

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
July 5, 2012**

Mr. Braswell called the meeting to order at 7:50 P.M.

Mr. Braswell asked all to stand for the Pledge of Allegiance.

Mrs. Cummins read the following statement: As per requirement of P.L. 1975, Chapter 231. Notice is hereby given that this is a Regular Meeting of the Borough of Highlands Zoning Board and all requirements have been met. Notice has been transmitted to the Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board.

**ROLL CALL:**

**Present: Ms. Ryan, Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Braswell, Mr. Connelly**

**Absent: Mr. Britton, Mr. Cervantes**

**Also Present: Carolyn Cummins, Board Secretary  
Greg Baxter, Esq., Board Attorney  
Robert Keady, P.E., Board Engineer**

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**ZB# 2010-3 Quick Chek  
Block 108 Lots 1 & 2.01 – Highway 36  
Approval of Resolution**

Mr. Gallagher offered the following Resolution and moved on its adoption:

7/5/12

**RESOLUTION FIXING HEARING DATE AND DIRECTING  
ISSUANCE OF BUILDING PERMIT, ON CONDITIONS,  
FOR QUICK CHEK CORPORATION**

WHEREAS, the applicant, QUICK CHEK CORPORATION, previously obtained use variance approval from this Board, as well as final site plan approval to construct a retail convenience store and gasoline station at 450 State Highway 36, Highlands, New Jersey (Block 108, Lots 1 and 2.01), which site plan approval was subject to the applicant returning to the Board to discuss the location of remediation equipment on the site;

WHEREAS, QUICK CHEK made application to return to the Board at its meeting of June 7, 2012, for that purpose; and, though the notice to the property owners was found to be in order, the notice published in the *Asbury Park Press* was published one day late, thereby depriving the Board of jurisdiction and being able to proceed as scheduled; and

WHEREAS, the applicant requested that the Board authorize and direct the Construction Official to issue a building permit, on conditions, so that construction could be begun prior to the next hearing date; and

WHEREAS, a demolition permit was previously issued by the Construction Department to the applicant, and demolition has been completed; and

WHEREAS, the applicant's attorney represented that all bonds and escrows, as required, have been posted; and

WHEREAS, this resolution shall memorialize the action taken by the Board at its June 7, 2012, meeting;

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Highlands as follows:

1. The hearing on the location of the remediation equipment location on the site is carried until the July 5, 2012, meeting.

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2. The applicant does not need to re-notice the property owners for the new hearing date, since an announcement was made at the June 7 meeting; however, the applicant must republish at least ten days in advance of the July 5, 2012, meeting.

3. Providing there are no required items outstanding, other than the Board's approval of the location of the remediation equipment, the Board hereby authorizes and instructs the Highlands Construction Official to issue a building permit (exclusive of the remediation installation) now; and, if the Board has not approved the location of the remediation equipment by the conclusion of its August 2, 2012, meeting, the Construction Official is directed to issue a stop work order effective August 3, 2012, so that no further construction takes place thereafter, until the Board has approved the location of the remediation equipment.

Seconded by Mr. Kutosh and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Braswell

**NAYES:** None

**ABSTAIN:** None

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Professional Services Resolution:

Ms. Ryan offered the following Resolution and moved on its adoption:

**RESOLUTION  
BOROUGH OF HIGHLANDS ZONING BOARD  
APPROVING PROFESSIONAL LEGAL SERVICES FOR THE PERIOD OF JULY 1,  
2012 THROUGH DECEMBER 31, 2012**

**WHEREAS**, the Borough of Highlands Zoning Board has a need for Professional Legal Services; and

**WHEREAS**, such Professional Legal Services can only be provided by licensed Professionals and Gregory Baxter, Esq. of Caruso & Baxter is so recognized; and

**WHEREAS**, the Borough of Highlands Zoning Board memorialized a Resolution in January 2012 appointing Gregory Baxter, Esq., of the firm of Caruso & Baxter as Zoning Board Attorney for a (1) one year term expiring December 31, 2012; and

**WHEREAS**, the law office of Caruso & Baxter has completed and submitted a Business Entity Disclosure Certification which certifies that Caruso & Baxter has not made any reportable contributions to a political or candidate committee in the Borough of Highlands in the previous one year, and that the contract will prohibit them from making any reportable contributions through the term of the contract; and

**WHEREAS**, the determination of the value has been placed on file with the resolution of appointment with the Board Secretary; and

**WHEREAS**, the law office of Caruso & Baxter has submitted the C.271 Political Contribution Disclosure form in accordance with the NJSA 19:44A-20.26 (P.L. 2005,c271,s2).

**WHEREAS**, in addition to Professional Services Contract a contract is hereby awarded for an additional amount not to exceed \$600.00 for legal services provided to the Zoning Board for the period of July 1, 2012 through December 31,2012 for legal services provided to the board which are not covered under annual salary amount; and

**WHEREAS**, a certification of availability of funds is hereby provided by the Chief Financial Officer contingent upon adequate funding being provided by the Borough of Highlands Governing Body in the Transitional Budget for the Second half of 2012:

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Zoning Board Budget  
Account #1151-3755 \$5,205.00  
July 1, 2012 through December 31, 2012

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Stephen Pfeffer, CFO

**WHEREAS**, the Local Public Contracts Law, NJSA:11-1 et. Seq., requires that notice with respect to contract for Professional Services awarded without competitive bids must be publicly advertised.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough of Highlands Zoning Board as follows:

1. That Gregory Baxter, Esq., from the firm of Caruso & Baxter is hereby retained to provide Professional Legal Services as described above for an amount not to exceed \$5,205.00 for the period of July 1, 2012 through December 31, 2012.
2. This contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, NJSA 40A:11-5(1)(a) because it is for services performed by person authorized by law to practice a recognized profession.
3. A copy of this Resolution shall be placed on file with the Board Secretary.
4. The Board Secretary is hereby directed to publish notice of this award as required by law.

Seconded by Mr. Gallagher and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Gallagher,  
Mr. Connelly, Mr. Braswell

**NAYES:** None

**ABSTAIN:** None

**Professional Engineering Services Resolution**

Mr. Gallagher offered a motion to carry the Professional Engineering Services Resolution to the August meeting, seconded by Ms. Ryan and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Connelly,  
Mr. Braswell

**NAYES:** None

**ABSTAIN:** None

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**ZB#2010-3 Quick Chek  
Block 108 Lots 1 & 2.01 – Highway 36  
Unfinished Public Hearing**

**Present:** Henry Kent Smith, Esq.  
Derek Jordan, P.E.  
Joseph Luty  
Ron Rosenburg

Mr. Smith explained that they are here to address site plan condition number 6, which refers to the location of the remediation equipment. This site is governed under licensed site review professionals. The review tonight is on the location of the equipment.

The following documents were marked into evidence this evening:

- A-22: Remediation Equipment Plan, 3 pages prepared by Cahill;
- B-2: Board Engineer Letter dated June 20, 2012.

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Derek Jordan, P.E., was then sworn in and stated the following during his testimony and response to questions from the board:

1. He described his professional and educational background as a licensed Professional Engineer.
2. He reviewed and described Exhibit A-22 and stated that basically everything remained the same but minor change. There are changes with the water line location.
3. Remediation equipment will be located at the south west corner of property in the two parking spaces closest to Route 36 in the rear of the building.
4. They maintain three parking spaces close to the cell tower.
5. There is a shed and a small path of equipment that will go in two parking spaces.
6. The area will be fenced off with chain link fencing with slats in it.
7. The total number of parking spaces was originally 39 and will now be 37, which will still provide sufficient parking spaces.
8. The remediation equipment will not interfere with the circulation of the site.
9. There are no lights or noise associated with the equipment.
10. The equipment meets the various setback requirements.

Mr. Kent then explained location of remediation equipment and referred to A-9A. He also spoke of the original proposed location.

Mr. Keady had no comments.

Mr. Braswell asked if there were any questions from the public but there were none.

Joseph Luty of 1340 Campus Parkway, Neptune, NJ was sworn in and stated the following during his testimony and response to questions from the board:

1. There is no accessive noise, air dust or glare being created from the equipment.
2. He gave his credentials of a Professional Engineer.
3. He spoke about the vaccum blower and vapor system.
4. He spoke of impact of elements snow, wind and rain. The storage will be built to withstand conditions of hurricane.
5. He spoke of how secure the pipe to the vaporizer is

Ron Rosenburg was sworn in and stated the following:

1. He is the Temporary Licensed Site Professional.
2. He gave his educational and professional background.
3. He explained how if system goes down everything shuts down.
4. He explained what DEP recommends and how this vapor system is a recommended practice but that this plan has not gone to the DEP.
5. Discussed vapor levels.
6. When the process is done he will issue a letter and that is the equivalent of a "No Further Action" letter.
7. He explained the NJDEP audit process.
8. He explained how the equipment runs continuously via electric.

Mr. Braswell asked if there were any questions from the public but there were none.

Mr. Kent then requested that the Board confirm condition number six and to accept the site plan modifications.

Mr. Luty stated that the fence will have chain locks on it.

The Board briefly discussed the application.

Ms. Ryan offered a motion to approve the location equipment, seconded by Mr. Gallagher and approved on the following roll call vote:

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**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Connelly,  
Mr. Braswell

**NAYES:** None

**ABSTAIN:** None

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**Approval of Minutes:**

Mr. Gallagher offered a motion to approve the June 7, 2012 Zoning Board Minutes, seconded by Ms. Ryan and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Braswell

**NAYES:** None

**ABSTAIN:** None

Mr. Fox offered a motion to adjourn the meeting, seconded by Mr. Gallagher and all were in favor.

The meeting adjourned at 8:30 p.m.

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CAROLYN CUMMINS, BOARD SECRETARY