

Frenchtown Planning Board
Reorganization & Regular Meeting
January 22, 2020
7:30 P.M.

Randi Eckel called the Reorganization and 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.

OATH OF OFFICE

Attorney Hirsch administered the Oaths of Office to Brad Myhre (Class I), Mike Reino (Class II), Maggie Cooke (Class IV), Gordon Dragt (Class IV), and Paul Tomko (Alternate I). They accepted their Oaths of Offices.

ROLL CALL

Present:	Absent:
Cooke	Dougherty
DenBleyker	Herb
Dragt	Sullivan
Eckel	
Myhre	
Reino	
Tomko	

Randi Eckel turned the gavel over to the Mayor for nomination of Chairman.

NOMINATION OF CHAIRMAN

Mayor Myhre asked for nominations for Chairman of the Board. Gordon Dragt nominated Randi Eckel for Chairman of the Board. Paul Tomko seconded the nomination. No other nominations were made. The Planning Board elected Randi Eckel Chairman of the Planning Board by favorable roll call vote.

Mayor Myhre turned the gavel back over to Randi Eckel.

NOMINATION OF VICE-CHAIRMAN

Chairman Eckel asked for nominations for Vice-Chairman of the Board. Randi Eckel nominated John DenBleyker for Vice-Chairman of the Board. Paul Tomko seconded the nomination. No other nominations were made. The Planning Board elected John DenBleyker Vice-Chairman of the Planning Board by favorable roll call vote.

CONSENT AGENDA

All matters listed on the Consent Agenda are considered to be routine by the Planning Board and will be enacted by one motion in the form listed below. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

Chairman Eckel noted that these resolutions will appoint the same team of professionals for the Board. She has reviewed the contracts and they are the same as last year. Responding to Gordon Dragt, Chairman Eckel noted that Jim Mazucco of B.W. Bosenberg & Co has taken over the work for Brian Bosenberg and has covered the last few applications before the Board. She did meet with him and the Mayor. It was best to continue with the firm for consistency and historical knowledge of the town.

Chairman Eckel also noted that the meeting scheduled for November is on Veterans Day. The way the dates fall with the Council meeting, League of Municipalities and Thanksgiving that was the only feasible date. We can try to work around that.

On motion by Mayor Myhre seconded by Gordon Dragt and carried by unanimous favorable roll call vote, the Planning Board approved the consent agenda approving Resolutions #2020-01 through #2020-08 as follows:

**FRENCHTOWN BOROUGH
PLANNING BOARD**

RESOLUTION #2020-01

Dates, Time and Place for 2020 Regular Meetings and 2021 Reorganization & Regular Meeting

WHEREAS, Section 13 of the “Open Public Meeting Act”, Chapter 231, Public Law 1975, requires that at least once a year every Public Body shall post and mail to the newspapers designated by said body, a schedule of the location, date and time of each Regular Meeting of said Body during the succeeding year.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Frenchtown, County of Hunterdon and State of New Jersey, as follows:

1. The Regular Meetings of the Planning Board of the Borough of Frenchtown, County of Hunterdon and State of New Jersey, shall be held at 7:30 p.m. at the Borough Hall, 29 Second Street, Frenchtown, New Jersey, on the Fourth Wednesday of each month, for the year 2020, with the exception of the month of November and December. The Regular Meeting for the month of November and December shall be the second Wednesday.

The Meeting dates and time of all Regular Meetings for 2020 and the Reorganization and Regular Meeting for 2021 are as follows:

January 22	7:30 p.m.	Reorganization and Regular Meeting
February 26	7:30 p.m.	
March 25	7:30 p.m.	
April 22	7:30 p.m.	
May 27	7:30 p.m.	
June 24	7:30 p.m.	
July 22	7:30 p.m.	
August 26	7:30 p.m.	
September 23	7:30 p.m.	

October 28 7:30 p.m.
November 11 7:30 p.m.
December 9 7:30 p.m.
January 27, 2021 7:30 p.m. Reorganization & Regular Meeting

2. This Resolution shall take effect immediately.

Dated: January 22, 2020

Brenda S. Shepherd, Secretary
Frenchtown Planning Board

**FRENCHTOWN BOROUGH
PLANNING BOARD**

RESOLUTION #2020-02

Designated Newspapers

BE IT RESOLVED that the following newspapers shall be designated for the advertising of Legal and Public Notices for the Borough of Frenchtown:

Hunterdon County Democrat, Flemington, New Jersey
The Express Times, Easton, PA
Courier News, Bridgewater, New Jersey
The Star Ledger, Newark, New Jersey

Dated: January 22, 2020

Brenda S. Shepherd, Secretary
Frenchtown Planning Board

**RESOLUTION #2020-03
RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR AN
ATTORNEY TO SERVE AS PLANNING BOARD ATTORNEY FOR THE BOROUGH
OF FRENCHTOWN**

WHEREAS, the Planning Board for the Borough of Frenchtown has a need to acquire an Attorney to serve as Planning Board Attorney as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and,

WHEREAS, the Planning Board has determined and certified in writing that the value of the acquisition will exceed \$17,500; and,

WHEREAS, the anticipated term of this contract is 1 year; and

WHEREAS, Archer & Greiner has submitted a proposal dated January 9, 2020 indicating they will provide that attorney services for the amount of \$200.00 per hour in addition to costs incurred for out of pocket and travel expenses; and

WHEREAS, Guliet Hirsch of Archer and Greiner has completed and submitted a Business Entity Disclosure Certification which certifies that Archer & Greiner has not made any reportable contributions to a political or candidate committee in the Borough of Frenchtown to the Mayor or Common Council or County Committees in the previous year, and that the contract will prohibit Archer & Greiner from making any reportable contributions through the term of the contract, and

WHEREAS, the Chief Financial Officer has certified the availability of funds for this annual contract as required pursuant to N.J.A.C. 5:30-5.

NOW THEREFORE BE IT RESOLVED that the Planning Board of the Borough of Frenchtown will authorize the Chairman to enter into a contract with Archer & Greiner as described herein; and

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution.

BE IT FURTHER RESOLVED that notice of this action will be published in the Hunterdon County Democrat.

Dated: January 22, 2020

Brenda S. Shepherd,
Planning Board Secretary

RESOLUTION #2020-04
RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR A PLANNER
TO SERVE AS PLANNING BOARD PLANNER FOR THE BOROUGH OF
FRENCHTOWN

WHEREAS, the Planning Board of the Borough of Frenchtown has a need to acquire a Planner to serve as Planning Board Planner as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and,

WHEREAS, the Planning Board has determined and certified in writing that the value of the acquisition will exceed \$17,500; and,

WHEREAS, the anticipated term of this contract is 1 year; and

WHEREAS, Darlene A. Green of Maser Consulting PA has submitted a proposal dated 12/17/2019 indicating she will provide planner services for the amount \$150.00 per hour; and

WHEREAS, Darlene A. Green of Maser Consulting PA has completed and submitted a Business Entity Disclosure Certification which certifies that Darlene A. Green and Maser Consulting PA has not made any reportable contributions to a political or candidate committee in the Borough of Frenchtown to the Mayor or Common Council or County Committees in the previous year, and that the contract will prohibit Darlene A. Green and Maser Consulting PA from making any reportable contributions through the term of the contract, and

WHEREAS, the Chief Financial Officer has certified the availability of funds for this annual contract as required pursuant to N.J.A.C. 5:30-5.

NOW THEREFORE BE IT RESOLVED that the Planning Board of the Borough of Frenchtown authorizes the Chairman to enter into a contract with Darlene A. Green of Maser Consulting PA as described herein; and

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution.

BE IT FURTHER RESOLVED that notice of this action will be published in the Hunterdon County Democrat.

Dated: January 22, 2020

Brenda S. Shepherd,
Planning Board Secretary

RESOLUTION #2020-05
RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR AN ENGINEER
TO SERVE AS PLANNING BOARD ENGINEER FOR THE BOROUGH OF
FRENCHTOWN

WHEREAS, the Planning Board for the Borough of Frenchtown has a need to acquire a professional engineer to serve as the Board's Engineer as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and,

WHEREAS, the Planning Board has determined and certified in writing that the value of the acquisition will exceed \$17,500; and,

WHEREAS, the anticipated term of this contract is 1 year; and

WHEREAS, Robert J. Clerico of Van Cleef Engineering has submitted a proposal dated 1/6/20 indicating they will provide engineering services for the amount of \$148.00 per hour; and

WHEREAS, Robert J. Clerico of VanCleeef Engineering has completed and submitted a Business Entity Disclosure Certification which certifies that VanCleeef Engineering has not made any reportable contributions to a political or candidate committee in the Borough of Frenchtown to the Mayor or Common Council or County Committees in the previous year, and that the contract will prohibit VanCleeef Engineering from making any reportable contributions through the term of the contract, and

WHEREAS, the Chief Financial Officer has certified the availability of funds for this annual contract as required pursuant to N.J.A.C. 5:30-5.

NOW THEREFORE BE IT RESOLVED that the Planning Board of the Borough of Frenchtown authorizes the Chairman to enter into a contract with Robert J. Clerico of VanCleeef Engineering as described herein; and

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution.

BE IT FURTHER RESOLVED that notice of this action will be published in the Hunterdon County Democrat.

Dated: January 22, 2020

Brenda S. Shepherd,
Planning Board Secretary

RESOLUTION #2020-06
RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR AN
ARCHITECT TO SERVE AS PLANNING BOARD ARCHITECT FOR THE BOROUGH
OF FRENCHTOWN

WHEREAS, the Planning Board of the Borough of Frenchtown has a need to acquire an Architect to serve as the Planning Board Architect as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and,

WHEREAS, the Planning Board has determined and certified in writing that the value of the acquisition will exceed \$17,500; and,

WHEREAS, the anticipated term of this contract is 1 year; and

WHEREAS, Christopher Pickell of Pickell Architecture LLC. has submitted a proposal on 1/16/20 indicating they will provide architectural services for the amount \$150.00 per hour; and

WHEREAS, Christopher Pickell has completed and submitted a Business Entity Disclosure Certification which certifies that Christopher Pickell has not made any reportable contributions to a political or candidate committee in the Borough of Frenchtown to the Mayor or Common Council or County Committees in the previous year, and that the contract will prohibit

Christopher Pickell from making any reportable contributions through the term of the contract, and

WHEREAS, the Chief Financial Officer has certified the availability of funds for this annual contract as required pursuant to N.J.A.C. 5:30-5.

NOW THEREFORE BE IT RESOLVED that the Planning Board of the Borough of Frenchtown authorizes the Chairman to enter into a contract with Christopher Pickell as described herein; and

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution.

BE IT FURTHER RESOLVED that notice of this action will be published in the Hunterdon County Democrat.

Dated: January 22, 2020

Brenda S. Shepherd,
Planning Board Secretary

RESOLUTION #2020-07
RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR A
LANDSCAPE ARCHITECT TO SERVE AS PLANNING BOARD LANDSCAPE
ARCHITECT FOR THE BOROUGH OF FRENCHTOWN

WHEREAS, the Planning Board of the Borough of Frenchtown has a need to acquire a Landscape Architect to serve as the Planning Board Landscape Architect as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and,

WHEREAS, the Planning Board has determined and certified in writing that the value of the acquisition will exceed \$17,500; and,

WHEREAS, the anticipated term of this contract is 1 year; and

WHEREAS, Jim Mazzucco of B.W. Bosenburg & Co. has submitted a proposal dated 1/7/20 indicating he will provide Landscape Architect services for the amount \$145.00 per hour; and

WHEREAS, Jim Mazzucco of B.W. Bosenburg & Co. has completed and submitted a Business Entity Disclosure Certification which certifies that Jim Mazzucco of B.W. Bosenburg & Co. has not made any reportable contributions to a political or candidate committee in the Borough of Frenchtown to the Mayor or Common Council or County Committees in the previous year, and that the contract will prohibit Brian Bosenberg from making any reportable contributions through the term of the contract, and

WHEREAS, the Chief Financial Officer has certified the availability of funds for this annual contract as required pursuant to N.J.A.C. 5:30-5.

NOW THEREFORE BE IT RESOLVED that the Planning Board of the Borough of Frenchtown authorizes the Chairman to enter into a contract with Jim Mazzucco of B.W. Bosenburg & Co. as described herein; and

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution.

BE IT FURTHER RESOLVED that notice of this action will be published in the Hunterdon County Democrat.

Dated: January 22, 2020

Brenda S. Shepherd,
Planning Board Secretary

**FRENCHTOWN BOROUGH
PLANNING BOARD**

**RESOLUTION #2020-08
PROFESSIONAL APPOINTMENTS**

WHEREAS there exists a need for the Planning Board to hire an Attorney to serve as the Board Attorney, an Engineer to serve as the Board Engineer, a Planner to serve as the Board Planner; a Landscape Architect to serve as the Board Landscape Architect and an Architect to serve as the Board Architect; and

WHEREAS the Local Public Contracts Law, N.J.S.A. 40:11-1 et. seq. requires that the Resolution authorizing the award of contracts for “Professional Services” without competitive bids and the contracts themselves must be available for public inspection; and

WHEREAS sufficient funds are available in the 2020 Temporary Budget and will be made available in the 2020 Municipal Budget for the Borough of Frenchtown for such services,

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Frenchtown, County of Hunterdon, State of New Jersey, as follows:

1. The Planning Board Chairman and Board Secretary are hereby authorized and directed to execute an agreement with the following persons and/or firms for the year 2020:
 - a. Guliet Hirsch, Archer & Greiner, Attorney
 - b. Robert Clerico, Van Cleef Engineering, Engineer
 - c. Darlene A. Green, Maser Consulting PA, Planner
 - d. Christopher Pickell, Pickell Architecture, LLC, Architect
 - e. Jim Mazzucco, B.W. Bosenberg & Company, Inc., Landscape Architect

2. These contracts are being awarded as described above without competitive bidding as “Professional Services” as defined under the appropriate section of the Local Public Contracts Law because each of the above mentioned individuals is a member in good standing of his respective profession.
3. Notice of this action shall be printed in the Hunterdon County Democrat.

Dated: January 22, 2020

Brenda S. Shepherd, Secretary
Frenchtown Planning Board

APPROVAL OF MINUTES

Regular Meeting – December 11, 2019

Mayor Myhre moved to accept the minutes of the December 11, 2019 Regular meeting. Paul Tomko seconded the motion. The minutes of the December 11, 2019 Regular meeting were approved by favorable roll call vote with Mike Reino abstaining.

PUBLIC COMMENTS

Chairman Randi 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 comments, Chairman Eckel closed the public comment session.

MEMORIALIZING RESOLUTION #2020-09 – PRELIMINARY AND FINAL SITE PLAN AND SUBDIVISION APPLICATIONS FOR COUNTRY CLASSICS AT FRENCHTOWN LLC, BLOCK 3 LOTS 1 & 2 AND BLOCK 10 LOT 1

Chairman Eckel thanked Attorney Hirsch for her hard work on this application and resolution. Attorney Hirsch noted that Brenda Shepherd will maintain the resolution with all exhibits. This is important because there are a number of items from the review letters. Mayor Myhre noted that the Board asked that we have a meeting with the school and developer about the traffic study and crosswalk. The developer in desires to install a crosswalk as proposed in the study, and in addition, across the street will be curbing, etc. Country Classic also agreed to do a bump out at Tenth Street and resurface Harrison Street. The Borough will assist the school to install new blinking lights which will be part of the Borough’s Harrison Street project.

Attorney Hirsch noted that Engineer Burr did review the resolution and asked that the language be changed. If there is a need for further revisions, please let her know. The Board did not see a need for further revisions.

On motion by Gordon Dragt, seconded by Mayor Myhre, and carried by unanimous favorable roll call vote, the Planning Board approved Memorializing Resolution #2020-09bfor the Preliminary and Final Site Plan and Subdivision applications for Country Classics at Frenchtown LLC, Block 3 lots 1 & 2 and Block 10 Lot 1 as follows:

FRENCHTOWN BOROUGH PLANNING BOARD

RESOLUTION NO. 2020-09

**COUNTRY CLASSICS AT FRENCHTOWN – EIGHTH STREET REDEVELOPMENT
AREA (CERAMICS PLANT)**

BLOCK 3, LOTS 1 & 2 AND BLOCK 10, LOT 1

**RESOLUTION GRANTING PRELIMINARY AND FINAL SUBDIVISION AND SITE
PLAN APPROVAL WITH VARIANCES**

WHEREAS, Country Classics at Frenchtown, LLC is the applicant (the “Applicant”) and the owner of Block 3, Lot 1, Block 10, Lot 1 and Block 3, Lot 2 (collectively, the “Subject Property”); and,

WHEREAS, on September 23, 2019, the Applicant submitted an application for preliminary and final subdivision and preliminary and final site plan approval with variances; and

WHEREAS, the plans and documentation that were submitted by the Applicant in support of this application were identified in the Exhibit G, November 8, 2019 review letter of the Borough Engineer, and are on file with the Board, and are part of the record in this matter; and

WHEREAS, the application was deemed complete on October 23, 2019, subject to waivers as noted in the Board’s completeness decision at that meeting; and

WHEREAS, a public hearing was commenced on October 23, 2019, continued through meetings on November 13, 2019 and December 11, 2019, and on December 11, 2019, the Board voted to approve the application subject to conditions stated in the record; and

WHEREAS, the Planning Board received and reviewed the following review letters from its consultants: October 18, 2019 completeness and technical review #1 by Borough Engineer William H. Burr, IV, P.E. (attached hereto as Exhibit A); October 18, 2019 planning report of Board Planner Darlene A. Green, P.P., A.I.C.P. (attached hereto as Exhibit B); October 18, 2019

review memorandum from Planning Board Landscape Architects, Brian W. Bosenberg and Jim Mazzucco (attached hereto as Exhibit C); October 20, 2019 architectural memorandum from Planning Board Architect Christopher Pickell, A.I.A. (attached hereto as Exhibit D); November 6, 2019 letter from Joel Boriek, Chair of the Frenchtown Environmental Commission (attached hereto as Exhibit E); November 7, 2019 planning report of Board Planner Darlene A. Green (attached hereto as Exhibit F); November 8, 2019 completeness and technical review #2 by Borough Engineer (attached hereto as Exhibit G); November 11, 2019 review memorandum from Board Landscape Architects, Brian W. Bosenberg and Jim Mazzucco (attached hereto as Exhibit H); and November 22, 2019 letter from Captain Michael Atheras of the Frenchtown Fire Department (attached hereto as Exhibit I); and

WHEREAS, the Applicant was represented during the public hearings by Krista Harper, Esquire of Harper Business Law, P.C., and testimony was offered during the hearing by the principals of Country Classics at Frenchtown, LLC, Scott VanCleaf and Todd VanCleaf; by Brian Fennelly of Fennelly Environmental Associates, LLC, the Applicant's environmental consultant and LSRP; Michael K. Ford, Applicant's engineer from VanCleaf Engineering Associates, LLC; Jay S. Troutman, Jr. PE, McDonough & Rea Associates, Inc. the Applicant's traffic engineer; and Scott Nehring, with Holliday Architects, Inc.; and

WHEREAS, Borough Engineer William H. Burr, IV, P.E., Board Professional Planner Darlene A. Green, P.P., A.I.C.P., Board Landscape Architect Jim Mazzucco, C.L.A. and Board Architect Christopher Pickell, A.I.A. all testified under oath during the hearings and said testimony is considered part of the record in this matter; and

WHEREAS, public comments were offered during the public hearing by Ed Jozowski, Ken Lindalow, Natalie Howard, Mr. Pearson, Mike Otto, Holly Low, Jen Campbell, Perry Pearson, Kandy Ferree, and Kate Nugent, President of the Frenchtown School Board; and

WHEREAS, the following exhibits were received into evidence by the Board during the hearing:

- A-1. Nine pages of charts, entitled Table 5-1, Presumptive Remedies for Soil Contamination at Schools, Child Care Centers and Residences, courtesy copy of New Jersey Department of Environmental Protection Rule
- A-2. Mounted map on board showing areas of concern on subject property
- A-3. October 31, 2019 letter from Michael K. Ford, P.E. to Planning Board Chairwoman, Randi Eckel
- A-4. Map mounted on board, colorized version of sheet 2 of site plan set, entitled Existing Conditions, revised through September 25, 2019
- A-5. Map mounted on board, sheet 4, colorized version of landscape and amenities plan, revised through October 28, 2019
- A-6. October 29, 2019 letter from Scott Nehring and James S. Holliday of Holliday Architects to Frenchtown Borough Planning Board
- A-7. Letter dated November 12, 2019, from Scott Nehring and James S. Holliday of Holliday Architects to Frenchtown Borough Planning Board
- A-8. Architectural plan sheet SK-1 showing three styles of duplex units
- A-9. Brick sample – Heritage SWB from KF Brick – picture attached
- A-10. Brick sample – Carters Grove from Lawrenceville Brick - picture attached
- A-11. Synthetic vinyl siding sample
- A-12. Sample showing siding colors for duplex units
- A-13. Timberline shingle sample showing colors for duplex unit
- A-14. Shutter sample for duplex units
- A-15. Shutter colors for duplex units
- A-16. Color palette for roof shingles for duplex units
- A-17. Window with trim sample for duplex units – brochures attached
- A-18. Sample for synthetic decking duplex units
- A-19. Elevation and floor plans for triplex units
- A-20. Floor plans for duplex buildings
- A-21. Architectural plan SK-3, floor plan showing optional elevators

- A-22. Architectural plan showing floor plan for duplex units closest to park
- A-23. Architectural plans, showing elevations for multi-family building Number 1
- A-24. Architectural plans showing first floor plan for multi-family building No. 1
- A-25. Second floor plan for building No. 1
- A-26. Third floor plan for building No. 1
- A-27. Roof plan for building No. 1
- A-28. Front and right side building No. 1 showing materials
- A-29. Left and rear elevation for building No. 1 showing materials
- A-30. Building No. 2 rendering
- A-31. First and second floor for building No. 2, also showing location of affordable housing units
- A-32. Third floor and roof plan for multi-family building No. 2
- A-33. Front and right side multi-family building No. 2, showing materials
- A-34. Left and rear elevation for multi-family building No. 2, showing materials
- A-35. Floor plans for one, two and three bedroom multi-family units
- A-36. Floor plans for corner multi-family unit
- A-37. Three bedroom unit floor plans, corner unit
- A-38. Storage shed elevations
- A-39. Window sample for multi-family and storage sheds – Atrium 400 Series, double hung windows

WHEREAS, the Board makes the following findings of fact and conclusions of law:

1. Zoning. The Subject Property is located in the R-8A zone pursuant to Ordinance #797 adopted on September 12, 2017. It is also located in the Eighth Street Redevelopment Area pursuant to Ordinance #833, which Ordinance adopted the Eighth Street Redevelopment Plan dated April 10, 2019. Pursuant to the Eighth Street Redevelopment Plan, development of the Subject Property must conform with that Plan, since it supersedes the provisions of the Frenchtown Borough Development Regulations and constitutes an overlay zoning district within the Eighth Street Redevelopment Area. The

Applicant was designated the Redeveloper of the Subject Property via Council Resolution 2019-93, memorialized August 7, 2019.

2. Current Development and Surrounding Land Use. The majority of the Subject Property is currently developed with a ceramics plant previously utilized for manufacturing of various products and closed in 1993. The ceramic plant buildings and improvements are located on Block 3, Lot 1. The Subject Property is adjacent to the Old Frenchtown Field Park to the north and single family dwellings to the northeast, southeast and south. The Frenchtown public school is located to the east and the D&R Towpath is located to the west. A veterinary clinic is located to the southeast.
3. Proposed Development. The Subject Property is proposed for development pursuant to the Eighth Street Redevelopment Plan. The proposed development consists of a 111 unit inclusionary residential development, including 92 apartment units within two buildings (52 units in Building #1, and 40 units in Building #2), one triplex dwelling and eight duplex dwellings. A total of 17 affordable housing units are proposed, with 9 affordable units to be located in Building #1, and eight to be located in Building #2. Proposed site improvements include lighting, landscaping, pedestrian and vehicular circulation, on and off street parking areas, fencing, trash facilities, bicycle storage facilities, electric charging stations, grilling areas, fire pits and outdoor seating areas.
4. Remediation of Existing Contamination. Although remediation and cleanup of soil contamination on the Subject Property is within the sole jurisdiction of the New Jersey Department of Environmental Protection, the Applicant provided testimony by its L.S.R.P., Brian Fennelly, to update the Board and the public. Mr. Fennelly reviewed the environmental status of soil contamination and cleanup on the Subject Property. He testified that the contamination was discovered on the site in 2017, and once Country Classics became the owner of the site, the contamination was reported to NJDEP. The

remediation was started in February 2018. A preliminary assessment was completed by Fennelly Environmental Associates in June of 2018. The findings of that preliminary assessment indicated that there were 24 areas of concern where further investigation was recommended. A site investigation report was completed in January 2019 and documentation and data submitted to the DEP. The site investigation report showed contamination in 17 areas of the site with metal, TCE, PAH and/or petroleum hydrocarbons. A remediation report for soil was prepared in 2019. The Applicant moved forward with excavation and removal of soils. Approximately 2200 tons of soil were removed from the site. Of the 17 areas of concern, remediation has been completed in 11 areas. Contamination remains at six areas of concern. The Applicant's plan, subject to NJDEP approval, is to address those six areas using capping for the metal and PAH. A Remedial Action Work Plan was submitted to the NJDEP in May of 2019, and it addresses remediation for the fill material which covers most of the site.

Mr. Fennelly also noted that the investigation showed groundwater contamination involving lead, arsenic and TCE. Fifteen groundwater wells were installed, and the last sample taken in July 2019 showed that groundwater quality had improved. The groundwater investigation is ongoing. Additional testing will continue in the next few months with monitoring going on for years as required by the DEP. The Applicant is responsible for remediation pursuant to the DEP requirements, and the DEP will dictate the extent and timeframe for groundwater monitoring from wells. A remediation action permit is applied for and a protectiveness certification will be prepared every two years and submitted to the DEP. Once that permit application is submitted it becomes a public record. The Applicant agreed to file all applications and reports submitted to the DEP simultaneously with the Borough Clerk. The Applicant also agreed to comply with all environmental cleanup provisions of the Redevelopment Agreement with the Borough

Council and also offered to install vapor intrusion mitigation measures in the two multi-family buildings proposed on the site.

5. Compliance with Eighth Street Redevelopment Plan and Variances Requested. Based

upon the review of the Board Planner as set for the in Exhibit F, the testimony of the Board Planner and Architect and the testimony of the Applicant's Engineer and Architect, the Board has determined that the proposed development conforms with the requirements of the Eighth Street Redevelopment Plan, with the exception of the two requested variances/deviations from the Eighth Street Redevelopment Plan, both pursuant to N.J.S.A. 40:55D-70(c).2:

- a. First, a variance from Section VI.G.1.c to allow the porch width on the duplex and triplex units to occupy 60% of the front façade, where that section of the Plan requires the porch to occupy 75% of the front façade.
- b. Second, a variance from Section VI.P.1 of the Plan, which section requires landscaping including the provision of street trees, to comply with the requirements of Section 707 of the Borough Ordinance. Section 707D.2.c. requires small street trees to be planted at an interval of 15' on center, while the Applicant proposes spacing of more than 15' along the Harrison Street frontage of proposed Lots 1.05 through 1.12, and in front of the triplex dwelling on Lots 1.02 through 1.04.
- c. Variances for garbage and recycling screening and for light intensity originally identified in Exhibit "B" were eliminated by the Applicant through plan revisions submitted prior to the Board decision on December 11, 2019.

6. Applicant's Proofs and Board's Conclusions on Requested Variances.

- a. In connection with the variance from Section VI.G.1.c of the Eighth Street Redevelopment Plan, which section requires the porch widths on the duplex and

triplex units to occupy at least 75% of the front façade of each unit, the Applicant's architect, Scott Nehring, A.I.A., testified that the front façade of each duplex unit would be 25' in width, that a porch extending over 60% of the façade frontage would be 15' and that the reduced porch would serve the purpose of providing the separation of porches between the duplex and triplex units. This would provide privacy for unit owners as well as meeting the fire rating requirement for the dwellings. Mr. Nehring also testified that providing an 18' porch, meeting the 75% front façade requirement, would provide an additional 3' of porch which would not be usable by the unit owner. The Board's architectural consultant, Christopher Pickell, testified that the reduction to 60% was a good idea and would coordinate well with the room sizes behind the front façade.

As a result of this testimony, the Board concluded that the purposes of a Municipal Land Use Law would be advanced by a deviation from the zoning requirements for porch size, and that the benefits of this deviation would substantially outweigh any detriment, finding specifically that no detriments were identified in connection with the proposed variance.

- b. In connection with the requested variance from the requirements of Ordinance Section 707.D.2.c. that requires street trees installed 15' on center, Michael K. Ford, the Applicant's engineer, who is also a licensed professional planner, testified that the Ordinance standard would require the installation of 43 street trees but that 33 street trees were proposed because walkways and utility connections at the frontage of the duplex and triplex units would preclude compliance with the street tree spacing requirement. He also testified that the proposed spacing of street trees at 26' on center, would provide an attractive street scape and spacing of trees closer to the industry standard. Additionally, although the number of street trees were being reduced from 43 to 33, additional proposed

landscaping exceeded ordinance requirements and that although 41 onsite shade trees are required, 54 are being proposed.

As a result of this testimony, the Board concluded that the purposes of the Municipal Land Use Law would be advanced by the proposed deviation from the zoning requirement for street tree spacing, and that the benefits of this deviation would exceed the detriments, which would be minimal, given the total landscape package proposed.

NOW, THEREFORE, be it resolved by the Frenchtown Borough Planning Board, by motion duly made and seconded on December 11, 2019 that the preliminary and final subdivision and preliminary and final site plan application with two requested variances are hereby approved subject to compliance with the following conditions:

1. The Applicant shall submit a revised set of subdivision, site plan and architectural plans within thirty (30) days of adoption of this Resolution by the Board, and shall thereafter make all revisions to that revised set of plans which are requested by all Board consultants within thirty (30) days of the date of the last review letter from the Board Consultants. The revised plans shall include the following:
 - a. All revisions indicated in the “will comply” category of the October 29, 2019 Holliday Architects’ letter (A-6), which shall be reflected where appropriate by adding notes or revisions to the architectural plans.
 - b. The architectural plans shall be revised to add notes or revisions, where appropriate, to require all materials and colors to conform with the details of the Holliday Architects’ November 12, 2019 letter and with the material and color exhibits marked into evidence at the Board hearing on December 11, 2019.
 - c. The architectural plans for the multi-family units shall be revised to change, if necessary, the design roof loads and water-proof membranes on the multi-family building roofs to allow future installation, if desired, of solar panels.

- d. The following items listed in the Borough Engineer's review letter dated October 18, 2019 (Exhibit A), specifically including checklist items I, J, K, N, P1 and 2, S, 5, 7, 9, 23, 24 and 46.
 - e. Incorporate a crosswalk between the proposed development and the Frenchtown Elementary School on the opposite side of Harrison Street, on the south side of the access and a curb bump out on the east side of Harrison Street at the new crosswalk location and at Tenth Street. There will be no speed bumps or speed tables.
 - f. A stabilized construction entrance off of Eighth Street, with a note indicating that all construction vehicles shall utilize lower Eighth Street for access to the site.
 - g. Show additional traffic calming measures, provided that the Frenchtown School Board, Police Department and Department of Public Works agree on specific measures within thirty (30) days of adoption of this Resolution.
 - h. Revise the plans to comply with all other comments contained in the review letters attached hereto as Exhibits A to G.
2. In conjunction with the revised plan submission to the Board, the Applicant shall supply a draft form of deed restriction for the duplex and triplex garages, preventing these garages from being converted to other uses, and shall also provide a deed restriction for the duplex and triplex units that requires the loft on the third floor to be dedicated to and remain as a non-sleeping area. These draft deed restrictions must be reviewed and approved by the Board Attorney prior to recording. Recording of the approved deed restrictions must occur immediately following, and in conjunction with, the recording of the final plat.
 3. The following approval conditions must be satisfied before Borough officials sign the subdivision plat for recording purposes:

- a. Borough Council adoption of an ordinance vacating the portion of Eighth west off of Harrison Street, with reservation of utility and public access easements;
- b. Recording of a Borough Council approved easement over the Frenchtown field property to provide access to the proposed duplexes on Lots 1.19 and 1.20, unless the Applicant proves to the satisfaction of the Board Attorney, that an access easement currently exists;
- c. Applicant shall enter into a Redevelopment Agreement with the Borough Council, with the Planning Board recommending that the following provisions be included in said Redevelopment Agreement:
 - (i) Resurface Eighth Street pavement west of Harrison Street in accordance with Borough standards;
 - (ii) Improve the north side of Eighth Street west of Harrison Street with new sidewalks and curbs;
 - (iii) Resurface the section of Harrison Street that extends along the frontage of the subject property as depicted on the final plans, in accordance with Borough standards.
- d. The Applicant shall submit a draft engineer's estimate for performance guarantee purposes, and after issuance of the Engineer's Estimate by the Borough Engineer, shall submit a performance guarantee which conforms in all respects with the requirements of N.J.S.A. 40:55D-53, along with inspection fees consistent with the Engineer's Estimate prior to the signing of final subdivision plat by Borough officials. The Applicant shall later post a maintenance guarantee in conjunction with the partial or full release of the performance guarantee

4. Conditions Subsequent to Approval:

- a. The following conditions shall strictly apply to the 17 low and moderate income housing units to be included in the development:
- 1) A total of 17 affordable units shall be constructed. Apartment Building #1 will have nine affordable units, while Apartment Building #2 will have eight affordable units.
 - 2) The affordable unit income distribution shall be: three very-low income units, six low-income units, and eight moderate-income units.
 - 3) The affordable bedroom distribution shall be: three one-bedroom, ten two-bedroom, and four three-bedroom.
 - 4) The Applicant shall deed-restrict the affordable housing units for at least thirty (30) years. The deed restriction shall indicate the unit or apartment number, number of bedrooms, and income level of the affordable housing units. As per the Redevelopment Plan, the affordable controls shall be continued in accordance with the UHAC after the first thirty (30) year period unless and until the Borough chooses to release the restriction in accordance with UHAC.
 - 5) A deed restriction that complies with the restriction controls found in Section 14 of the Borough's Affordable Housing Ordinance shall be submitted to the Borough's Municipal Housing Liaison at least one hundred twenty (120) days prior to the issuance of any market or affordable Certificate of Occupancy.
 - 6) As per Section 18 of the Borough's Administrative Agent to administer the 17 affordable units.

- 7) Affirmative marketing for the affordable housing units shall commence one hundred twenty (120) days before any market or affordable Certificate of Occupancy is issued.
 - 8) The construction phasing of the affordable housing units shall comply with Section 5 of the Borough's Affordable Housing Ordinance, which provides thresholds for market versus affordable unit construction. For example, the first threshold permits 25% of the market rate units to receive a Certificate of Occupancy before any affordable Certificates of Occupancy are issued. The second threshold requires 10% of the affordable units to have a Certificate of Occupancy before 25% plus one market rate is issued a Certificate of Occupancy.
- b. The Applicant shall comply fully with the terms and conditions of the Redevelopment Agreement executed with Borough Council.
 - c. The Applicant shall clean and remove debris, sediment and invasive plants in the Borough's stormwater drainage system which accepts stormwater from the property and shall add a swale in the location designated by the Borough Engineer along the southern portion of Lot 10.
 - d. Submit a CAD-generated data file prepared by a New Jersey licensed land surveyor, which will be directly translatable into an identical image on the subdivided lots. The file shall be transmitted on a standard DVD disc or standard compact disc.
 - e. Comply with all site remediation requirements required by the N.J.D.E.P. as well as any measures set forth in the Frenchtown Borough Redevelopment Agreement. Additionally, as agreed to by the Applicant in hearings before the Board, the Applicant shall install vapor intrusion mitigation measures in multi-family

buildings # 1 and # 2 and shall file all applications and reports to DEP also with the Borough Clerk.

- f. The within approval and use of the property is conditioned upon and made subject to any and all laws, ordinances, requirements and/or regulations of any and all municipal, county, state and/or federal governments and their agencies or departments which may have jurisdiction over any aspect of the use of the property. To the extent that any other governmental agency requires a change in this plan granted preliminary and final site plan and subdivision approval pursuant to this resolution, the Applicant shall identify such changes on each affected plan sheet, provide a narrative description of the change along with the governmental permit and, if required, request amended approval thereafter.
- g. The Applicant shall replenish the Planning Board escrow account within fifteen (15) days of the emailing of a written request to the Applicant’s representative, pursuant to the requirements of the executed Escrow Agreement.

VOTING RECORD

On December 11, 2019, a motion to grant preliminary and final subdivision and preliminary and final site plan approval, with two variances, received the following votes:

Those in favor: Cook, Denbleyker, Dougherty, Dragt, Eckel, Herb, Myhre and Tomko.

Those opposed: None.

The above memorializing Resolution was adopted on January 22, 2020 by the following Board members eligible to vote:

1. MEMBER	YES	NO
Cook	X	
Denbleyker	X	
Dragt	X	

Eckel	X	
Myhre	X	
Tomko	X	

Attest:

Brenda S. Shepherd, Board Administrator

ZONING INTERPRETATION/USE VARIANCE – BLOCK 15 LOT 11, DARCY LODGE F&A MASONIC #37 (PUBLIC HEARING)

Attorney Hirsch noted that the public hearing has been properly noticed. She has received the affidavit of publication and affidavit of service. The application will be broken into two parts. The applicant has asked for a zoning interpretation and a use variance. Attorney Steven Gruenberg, representing the application, noted that they will do the zoning interpretation but might present the proposal all at once.

Attorney Gruenberg from Flemington, New Jersey, noted that there is a room full of people this evening in support of the application. He noted that a Notice of Violation was issued by the zoning officer. The zoning officer cites a violation of Section 305B, Nonconforming Buildings, Structures, Use and Lots. No nonconforming building or structure or building or structure devoted to a nonconforming use shall be enlarged, extended, constructed, reconstructed, substituted, relocated, erected, converted to another use or structurally altered except in conformity with the regulations of this Ordinance for the zone in which such building or structure is located. The zoning officer cites a fraternal organization use possibly adding catering services. A preexisting nonconforming structure may not change its preexisting use without approval from the Zoning Board. We have not done any of those things. These types of fraternal lodges rely on other entities using the use to survive. The property is maintained and owned by Darcy Lodge with servicing activities. There is no conversion or site changes. Edible Underground is using the kitchen. Edible Underground is not advertising on the site. They are using the kitchen and have people coming to the site once a week during a 2 hour period. The use has not been expanded by this limited use. If the Board finds there is a change in use, we will ask for a variance. The Darcy Lodge continues to provide services to the community.

Attorney Gruenberg noted that there will be three witnesses. Mr. Gordon Long, member of the Lodge and counsel to the applicant, Jennifer Hason, owner and operator of Edible Underground and Planner Elizabeth McManus.

Attorney Hirsch swore in Gordon Long and Jennifer Hason.

Attorney Gruenberg called Gordon Long to testify. Gordon Long noted that he is a member of the Lodge, past master and counsel. He noted that the Masons are a worldwide organization raising funds to give to various charities we support. The organization is national, international and local. We do not raise money for profit. We operate children’s hospitals, burn centers,

shriners, homes for aging people and do various philanthropy work with the Veterans Association, attend local Veteran hospitals, and provide burial and church services. Worldwide, we give an estimated 4 million dollars a day. What we do on a local level is support those in the community that are needy, we give to fire, rescue and have an Angel fund. When we get contacted by the schools for children that need help with clothing, school supplies, medicine, etc., we give money to families and we gave money to a family who lost their home by fire. We help contribute to 20,000 diabetes dogs. These dogs are trained to detect when someone will lapse into a coma and will wake the partner. We do what we can to assist anyone with the money we raise. Responding to Maggie Cooke, Attorney Gruenberg stated that they are a 501C10 fraternal organization, with fraternal activities which are exclusively religious, charitable or educational in nature.

Mr. Long stated the Darcy Lodge has been on lot 11 Block 15. For decades it was Orion which opened its doors in 1966. It has been there over 50 years. We merged lodges when membership declined. We have continued as a joint lodge since 2004. Responding to Attorney Gruenberg as to how the building has been used to advance the lodge purposes, Mr. Long stated that the primary asset is the kitchen and main hall, making them available for rentals for anniversaries, birthdays and most recently we donated the use of the hall to the Frenchtown Business and Professional Association. Other organizations use it as well. The use is also consistent with the types of activities that take place in churches and granges. It helps raise funds to give to charities. In addition, the first Sunday of every month, we run a breakfast through the use of the kitchen on the property. Recently, that kitchen was required to be upgraded at a cost of \$25,000.00 to install a fire and hood system. We asked for assistance from other lodges and through fundraising. We have to raise \$2,400.00 a month. That is a lot of breakfasts. The new kitchen had to be approved by the Hunterdon County Board of Health.

Mr. Long also stated that in the past, the kitchen was rented to others. Edible Underground used it. We posted one of the breakfasts showing buffet tables and Edible Underground approached us and asked if we would be agreeable to work out an arrangement for use of the kitchen and lodge, consistent with the types of activities in the past to help generate income for the lodge. The lodge is a not for profit organization. Attorney Gruenberg asked Mr. Long if there has been an expansion of the building, parking lot or any changes to the site. Mr. Long responded that the lodge put in a concrete pad in the back to put in an outdoor refrigerator because their equipment was failing. This proposal would be a benefit to both the lodge and Edible Underground. The lodge is continuing to be used as a lodge. It is not being converted. Edible Underground does not advertise and people do not come there to eat. It is take-out only, once a week for a two hour period of time.

Referring to a two hour take-out period, Chairman Eckel asked if there is take out when the Lodge holds its breakfast once a month? Mr. Long responded that the breakfast is from 8 to 11:30 am once a month and people can take out breakfast during that time or eat on site or both. We still do the monthly breakfast and intend to continue that. Board member Gordon Dragt stated that he has no question about the mission and use of the Darcy Lodge. It is a wonderful organization in town. He commented that Edible Underground is a for profit business and has things for sale. It is a for profit business operating there. Is that part of the Lodge?

Attorney Gruenberg responded that fraternal organizations have these buildings and in order to continue their charitable services, they lease or accept contribution for the use of the space. They have had karate classes and quilting guilds. This happens every day. It did not convert the use

to a karate studio. This is how we survive. They do not want a use variance every time they have activities from entities using the space. The use being proposed is still for fraternal use.

Responding to Mayor Myhre as to the cost to run the lodge every month, outgoing treasurer Jeff Brownell stated that it costs approximately \$1,000.00 to keep the building going.

Attorney Hirsch asked if the request is for zoning interpretation based on the current use of Edible Underground? Attorney Gruenberg noted that there will be testimony on this type of fraternal use and the uses of the lodge. If the Board approves the zoning interpretation, then we would not go into the variance application. Attorney Hirsch stated that in terms of the kitchen use, limits would need to be defined. Attorney Gruenberg responded that we will provide specific testimony of what is going on now and what we hope it to be.

Attorney Gruenberg call Jennifer Hason, owner of Edible Underground, to testify.

Jennifer Hason testified that Edible Underground is a prepared meal service, doing catering and specialty desserts for Frenchtown Café. She used to have a business in town which closed in 2014. This business, Eat Cake, was where Frenchtown Fresh is now. She closed it and did something else. She still had a following. She would make a pot of soup and would have way too much. She posted it on FACEBOOK. People wanted to purchase a quart of it and they would pick it up. That evolved from 4 quarts of soup to 10 to 82 quarts of soup. She realized that this was something and she needed to pay attention to it. It then evolved into meals. One client asked if she could make food for them and that is when she started making meals. This made it necessary to cook in a more professional style. She was cooking in home when it was just friends. She started going into churches and jumping around to use a certified kitchen. She saw a FACEBOOK post of the Darcy Lodge's new kitchen when she was in the process of looking for a certified kitchen. She was looking for a restaurant type space that was not open and it appeared that Darcy Lodge's kitchen was the answer. She went to Darcy Lodge and looked into the window and said that is the kitchen. She approached Darcy Lodge and made an arrangement to pay them an hourly fee for the use of the kitchen, using it to prepare meals. She has scheduled Monday night from 5 to 7 pm for pick ups. She is on site during the week for approximately 20 hours and her assistant is there 15 hours per week. No one is eating on site. She prepares and seals the meals. The meals are refrigerated and sold in resealable bags and the meals are pickup in the bags. There is no exchange of money. 90% is done online. Pick up is a maximum of 10 minutes with a maximum of 5 cars at a time. She would like to do this up to two days per week during a two hour period, preferably Tuesdays and Fridays. The intensity does not change. She does not put out signs and she also does special order cakes that are not sold on site.

Ms. Hason also noted that she has one produce vendor come once a week and one box truck for dry goods every other week. Parking is sufficient. During the Lodge Breakfasts, the parking lot is full. Chairman Eckel asked how often the Lodge received deliveries for its breakfasts. Ms. Hason responded that it is one delivery per month. The last breakfast delivery came with her delivery. Instead of three, it was two that week. Responding to Mike Reino as to the complaint from the Zoning Officer, Ms. Hason stated that the complaint was a result of a complaint that was filed with him. Attorney Gruenberg added that he understands it was a complaint filed with the zoning officer and he is prepared to get into that if necessary.

Planner Green stated that there is pick up one night per week and Ms. Hason would like to expand it to two. Is that to give your clients more options or expand a client base? Jennifer Hason responded that it is both. She has a community of clients and to take care of them, two

pick ups would be better. She also would like to go back to soups and breads as well and is not opposed to more clients. Planner Green asked if her and her assistants' hours would increase? Ms. Hason noted that both would increase by 10 hours. She would limit use to two days a week.

Attorney Gruenberg introduced Planner Elizabeth McManus and asked the Board to qualify her just for testimony on the zoning interpretation. He asked Ms. McManus to provide her qualifications. Attorney Hirsch swore in Ms. McManus. Ms. McManus noted that she is a licensed planner in New Jersey, holds a professional planner license and is a member of the national American Institute of Professional Planners. She has been a practicing Planner in the State of New Jersey since 2001. The majority of that work is representing municipalities. She has been qualified in front of Boards, Clinton Township, Raritan Township, etc. She has been recognized as an expert in Planning and Affordable Housing in front of the Superior Court. The Board accepted Ms. McManus as an expert witness.

Planner Elizabeth McManus noted that she met with the applicant and operator to get a better understanding of the existing use and further use of the property. She did a site visit, walked the property and reviewed the Borough zoning ordinance and master plan. She also reviewed the reports and Section 305B of the zoning order for the nonconforming use in the zone. Her opinion from a planning perspective is that the use remains as a fraternal use as does the proposed use. The proposed use is similar in that it is the same use as the existing fraternal use for a few reasons. The existing activity use of the kitchen is to prepare meals to be served on site. The proposed activity use of the kitchen is to prepare meals to be consumed off site, to take home. Several similarities with this location are the use of the building and the use of the commercial kitchen. It is still retail in nature where food is being prepared in exchange for funds. The monthly breakfast is being prepared to be consumed on site and offsite in exchange for funds. The funding is coming through Darcy Lodge for the purpose of charity. The funds are paid directly to Darcy Lodge for charitable activities. The Lodge is receiving funds for the use of the kitchen for the same activities to funnel money to the charitable activities. The Lodge continues to meet the definition of club, lodge or fraternal organization. It is a social service organization but not organized for profit. The activities of the local organization are a collection of uses including preparing food to support its activities. The proposed use is a continuation of the existing use of a fraternal organization. The low level of activity with the non-conforming fraternal lodge use has limited traffic, deliveries and employees involved with the use. Attorney Gruenberg noted that the use is similar to a use of a church use of a kitchen that helps a church to exist. The money is used in the same way, to promote funding and activities to support the mission.

John DenBleyker commented that the preparation and distribution of food is to benefit the Lodge. Planner McManus noted that we would not be here if it was a restaurant request. It is a commercial kitchen use for short term sales. Mr. DenBleyker asked if there is a list of sub uses such as an accessory use. Attorney Hirsch responded that it is a legal non-conforming use. The lodge has been established. Is the use by Edible Underground substantially similar to the lodge use since it became a lodge. John DenBleyker noted that the only difference is that the lodge is not doing the cooking. Attorney Hirsch stated that it would not be a distinction. The purpose is food consumption and use of funds for charitable purposes. The question is has the use been converted from fraternal into something else? Gordon Long stated that this lodge continues to be owned by Darcy Lodge and the signage on the building is Darcy Lodge and it continues to operate as a lodge in all its activities.

Gordon Dragt commented that Edible Underground is a business. There is a difference in his mind. He recognizes Darcy Lodge as a wonderful charity organization but Edible Underground is a profit business. We as a board when looking at this understand that there is now a specific for profit business. Mayor Myhre commented that this is a lodge doing all its long term mission and is renting for self sufficiency. They are looking to rent space to help support their fixed cost. At the end of the day, that space had been rented for a karate studio. It is on going much like the American Legion where they need to make revenue. Other groups renting the space have been for profit groups. Chairman Eckel noted that the karate was for profit. They have rented space that is ideally suited to help make ends meet for the charitable group and maintenance of its property. Mayor Myhre added that by law, if you sell food, you must use a certified kitchen. Mike Reino also added that someone complained about the increase traffic. If Darcy Lodge wanted to have breakfast five days a week, it could which would increase the traffic. It seems to be a conforming use and does not burden the community in anyway. Mr. Reino asked if the violation notice was to Darcy Lodge. Attorney Gruenberg responded that Darcy Lodge received the violation notice. Mayor Myhre noted that he spoke with the zoning officer and the concern was the use inside a residential area and the lack of parameters or guidance. Nothing has changed dramatically from what has been going on there. Attorney Gruenberg noted that the notice was about a possible change in use. The zoning officer saw a facebook post and did not know if Darcy Lodge sold and a new business was coming in. They are using space like fraternal organizations do. Attorney Hirsch stated that suddenly it looked like a restaurant.

Having no other questions or comments from the Board, Chairman Eckel noted that she will open the floor to the public on the public hearing. She put a time limit of 2 minutes for each person.

William O'Brian asked the Attorney to read the notice of violation. Attorney Gruenberg read the violation notice.

Mike Tyksinski stated that most of the people here this evening want to voice support for the Darcy Lodge and Edible Underground and what they are doing for the community. Everyone clapped.

Kandy Ferree asked if she could read a statement she received through text. Attorney Hirsch responded that it is not permitted. Kandy Ferree stated that her understanding is that the resident that lives close to this property has no challenge with traffic, lights, etc that would negatively impact that community.

Gordon Long commented that it is irrelevant who is paying. It is whether what we are doing is similar to what we are proceeding to do.

Having no further comments, Chairman Eckel closed the public hearing portion of the application.

Having no further testimony, Attorney Gruenberg requested a vote on the zoning interpretation.

John DenBleyker ask Planner McManus why the proposed use is a substantially similar use.

1. The purpose of the food activity compares to the monthly breakfast whether it is once per month or more.

2. Preparation in the same kitchen for the purpose of generating funds whether it is payment for a breakfast or for the use of the facility, both support the charitable organization.
3. The level of activity is not dissimilar whether it is once a month or one or two picks ups a week.
4. The other activities are solely in the building. One or two employees with low level activity for food preparation to serve the organization. The character of the organization is one in the same. There is no one dining on the site with the proposed use and is not part of the application.

Planner Green noted that the Board is to evaluate if the proposed use is similar to what they historically did on the site or if the proposed use has the same characteristics. Attorney Hirsch noted that if the Board finds the proposed use is similar, limitations should be placed on the approval such as no retail sales, no on site food consumption, limits on number of pick up days and times and no site improvement or signage for the proposed use.

On motion by Gordon Dragt, seconded by Brad Myhre and carried by unanimous favorable roll call vote, the Mayor and Common Council approved that the proposed use is substantially similar to the current lodge activities subject to the following limitations:

1. There shall be no retail sale of food products other than take-out of prepared meals and products
2. no on-site food consumption or seating inside or outside of the building for this use.
3. There is a maximum of two times a week, about two hours per night, for take-out pick up.
4. No site improvements, building expansion or any type of signage on the building or on the site is permitted in connection with the use.

APPROVAL OF VOUCHERS

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

VOUCHER LIST 1/22/20

Archer & Greiner	Professional Services for General Representation through 12/3/19	\$ 701.60
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ESCROW ACCOUNT – BLOCK 3 LOTS 1 & 2 AND BLOCK 10 LOT 1 – Country Classics - Site plan

Maser Consulting	Professional Services for Country Classics through 12/30/19	\$ 807.50
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Pickell Architecture LLC	Professional Services for Country Classics through 12/16/19	\$450.00
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B.W. Bosenburg & Co. Inc.	Professional Services for Country Classics through 12/30/19	\$3,987.50
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Archer & Greiner	Professional Services for Country Classics through 12/31/19	\$2340.00
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ESCROW ACCOUNT – BLOCK 3 LOT 1 - Country Classics Redevelopment

Phoenix Advisors, LLC.	Professional Services for Country Classics through 12/31/19	\$6,337.50
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Albert Cruz Professional Services for Country Classics \$80.00
Through 11/30/19

ESCROW ACCOUNT – BLOCK 55 LOT 14 – ArtYard – Site Plan – 13 Front Street
B.W. Bosenburg & Co. Inc. Professional Services for ArtYard \$435.00
through 12/30/19

ESCROW ACCOUNT – BLOCK 55 LOT 14 – ArtYard – Attorney fees
Albert Cruz Professional Services for ArtYard \$48.00
Through 11/30//19

ESCROW ACCOUNT – BLOCK 17 Lot 5 & 6 – Oasis Realty – site plan
Maser Consulting Professional Services for Oasis Realty \$1,627.50
through 12/15/19

Archer & Greiner Professional Services for Oasis Realty \$840.00
through 12/31/19

VanCleaf Engineering Assoc. Professional Services for Oasis Realty \$1,824.00
Through 11/30/19

ESCROW ACCOUNT – BLOCK 34 Lot 1 – River Mills at Frenchtown
VanCleaf Engineering Assoc. Professional Services for River Mills \$708.00
Through 11/30/19

ESCROW ACCOUNT – BLOCK 15 LOT 11 – Darcy Lodge F&A Masonic #37

Archer & Greiner Professional Services for Darcy Lodge \$380.00
through 12/31/19

Maser Consulting Professional Services for Darcy Lodge \$528.75
through 12/31/19

Maser Consulting Professional Services for Darcy Lodge \$ 72.50
through 12/15/19

VanCleaf Engineering Assoc. Professional Services for Darcy Lodge \$111.00
Through 11/30/19

On motion by Brad Myhre, seconded by Mike Reino, 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

Mayor Myhre noted that there was a report of a gas leak with a strong smell in different spots in town. Everything was checked, the natural gas was inspected and all is clear. It was a vehicle that became disabled. He thanked the Fire Department personnel.

Mayor Myhre reported that he received word from Senator Malinowski that he will send a letter supporting the grant for the Hilltop Streets. The Borough will be introducing a funding ordinance at its February meeting for the Milford Road Improvement project.

Mayor Myhre reported that Second and Harrison Streets, Milford Road and the downtown Streetscape projects will be done this year. Milford Road will be done first. Sidewalks will be added behind the school. The catch basins will be repaired along with the retaining wall. We will focus on the Second and Harrison Streets project when school is out. Harrison Street will be repaved and the sidewalks will be redone and the landings will be made ADA compliant. Responding to the Board as to when Country Classics may start, Mayor Myhre noted that it may be late spring. They are currently removing soil on the site and putting in additional monitoring wells closest to the towpath and doing their work with the NJDEP. There will be additional conversations with Country Classics as they have asked for a PILOT, a payment in lieu of taxes, program because of the cost of the remediation.

Responding to the Board as to the River Mills project, Mayor Myhre noted that one unit in Building B is under contract and the back building is near completion. He is waiting for information about the front lot listed for sale. Attorney Hirsch noted that River Mills cannot sell the lot. It is an invalid listing unless they perfect the subdivision by recording it to create the lot. They would be violating the law by selling the lot. The applicant has missed the deadlines to make the revisions to the subdivision. We will be sending a letter to the owner and attorney to comply with the conditions of approval within 5 days of the letter or the approvals will be null and void unless they ask for more time. The Borough has to make sure they comply with the affordable housing obligations as well. Planner Green asked who monitors the market rate versus the affordable housing units. She knows the Borough has a small staff. July of this year will be the midpoint review for the COAH settlement agreement and she will need to file a report showing where the Borough is. She added that there has been no progress on the Eighth Street Associates property. If COAH units are not built, it will be an issue to address in 2025.

Chairman Eckel reported that the sign subcommittee got together and is moving forward.

Chairman Eckel noted that she will be working on the annual report to get to the Council.

Chairman Eckel added that the agenda for this evening did not get posted to the website but the minutes have been posted.

Chairman Eckel commented that there was an issue with the River Mills lighting at bottom of Second Street. We will have Jim Mazzucco work with the aggrieved parties and building owner to come up with a solution. He will try to mediate that and the other areas where there is not enough light. There may be field changes.

Chairman Eckel reported that she received a letter regarding work being done in a flood zone. Permits were pulled and then it was discovered that the property was in a flood zone and now there is an issue with the Building Department. Kandy Ferree got involved. Mayor Myhre noted that the entire Governing Body received the letter and he has turned it over to the Borough Counsel to look at.

EXECUTIVE SESSION – GENERAL ADVICE OF BOARD COUNSEL.

Chairman Eckel noted that the Planning Board will go into Executive Session to discuss the following:

- A. General Advice of Board Counsel

No action will be taken.

The Planning Board approved by favorable voice vote to go into Executive Session at 9:15 pm and approved Resolution #2020-10 as follows:

**PLANNING BOARD RESOLUTION #2020-10
EXECUTIVE SESSION RESOLUTION**

WHEREAS, Section 8 of the Open Public Meetings Act (N.J.S.A. 10:4-12 (b) (1-9), Chapter 231, P.L. 1975, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the Planning Board is of the opinion that such circumstances exist.

NOW, THEREFORE, BE IT RESOLVED by the Frenchtown Planning Board, in the County of Hunterdon, State of New Jersey, as follows:

1. The public shall be excluded from discussion of the hereinafter specified subject matters.
2. The general nature of the subject matter to be discussed is as follows:
 - A. General Advice of Board Counsel.
3. The Planning Board may take official action on those items discussed in Executive Session upon completion of the Executive Session.
4. The minutes of the discussions shall be made available to the public as soon as the matters under discussion are no longer of a confidential or sensitive nature.
5. This Resolution shall take effect immediately.

I, Brenda S. Shepherd, Planning Board Secretary, do hereby certify that the foregoing is a true copy of a resolution adopted by the Frenchtown Planning Board at a meeting held on January 22, 2020.

Brenda S. Shepherd, Secretary
Frenchtown Planning Board

The Planning Board came out of executive session at 9:55 pm.

ADJOURNMENT

Mike Reino moved adjournment at 9:55 PM, and John DenBleyker seconded. The motion passed on favorable voice vote.

Brenda S. Shepherd
Planning Board Secretary