehicles could make a left turn off Hillsdale Avenue into the driveway and same is currently permitted. This will be addressed by the traffic expert at the next hearing.

65. The application was adjourned to February 10, 2022. The Applicant waived all timeframes for the Board to act until February 10, 2022.

Testimony from February 10, 2022

66. Mayor Ruocco and Vice Chair Riordan recused themselves from the hearing of this application at the February 10, 2022 meeting. Board member Friedman also recused himself as Mr. Friedman has a business relationship with the project engineer on this application. Ms. Schepisi asked how many members are eligible to vote and was advised 6 members can vote. Ms. Schepisi placed on the record that she does not agree with the advice given to the Board that the Mayor and Council Liaison needed to recuse themselves as this is now a minor site plan application but will move forward with the application.

67. Based upon feedback received at the last meeting, the Applicant's Engineer, Mr. Page, testified as to the revised site plan. Mr. Page was previously qualified and sworn before the Board. Based upon the Board's comments and a site visit with the Board Engineer and Board member Scott Raymond, especially with regard to landscaping, the plans were revised with revision date of February 8, 2022. Mr. Page placed the revised landscape plan (Drawing 9 of 10 "Lighting and Landscaping") on the screen for viewing by the Board members. The Lighting and Landscaping Plan has a revision date of January 26, 2022. He testified that additional landscaping has been added on the westerly side of the Property. Additional landscaping has also been added at the front of the building and in back of the dumpster area. The bulk of the additional landscaping includes Japanese Dogwood, 10 azalea plants, 15 spira and 1 American Holly. A concrete walkway has been added from the sidewalk at the rear of the site to the building, with striping on the asphalt, giving pedestrians a clear walkway from the sidewalk to the walkway surrounding the building to the entrance. Three of the pick-up parking spaces have been moved from the east side of the parking area to the west side of the parking area. One pick-up parking space will remain on the east side of the parking lot. The pick-up parking spaces are 10 feet by 18 feet and the rest of the parking spaces are 9 feet by 18 feet. Mr. Page testified that 3 bollards have been added along the fence between the parking lot and the patio area for additional protection from vehicles. One parking space has been removed on the east side of the parking lot at the rear driveway to allow for better sight lines. A picket fence was added at the rear of the site from the dumpster area to the driveway to keep pedestrians from crossing the road in an area with limited sight distance and directing them to the crosswalks. In response to a question from Ms. Schepisi, Mr. Page testified that he believes all the Board's comments from the prior meetings and his conversations with Mr. Statile have been addressed in this latest

version of the plans. The landscaping changes were made by the Applicant voluntarily and are not pursuant to the Borough Ordinance. They were made to provide the Board with the additional items that were requested.

68. Board member Ed Alter asked why the pick-up parking spaces are 10 feet by 18 feet as opposed to 9 feet by 18 feet. Mr. Page responded that these spaces were intentionally made wider as cars will be pulling into and out of them frequently and to avoid any mishaps. Mr. Alter asked how delivery trucks will maneuver to make deliveries. Ms. Schepisi reminded the Board of the earlier testimony that deliveries will be made by box trucks only during non-operational hours. The parking lot should be empty while the deliveries are made and this will provide sufficient space for a box truck to maneuver while making deliveries. No tractor trailers will be utilized for deliveries.

69. Ms. Kates asked Mr. Statile if the additional landscaping will affect the drainage runoff and Mr. Statile responded that it would not.

70. Chairman Burleson requested that the fence along the rear of the Property be extended to the west side in order to keep pedestrians/school kids from crossing Washington Avenue outside of the crosswalk. Mr. Statile stated that this area is on a curve and opined that the fence may get knocked over by a snowplow in the roadway, and he would not want a driver crashing into it in the dark. Mr. Burleson is okay with that.

71. No members of the public appeared to ask any questions of Mr. Page.

D. Justification for Relief

72. The Board further finds the Applicant has met its burden of proof in support of their variance request.

73. The Board makes the following findings and conclusions with respect to this application:

- A. The Board finds that the application as presented and revised will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the Borough's Zone Plan and Land Use Ordinance.
- B. The proposed construction will go toward the positive criteria. The Board further determined that the Property can accommodate the use and that any negative impacts of the proposed variances have been mitigated by landscaping and site design.
- C. Further, the Board finds that using prudent zoning and planning principles, project will not negatively impact the existing neighborhood nor the community as a whole.
- D. The Board hereby determines that the overall objectives of sound and prudent zoning and planning principles are advanced by the granting of the application.
- E. The Board hereby determines that the Applicant has met the burden of proof to the satisfaction of the Planning Board for variance relief, as proposed by the Applicant.
- F. The Board finds the use is permitted in the C Commercial Zone.
- G. The Board also finds that the application as presented will not substantially impair the intent and purpose of the Borough's Zone Plan and Zoning Ordinance.
- H. The Board finds that using prudent zoning and planning principles, the request for the variances will not affect the existing neighborhood, nor the community as a whole. The Planning Board hereby determines that the overall objectives of sound and prudent zoning and planning principles are advanced by the granting of the application.

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

1. The Applicant's application has been approved, to wit:
 - (a) The only variances pertaining to this Application are for pre-existing non-conformities including front yard setback (4.1 feet existing where 5 feet is required); parking offset from street (10 feet) and for the dumpster enclosure (6 feet high where 4 feet is permitted) within 25 feet of an intersection.
 - (b) Design exception from §310-87(E)(13), Existing Drainage Within 500 feet.
2. The application is specifically conditioned upon any and all other approvals required by any governmental entity having jurisdiction over the development, including, but not limited to Bergen County Planning Board approval or waiver, Bergen County Soil Conservation District approval and NJDEP approval, to the extent applicable.
3. The Applicant shall comply with the comments contained in the reports of the Board Engineer and as stated on the record. All conditions imposed by the Board in this Resolution and on the record shall be complied with by the Applicant.
4. The Applicant shall comply with any and all Federal, State, County and local laws, ordinances, codes, rules and regulations with respect to all aspects of the project, property and proposed use, and with all such applicable laws and codes, and shall be responsible for all costs and fees associated therewith. Notwithstanding the approval granted by the Board, the Applicant shall obtain all other applicable approvals and comply with all applicable laws, codes, ordinances, regulations and the like as to the Property.

5. Before any permits are applied for, it is the responsibility of the Applicant to see if there are any open permits or violations and address these before a new permit can be issued.

6. When applying for the permits, a copy of the signed resolution and board-approved plans must accompany the permit application.

7. No certificate of occupancy will be issued unless all inspections have been performed, passed, and all prior approvals have been satisfied.

8. The Applicant shall maintain sufficient escrow funds as requested by the Borough of Hillsdale.

9. The Applicant shall obtain all appropriate and applicable approvals and permits as required from all governmental agencies having jurisdiction over the project or the subject matter of this application, shall comply with each and every requirement of every issued permit, and shall be responsible for all costs and fees associated with these approvals. Before any permits are applied for, the Applicant shall determine whether there are any open permits or violations for the Property and resolve any such issues to the satisfaction of the Construction Official. A signed Board resolution and Board-approved plans shall be submitted with all applications for permits.

10. If other agency approvals modify the plan, same will trigger a return to the Board.

11. The Applicant shall comply with the conditions of the Board and Board Engineer, as set forth herein and in the record.

12. The Applicant shall comply with all applicable laws and regulations, including the payment of the non-residential development fee, if applicable, pursuant to the Municipal Land Use Law.

13. The Applicant shall comply with the comments of the Board Engineer.

14. There will be no tractor trailer deliveries during operational hours. Deliveries will be made by box trucks during non-operational hours.

15. The Board and Board professionals retain the right to perform a 6-month lookback to determine whether the lighting should be adjusted.

BE IT FURTHER RESOLVED that the Chairman, Vice Chairman and Secretary of the Planning Board are hereby authorized to affix their signatures to this Resolution granting variances for impervious coverage and setback to property lines, as set forth herein and in the plans, and the Applicant is authorized to advertise the action taken by way of this Resolution in a local newspaper; and, further, the Secretary of the Board is authorized to send copies of this Resolution to the Construction Code Official and the Applicant.

MOVED BY: Scott Raymond
SECONDED BY: Edwin Alter

VOTE: FOR 6 AGAINST 0 ABSTAIN

MEMORIALIZATION VOTE:
MOVED BY:
SECONDED BY:

VOTE: FOR AGAINST ABSTAIN

APPROVED
Attest:

Meredith Kates, Secretary

Dewey Burleson, Chair

I certify that the foregoing is a true copy of the Resolution adopted on _____,
2022.

Meredith Kates, Secretary

Dated: _____, 2022