

Frenchtown Planning Board
Regular Meeting
August 23, 2017
7:30 P.M.

Chairman Eckel called the Regular Meeting to Order at 7:30 P.M. and stated that all the requirements of the “Open Public Meeting Law” have been met. The meeting has been advertised, the Agenda has been posted in the Borough Hall and copies distributed to the designated newspapers.

ROLL CALL

Present:	Absent:
Case	DenBleyker
Dougherty	Musolino
Dragt	
Eckel	
Herb	
Myhre	
Sullivan	
Suttle	

APPROVAL OF MINUTES

Regular Meeting – July 26, 2017

Gerry Case moved to accept the minutes of the July 26, 2017 Regular meeting. Jeanne Herb seconded the motion. The minutes of the July 26, 2017 Regular meeting were approved by favorable roll call vote with William Sullivan, Cathy Suttle and Randi Eckel abstaining.

PUBLIC COMMENTS

Chairman Eckel announced that before we start the public comment section, comments are welcomed on matters not listed on the agenda. Comments related to agenda items should be held until that specific item comes up on the agenda. Chairman Eckel opened the public comment session. Having no public comments, Chairman Eckel closed the public comment session.

PUBLIC HEARING

- A. The Second Amendment to the 2009 Master Plan Re-examination Report
- B. Amendment to Land Use Plan Element of the Master Plan
- C. 2017 Housing Element and Fair Share Plan of the Master Plan

Chairman Eckel opened public hearing for the above listed items.

Attorney Hirsch stated that any Board member who owns property within 200 feet of the sites should stepped down. Mayor Myhre and William Sullivan stepped down.

Attorney Hirsch added that she reviewed the public hearing notice which was submitted to the Hunterdon County Democrat and was timely published. The Board is ready to do the public hearing on the Master Plan documents.

Planner McKenzie noted that she has two exhibits synthesizing the work we did for the affordable housing settlement agreement. We have amendments to the reexamination report, updating the reexamination report with respect to affordable housing. This paves the way for the adoption of the Land Use Element amendment for each site being amended to help address the affordable housing agreement. This is the basis for adopting the new zoning map and the zoning ordinance. The Housing Element and Fair Share Plan where there are a number of appendices, is also a document for the affordable housing settlement. All of these documents are implementation documents required to get to the point to satisfy the court. You will have a plan ready to implement for final judgment and repose. There is a compliance hearing date scheduled. Council will consider the adoption of the ordinances at its meeting on September 6th. The Board will make a determination this evening that the ordinances are consistent with the Master Plan.

Planner McKenzie stated that there was a settlement agreement reached with the Borough and the Fair Share Housing Center. The fair share included 2 prior units and 3 prior rehabilitation units and 52 additional units for the time period of 1999 to 2025. This number represents a 30% reduction for settling. Instead of doing the rehabilitation units and its costs, the Borough elected to include the rehab share as part of the number it would address and increase the numbers. The Borough preferred to create new units. The changes being made to the Master Plan and Zoning are how we are addressing the numbers. She noted that we have 2 affordable housing units in the DeSapio development, 4 in River Mills and 2 in Shale Cliff. The other projects we are talking about involve changes in the zoning. The Ceramics Plant which was the subject of the overlay in 2009 allowed 111 units including two large apartment buildings and single and two family homes. The Board is ready to return to a similar design of Fieldstone as opposed to Frenchtown 7. The zoning will be revised to an as of right zoning. You cannot use an overlay zoning for affordable housing unless you get a vacant land adjustment and Frenchtown did not qualify for that. We will create an as of right zoning for the Ceramics Plan and the lots along the south with upgraded design standards consistent with what Architect Chris Pickell would recommend in Frenchtown. The density is similar.

Planner McKenzie noted that the Ceramics Plan is new R-8A inclusionary residential zone. The R-8B is the other 3 lots that are already developed and part of the overlay zone. These lots are in the flood plan. The plan encourages the existing buildings to be adaptively reused and modified to accommodate inclusionary development. If the existing use is seized, there are environmental constraints. The R-8C zone is the Upper Eighth Street and Milford Road lot. We felt that attached two family dwellings would be appropriate similar to what is on that street. The site was largely vacant and we felt it could be redeveloped to replicate the form of development on that street with 6 units with 1 being an affordable housing unit. The density would be higher but it would produce an affordable housing unit. The prospective developer is looking at 2 more units. The subcommittee felt that 6 was the right number. The Ceramics Plant would have 17 affordable housing units, the other lots south would give you 4 and the Eighth and Milford Road lot would give you 1. The R-8D zone is the Baptist Church site. At some point that lot was subdivided and the church encompasses the parking lot. The zoning is designed to make it more desirable to adapt use with the existing building. There will be a need to use tandem parking, one in front of the other, if the existing building is used. She wrote the ordinance provisions for tandem parking. They currently have tandem parking there. As to the R-3 zone, it encompasses the two open lots and the lots south of that. If someone could assemble a few acres, they could develop an apartment complex. We do not anticipate that all the lots will be redeveloped. At one time or another, developers were interested and those lots have sewer service. The subcommittee was looking for ways to pick sites that would not dramatically change the look of

Frenchtown. The scheme would be similar to what it is now. No lots by themselves are 2 acres. There is an incentive with density for a developer to buy two lots. They do not have to do it. As to site 9, Block 48 Lot 7, located on Kingwood Avenue, there is an embankment to get into the site but when you are in the site, it is flat. We did density which would allow townhouses. This is a place where you can have some for sale townhouses and someone will want to build a townhouse development. It will be done with steep cuts and retaining walls. This will generate affordable housing units as well. The total number of affordable housing units generated from these sites is 44 and we have an opportunity for 14 rental bonuses. The extra credit is a cushion.

Planner McKenzie noted that the housing plan accomplishes what it needs to accomplish and in looking at the sites and coming up with infill development within the sewer service area, the plan would not be a substantial change to Frenchtown. It will help support the sewer plant, there will be more feet on the street and it would support the business community. All of this can be accomplished in addition to meeting your affordable housing needs. The documents needed to complete the process is the new zoning map ordinance, the affordable housing ordinance, the new development fee ordinance and the amendment to the Land Use ordinance. The one thing you will not have yet is the spending plan. She will need to look at the funds with Attorney Cruz as we are not quite clear what is available. There will also be a resolution with the intent to contract with an Administrative Agent. Council will have to do that.

Responding to the Board, Planner McKenzie stated that the Administrative Agent is retained by the Borough and paid by the developer or owner of the affordable housing unit. The Administrative Agent affirmatively markets the units. Any time a unit comes up for rental or resale, the Administrative Agent is required to follow the regulations and qualify new renters or buyers. You need to make sure that the affordable housing units do not get lost in the process. The Administrative Agent will make sure that does not happen. You already have a great Municipal Housing Liaison, Brenda Shepherd, who reports to the Council on the affordable housing status.

The Reexamination of the Master Plan and amendments to the Land Use Plan Element and the amendments to the Housing Element and Fair Share Plan sets the stage for the Board to recommend favorably that the zoning ordinances previously discussed will be consistent with the Master Plan.

The Zoning Map Exhibit was marked as PB-1 dated 8/23/17.

The Summary of Proposed Affordable Housing Districts was marked as Exhibit PB-2, dated 8/23/17.

Attorney Hirsch stated that the Planning Board will hold a public hearing on the three master plan documents. Subsequent to the public hearing, if applicable, the Board will need to adopt these Master Plan documents in a specific order. First will be the Reexamination Report, then the Land Use Plan Element and then the Housing Element and Fair Share Plan. The Board will vote on each one separately.

Chairman Eckel opened the public hearing to the floor.

Patrick Heap, tenant in the Commons, stated that he is section 8 housing and asked about eminent domain. Planner McKenzie responded that the Borough cannot take credit for the

Section 8 housing and Mr. Heap would not be victim of eminent domain and those units would not be restriction. Nothing will change about his home.

Having no other public comments for the public hearing, Chairman Eckel closed the public hearing on the master plan documents.

THE SECOND AMENDMENT TO THE 2009 MASTER PLAN RE-EXAMINATION REPORT

On motion by Jeanne Herb, seconded by Cathy Suttle and carried by unanimous favorable roll call vote, the Planning Board adopted the Second Amendment to the 2009 Master Plan Re-examination Report.

AMENDMENT TO LAND USE PLAN ELEMENT OF THE MASTER PLAN

On motion by John Dougherty, seconded by Gordon Dragt and carried by unanimous favorable roll call vote, the Planning Board adopted the Amendment to Land Use Plan Element of the Master Plan.

2017 HOUSING ELEMENT AND FAIR SHARE PLAN OF THE MASTER PLAN

On motion by Jeanne Herb, seconded by John Dougherty and carried by unanimous favorable roll call vote, the Planning Board adopted the 2017 Housing Element and Fair Share Plan of the Master Plan.

RESOLUTION #2017-16 – ADOPTING SECOND AMENDMENT TO 2009 MASTER PLAN RE-EXAMINATION REPORT, AMENDMENT TO LAND USE PLAN ELEMENT OF THE MASTER PLAN AND 2017 HOUSING ELEMENT AND FAIR SHARE PLAN OF THE MASTER PLAN

On motion by Jeanne Herb, seconded by John Dougherty and carried by unanimous favorable roll call vote, the Planning Board adopted Resolution #2017-16 as follows:

**FRENCHTOWN BOROUGH PLANNING BOARD
RESOLUTION NO. 2017-16**

ADOPTING SECOND AMENDMENT TO 2009 MASTER PLAN RE-EXAMINATION REPORT, AMENDMENT TO LAND USE PLAN ELEMENT OF THE MASTER PLAN AND 2017 HOUSING ELEMENT AND FAIR SHARE PLAN OF THE MASTER PLAN

WHEREAS, on July 6, 2015, the Borough of Frenchtown filed a Declaratory Judgment action seeking to fix the Borough's affordable housing fair share obligation from the period 1987 through 2025; and

WHEREAS, the Borough and Fair Share Housing Center negotiated a Settlement Agreement fixing the Borough's affordable housing fair share obligation from the period 1987 through 2025, and this agreement is in the form of a January 26, 2017 letter from the Fair Share Housing Center, which letter agreement was executed by Mayor Brad Myhre on February 1, 2017 pursuant to the authorization of the Common Council of the Borough of Frenchtown; and

WHEREAS, a Fairness Hearing on the Settlement Agreement between Frenchtown Borough and Fair Share Housing Center was held on March 30, 2017; and

WHEREAS, an Amended Order on Fairness and Preliminary Compliance Hearing (“Amended Order”) was entered on May 1, 2017 by the Honorable Thomas C. Miller, J.S.C., and said Amended Order and the February 1, 2017 Settlement Agreement with Fair Share Housing Center require the Borough Planning Board to take certain actions to implement the Settlement Agreement and Amended Order; and

WHEREAS, the Borough of Frenchtown Planning Board determined, with the advice and assistance of Borough Planner Elizabeth C. McKenzie, P.P., AICP, that in order to implement the Amended Order and the Settlement Agreement, it was necessary for the Planning Board to adopt an Amended Master Plan Re-examination Report, an Amendment to the Land Use Plan Element of the Master Plan and a Housing Element and Fair Share Plan Element of the Master Plan.

WHEREAS, on August 23, 2017 the Planning Board held a public hearing, after necessary notice was provided;

NOW, THEREFORE, BE IT RESOLVED that the Frenchtown Planning Board does hereby adopt the following:

Randi Eckel, Chair of the Frenchtown
Planning Board
Dated: August 23, 2017

Attest:

Brenda S. Shepherd, RMC
Borough Clerk

SITE PLAN AND VARIANCE APPLICATIONS – BLOCK 12 LOT 5, 28-34 EIGHTH STREET – 8TH STREET ASSOCIATES, LLC (COMPLETION REVIEW)

Attorney Hirsch noted that there is a use variance application and for the public hearing on this application, the Mayor and Councilman will have to recuse themselves. They may sit for the completion review.

Attorney Hirsch noted that the Board will review the site plan and variance application for completion. Chairman Eckel stated that we will go through Engineer Clerico’s review letter. Planner McKenzie noted that there is still discussion on how the application will be handled. Applicant Aran Papizana noted that he is the managing member of the LLC that owns the property. We are contemplating a change to the application because a variance may not be needed. He added that Howard Apgar is not here this evening.

Attorney Hirsch stated that we will go through with the completeness review and she will provide a memo to the applicant. Attorney Hirsch noted that the memo we received from

Planner McKenzie states that once the new zoning is adopted, the application would require fewer variances. If we continue at this point, all zoning in effect currently applies. Attorney Hirsch commented that she discussed with Mr. Apgar the time of application law, designed to protect the developer. Once an application is submitted, even if there are zoning changes proposed, the developer has the right to proceed under the current zoning. The Board and applicant may decide to have the application under the new ordinance because it would reduce the number of variances. The Board can review the applications for completeness but the application will be declared incomplete. There will be a need for another completion review.

Engineer Clerico noted that the applicant has requested a number of waivers. Attorney Hirsch stated that Engineer Clerico will go through his memo and if the Board agrees, waivers can be granted.

Engineer Clerico stated that the site plan application has architectural plans. He will review each check list item with the Board.

As to checklist 1, 2 & 50, the Administrative items, Engineer Clerico stated that Brenda Shepherd can verify these items.

As to checklist item 3, requires a zoning permit which would include a written response confirming any required variances. Attorney Hirsch stated that this is a checklist item but the Board should consider removing it from the checklist. The Board permanently waived this item.

As to checklist item 4, 18, 30, 47 & 48, copy of the Deed of record and any documents relating to protective covenants, easement or restrictions, Engineer Clerico noted that these items were not submitted and a copy of the Deed of Record, Title search information along with a current survey of the property reflecting existing conditions identified by the title search must be submitted. The Board deemed these items incomplete.

As to checklist item 12, Engineer Clerico noted that the applicant needs to clarify the status of ownership as the submitted plans notes that the applicant is the owner of the property but the application form identifies a different owner. If the applicant is not the current owner, then the plans need to be revised and the appropriate consent form needs to be provided. The Board deemed this item incomplete.

As to checklist item 17, Engineer Clerico stated that the approval signature lines have not been provided and the signature block on the cover sheet of the site plan incorrectly identifies the approving body as Raritan Township. This item can be waived for completeness. The Board granted a temporary waiver for this item.

As to checklist item 23, Engineer Clerico noted that the applicant has requested a waiver from showing natural features within 200 feet of the tract. This is a developed part of town with a cliff on the other side. Responding to John Dougherty, Engineer Clerico stated the Board can grant a temporary waiver and if something comes up in the court of the hearing, the Board can ask for it. The Board granted a temporary waiver on this item.

As to checklist items 25, 26, 27, 28 & 29, Engineer Clerico stated that the applicant noted that these environmental features, wetlands, flood plains, water courses etc. are not applicable based upon published GIS data. The Board could accept this representation for the purpose of completion. Subsequent to a brief Board discussion, Planner McKenzie responded that the Board

will get a 200 foot list as part of the notice requirement. The Board could asked the applicant to provide an arial photo. The Board granted a temporary waiver on these items.

As to checklist item 36, Engineer Clerico noted that the applicant is indicating that this item is not applicable to identify historical structures and historical features within 200 feet of the site. The Board could grant a temporary waiver on this item. If not, the item will remain incomplete. Jeanne Herb commented that the houses in that area are all older than 50 years. We should collect the data. The Board agreed and deemed this item incomplete.

As to checklist item 39, detailed site lighting, Engineer Clerico noted that the applicant is requesting a waiver on this item as only individual building mounted lights will be provided. Because there will be shared driveways, walkways and solid waste storage areas, he recommended that the appropriate types of onsite site lighting be provided. The Board granted a temporary waiver on this item.

As to checklist item 43, stormwater management, Engineer Clerico noted that this project will be classified as a major project under the State and Borough's stormwater rules since in involves more than a ¼ acre of new and/or modified impervious coverage The applicant must submit a SWM report. The Board deemed this item incomplete.

As to checklist item 44, detailed site utility information within 200 feet of the site. Since it will be necessary for the applicant to document compliance with the RSIS requirements for public sewer and public water connections including Fire Protection, the plans will need to show the existing offsite utilities along with proposed common connections to both sewer and water and that they are in compliance with the Borough's applicable sewer connection requirements, NJ American Water connection requirements and installation will meet the RSIS criteria. The applicant was requesting a permanent waiver. The Board deemed this item incomplete.

As to checklist item 46, street cross sections, Engineer Clerico noted that the applicant has not provided this information. The developer will be using the back alley and there will be a need for some improvements on the Eighth Street sidewalk and alleyway. The applicant has listed the item as not applicable. The Board deemed this item incomplete.

As to checklist item 51, Engineer Clerico noted that the applicant has not provided any documentation regarding the proposed ownership of the common elements of the project or the ownership of the individual units and/or the separate garage structures that serve the 4 residential units along Eighth Street. They requested a temporary waiver and noted that they will be one owner rental units. The Board granted a temporary waiver from this item.

As to checklist item 52, Environmental Impact Statement, Engineer Clerico noted that the applicant has requested a waiver for the EIS. He will refer this item to the Board. He suggested that at a minimum, a Phase I/Phase 2 assessment of any potential soil contamination be provided. Subsequent to a brief board discussion, the Board granted a temporary waiver on the Environmental Impact Statement but will require a Phase 1/Phase 2 environmental assessment (ROA)

Engineer Clerico also noted that the current applications require Checklists C and D which have not been submitted. These items are incomplete. The Board deemed Checklists C and D to be incomplete.

Planner McKenie added that the zoning tables do not match what is on the site plan.

Chairman Eckel asked at what point in the process do we come to an agreement as to which set of ordinances the applicant will be using? Attorney Hirsch recommended that the applicant give the Board a letter as to which way they want to proceed as the ordinances become effective upon adoption. If the court does not approve the ordinances, you can amend. Attorney Hirsch recommended that the Board deem the application incomplete this evening.

On motion by Jeanne Herb, seconded by William Sullivan and carried by unanimous favorable roll call vote, the Planning Board deemed the site plan and variance application for Block 12 Lot 5 incomplete for Checklist Items 4, 18, 30, 36, 43, 44, 46, 47, 48 and Checklists C & D, granting temporary waivers for checklist items 17, 23, 25-29, 39, 51, 52 (except for ROA) and granting permanent waivers for Checklist Items 3 and 31.

Chairman Eckel noted that the applicant will return to the September meeting for a completeness review.

Engineer Clerico requested that the Board amend its checklists in a format similar to the sample he provided to the Board in December of 2014. It will make it easier for the applicant, engineer and Board. Planner McKenzie stated that when we redraft the Land Use Ordinance, you can adopt new checklists as part of the ordinance. This will help with the review process.

NEW BUSINESS:

Attorney Hirsch noted that the Board will review Ordinances #792, #793, #797 and #798 for consistency with the Master Plan. No members need to recuse themselves for Ordinances #792 and #793. The Council has introduced all the above listed ordinances and they are now before the Board for review for consistency with the Master Plan.

REVIEW OF ORDINANCE #792, DEVELOPMENT FEE ORDINANCE, FOR CONSISTENCY WITH THE MASTER PLAN

On motion by Jeanne Herb, seconded by John Dougherty and carried by unanimous favorable roll call vote, the Planning Board determined that Ordinance #792 is not inconsistent with the Master Plan.

REVIEW OF ORDINANCE #793, AFFORDABLE HOUSING ORDINANCE, FOR CONSISTENCY WITH THE MASTER PLAN

On motion by Jeanne Herb, seconded by John Dougherty and carried by unanimous favorable roll call vote, the Planning Board determined that Ordinance #793 is not inconsistent with the Master Plan.

Attorney Hirsch stated that any Board member who owns property within 200 feet of the sites should stepped down on the remaining ordinances. Mayor Myhre and William Sullivan stepped down on the review of Ordinances #797 and #798 due to proximity.

REVIEW OF ORDINANCE #797, AMENDMENTS TO THE LAND USE ORDINANCE, FOR CONSISTENCY WITH THE MASTER PLAN

On motion by Jeanne Herb, seconded by John Dougherty and carried by unanimous favorable roll call vote, the Planning Board determined that Ordinance #797 is not inconsistent with the Master Plan.

REVIEW OF ORDINANCE #798, AMENDMENTS TO ZONING MAP. FOR CONSISTENCY WITH THE MASTER PLAN

On motion by Jeanne Herb, seconded by John Dougherty and carried by unanimous favorable roll call vote, the Planning Board determined that Ordinance #798 is not inconsistent with the Master Plan.

Mayor Myhre and William Sullivan returned to the meeting.

VOUCHERS

Brenda Shepherd, Board Secretary, presented the following vouchers for approval:

VOUCHER LIST 8/23/17

Elizabeth McKenzie	Professional Services for Affordable Housing through 6/30/17	\$8,575.00
Archer & Greiner	Professional Services for General Representation through 6/30/17	\$ 4,692.60
Albert Cruz	Professional Services for Affordable Housing through 6/30/17	\$ 120.00

ESCROW ACCOUNT – BLOCK 57 LOT 1 – ArtYard

Maser Consulting	Professional Services for ArtYard through 7/16/17	\$ 105.00
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ESCROW ACCOUNT – BLOCK 12 LOT 5 – 8TH Street Associates

Elizabeth McKenzie	Professional Services for 8 th Street Associates through 4/30/17	\$ 175.00
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On motion by Mayor Myhre, seconded by John Dougherty, and carried by unanimous favorable roll call vote, the Planning Board approved payment of the above bills list.

CORRESPONDENCE, COUNCIL REPRESENTATIVE REPORT AND OTHER RELATED ITEMS

- A) Technical Review Committee report

Mayor Myhre asked everyone to mark their calendars for September 30th as they are invited to the 150th Anniversary Celebration of the Borough from 3-9 pm with a raindate of October 1st.

There will be a taste of Frenchtown with multiple restaurants, vendors, music and a beer garden featuring local beers and fireworks. The Fire Department will bring the old steamer.

Planner McKenzie informed the Planning Board that she has decided not to renew her contract next year with the municipalities. She will retire at the end of 2018. She will still be available on an hourly basis. She will provide names of other planners and the Borough will have to set up a subcommittee to interview planners. She will help in any way she can. She will finish up her court master work by the end of 2018. She is sad to go and explained to the Board that her daughter was diagnosed with cancer and she will go to Virginia to assist her. The Board told Planner McKenzie that she and her daughter and daughter's family are in their prayers. The Board also told Planner McKenzie that she will be truly missed. Planner McKenzie responded that it has been an honor to work for the Borough of Frenchtown. She added that this is her town.

ADJOURNMENT

Gerry Case moved adjournment at 9:08 PM, and seconded by William Sullivan. The motion passed on favorable voice vote.

Brenda S. Shepherd
Planning Board Secretary