**RESOLUTION**
**Borough of Butler**
**Planning Board**
**In the Matter of Ceruzzi-Butler LLC**
**Application Number SP 03-38**
**Decided on December 18, 2003**
**Memorialized on February 19, 2004**
**Amended Final Major Site Plan Approval**

**WHEREAS**, Ceruzzi-Butler LLC (hereinafter referred to as the "Applicant") had made prior application to the Borough of Butler Planning Board (hereinafter referred to as the "Board") for preliminary major site plan approval, together with variances and design waivers, in order to construct two (2) retail commercial buildings on the subject property, as well as to construct site improvements and other amenities normally associated with the proposed use of the subject property, known as Lots 124 and 124.01 of Block 80, as shown on the Tax Map of the Borough of Butler, and which is more specifically located at Route 23 North and which is in the HC-2 (Highway Commercial) Zone; and,

**WHEREAS**, preliminary major site plan approval, together with variances and design waiver relief, was granted by the Board and was memorialized by Resolution adopted on August 14, 2003; and

**WHEREAS**, the Applicant had made prior application to the Board for final major site plan approval for the same property; and,

**WHEREAS**, final major site plan approval was granted by the Board and was memorialized by Resolution adopted on November 13, 2003; and,

**WHEREAS**, the Applicant has now made application to the Board for amended final major site plan approval in order to modify a monument sign located on the subject property; and

**WHEREAS**, a public hearing was conducted on December 18, 2003 with regard to this application for final major site plan approval; and,

**WHEREAS**, the Applicant was represented by David D. Dixon, Esq.; and

**WHEREAS**, the Board has heard comments and testimony from the applicant, witnesses, consultants and with the public having had a full opportunity to be heard; and

**WHEREAS**, a complete application has been filed, the fees as required by Borough Ordinance have been paid, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised; and

**NOW THEREFORE**, the Planning Board makes the following findings of fact and conclusions of law based on evidence presented at the public hearing, at which a record was made.

1. The application before the Board is a request by the Applicant for amended final major site plan approval for property known as Lots 124 and 124.01 of Block 80 as shown on the Tax Map of Borough of Butler, and which is more specifically located at Route 23 North. Previous Board approvals included a 28 square foot, 7 foot high by 9 feet 4 inch long monument sign facing the Morse Avenue entrance/exit. This monument sign has been specifically detailed on plans prepared by Menlo Engineering Associates, Inc., dated November 6, 2003. The Applicant is before the Board seeking to modify this sign by adding one (1) additional foot to the height of the sign in order to adequately advertise the uses on the subject property. It should be noted that although the application for amended final major site plan approval also included a proposal to construct a 50 foot high free-standing pylon sign within a portion of the proposed parking lot located within the Borough of Butler, the Applicant has indicated that this aspect of the application has been

withdrawn in that this free-standing sign has been approved by the Borough of Kinnelon Planning Board near the site entrance from Route 23 on the Kinnelon portion of the tract.

2. Comments were offered by David C. Dixon, Esq., the attorney for the Applicant, and Daniel Moylan, a representative of the Applicant regarding the requested modification to the monument sign.

3. In that the proceedings in this matter were voice recorded, the recital of facts in this Resolution is not intended to be all inclusive, but a summary and highlight of the complete record made before the Board.

**NOW, THEREFORE,** the Planning Board hereby makes the following conclusions of law, based upon the foregoing findings of fact.

The application before the Board is a request for amended final major site plan approval for property known as Lots 124 and 124.01 of Block 80 as shown on the Tax Map of the Borough of Butler. The subject property had previously been granted both preliminary and final major site plan approval, together with variances and waivers, to allow for the construction of two (2) retail commercial buildings, as well as to construct site improvements and other amenities normally associated with the proposed use of the subject property. A monument sign facing the Morse Avenue entrance/exit was previously approved at 7 feet in height, 9 feet 4 inches long with a total sign area of approximately 28 square feet. The Applicant herein is requesting an additional height of 1 foot in order to more appropriately advertise the uses proposed for the subject property.

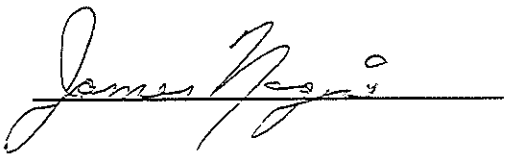
Upon review and consideration of the plans, testimony and the application, and comments and reports from the Board's professionals and the public, the Board finds that it has been furnished sufficient information so as to enable it to make an informed decision

with regard to amended final major site plan approval. The proposed modifications to the monument sign are consistent with sound planning and will appropriately and safely notify the public of the uses proposed on the subject property. Based upon the foregoing, the Board concludes that amended final major site plan approval is appropriate as contemplated by the Municipal Land Use Law.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board that the application of Ceruzzi-Butler LLC for Lots 124 and 124.01 of Block 80, as shown on the Tax Map of the Borough of Butler, requesting amended final major site plan approval is granted subject to the following terms and conditions:

1. Except where specifically modified herein, all conditions as set forth in prior Resolutions shall remain in full force and effect.
2. Where applicable, Applicant shall comply with all Letter Reports and Memoranda of the Board's engineering and planning consultants.
3. When the issue of joint access onto Morse Avenue has been more thoroughly discussed and determined, the Board reserves its right to determine with the Applicant's input a specific location for the monument sign, in addition to the appropriate sign face.
4. Applicant must submit and obtain Board approval for the actual signage on the monument before its installation on the new plat.

The undersigned certifies that the within Resolution was adopted by this Board on December 18, 2003, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on February 19, 2004.



FOR:

AGAINST:

ABSTAIN:

\\cm\BUT-168E Cerruzi-Butler Amended Final SP Resolution LPR 2-12-04.doc