

Frenchtown Planning Board  
Regular Meeting  
May 25, 2022  
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 on the website and copies distributed to the designated newspapers with the teleconferencing information to join the meeting.

**ROLL CALL**

Present:  
Cooke  
DenBleyker  
Eckel  
Ferree  
Herb  
Myhre  
Reino  
Tomko

Absent:  
Dougherty

**APPROVAL OF MINUTES**

**Regular Meeting – February 23, 2022**

Jeanne Herb moved to accept the regular meeting minutes of April 27, 2022 and Maggie Cooke seconded the motion. The minutes of the April 27, 2022 Regular meeting were approved by favorable roll call vote with Brad Myhre, Kandy Ferree 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 floor for public comments. Chairman Eckel stated that if you wish to make a comment, raise your hand and he will call on you. Hearing no comments, Chairman Eckel closed the public comment session.

**SITE PLAN AMENDMENT APPLICATION — BLOCK 3 LOT 1 AND 2 AND BLOCK 10 LOT 1 - COUNTRY CLASSICS AT FRENCHTOWN LLC.**

Attorney Krista Harper, representing Country Classics, stated that she and property ownerr Scott Van Cleef are present on behalf of the applicant to request an amendment to the approval granted for the project. They are not requesting any changing in the phasing. They are requesting a very narrow exception from the 120-day advertising requirement for four units of single-family attached housing. This advertising had to take place 120 days before Certificates of Occupancy could be issued on the units. Ms. Harper said that the situation is described in a letter she sent to the Board.

Attorney Hirsh stated that Ms. Harper’s point that this is a “narrow request” is significant. They are not requesting any relief from the phasing requirements. This is important because the state imposes the requirement for phasing on all inclusionary housing being built. The point of phasing, Ms. Hirsch said, is to make sure the developer can get some market units in place before

they have to start selling or renting low- and moderate-income affordable housing units. Another purpose of phasing is that the developer does not put all the market-rate units in place and walk away from the project without building the affordables. Therefore, the phasing includes a percentage of market-rate and inclusionary completions as required by state law. Country Classics is looking for narrow relief from the section of the Resolution that deals with the 120-day marketing period. The low- and moderate-income units will be built in the order required. Attorney Hirsch asked Ms. Harper to explain why the relief was needed.

Attorney Harper responded that the developer had misunderstood the Resolution. The Borough had a different interpretation, and the developer accepted that. They placed advertising for the entire project, including the affordable units, on February 18<sup>th</sup>, and they were looking at that target date for the completion of the apartment buildings. That schedule gave them plenty of time to advertise the affordable units, which are located in the apartment buildings. However, they want to sell several market-rate units before the 120 days have been completed. They began construction on two structures containing two single-family attached units each. Four of these units have been completed and are ready to be closed upon by purchasers. They are all under contract. One woman, said Ms. Harper, has been living with her dog in a hotel and the other units are ready to close. In a rising interest-rate environment, Ms. Harper noted that this is very stressful for them. The whole problem is due to a simple misunderstanding of the Resolution on the Developer's part.

Chairman Eckel said that the 120-day marketing period would be up on June 18<sup>th</sup>. The applicant is only looking for 23 days of relief. Ms. Harper said that this was correct.

Jeanne Herb said she wanted to be sure she understood the relief being requested. She asked whether the 120-day marketing period applied to all the units, affordable and market-rate alike. Had the developer thought that the requirement applied only to the affordable units? The applicant Scott Van Cleef, replied that they had interpreted the Resolution to mean that the 120-day marketing period applied only to the apartment buildings containing the affordable units. They had not understood that the requirement applied to the market-rate duplexes and triplex. When they went for their Certificates of Occupancy, they were told that the requirement applied to those units as well. That is the misunderstanding.

Ms. Herb said that she had intended Attorney Hirsch to respond to her question. Is the developer required to advertise for market-rate as well as affordable units? Attorney Hirsch replied that the requirement applies to both the affordable and the market-rate units. The point of advertising the affordables is to make sure that suitable households are found to occupy them. This is important to the developer, as they have to phase their Certificates of Occupancies for those units as well as for the market-rate ones. She said that she had re-read the language in the Resolution, and saw that the relevant condition came from a review letter from Planner Darlene Green, which said "Affirmative marketing for the affordable housing units shall commence 120 days before any market or affordable Certificate of Occupancy is issued. So, it keys into the COs for both the affordable and market-rate units. She said she thought the developer took that to mean the apartments in the larger units and not the single-family attached duplex and triplex units.

Jeanne Herb asked whether the Board had the authority to grant the requested relief. Was it not statutory? Attorney Hirsch said it was not statutory. The Board has authority in the matter.

Ms. Ferree asked whether the consequence of not providing the relief is that the closings would have to be postponed by another 3 ½ weeks (23 days). Attorney Hirsch responded that the people

waiting may have sold their homes, moved out, and had their lives on hold until they could close on their new units. If the problem had applied to a few hundred units, she said, her recommendation might have been different, but this is four units, for four households of future Frenchtown residents. It seemed to her, Ms. Hirsch said, that from a legal point of view, there is no down side to granting the relief. If more relief is needed in the future, we would have to think again.

Kandy Ferree stated that what we do not want is “death by a thousand paper cuts,” as has been seen with some other developers. In those instances, there was a request for a small relief, then another small relief, and on and on. She said she sympathized with the purchasers of the single-family units and is happy to have them in town. She wants them to be successful. But she also wants assurance from the developer that the Board will not see repeated requests, each one perhaps small, but cumulatively significant.

Scott Van Cleef said that the next Certificates of Occupancy they will apply for will be for the 52-unit apartment building, which includes nine affordables. Seven of the nine have already been rented. They are on track with the phasing plan for the next Certificates, and do not plan to come back for further relief.

Chairman Eckel asked when those COs were expected. Mr. Van Cleef said they would be issued around June 18<sup>th</sup>.

Krista Harper said that all the conditions for granting the COs for the four for sale units are satisfied, and the units have been completed and inspected. Country Classics has confirmed that everything is set to go.

Chairman Eckel asked Attorney Hirsch what the wording for the relief would be.

Attorney Hirsch said the developer had asked for something early so they wouldn't have to wait for the next Planning Board meeting. The response will be a letter to the Construction Code Official in Lambertville, Ken Rogers. She said it would be appropriate to e-mail the letter to him early the next morning if the Board determines to grant the requested relief. The letter would explain that the Board had granted the relief and authorizes the issuance of the letter. Attorney Hirsch stated that there will be a Resolution, but she wanted the Code Official to know he could go ahead and issue the COs for the four units if they are otherwise entitled to the COs.

Mayor Myhre said he had spoken with Ken Rogers and he indicated that the application is very far along, and the inspections have been done. He expects to be able to issue the COs on time.

Attorney Hirsch said that the Board would tell Mr. Rogers that the Board has granted relief from this single condition in order to allow these four COs to be issued, provided that they are otherwise qualified to be issued.

Chairman Eckel suggested that a motion be based upon the sentence Ms. Hirsch had just provided.

Maggie Cooke asked that additional language be included in the letter stating that the Board's granting of this request does not impact future phasing. Attorney Hirsch said that this was an appropriate addition, and the applicant has already agreed to it. They will not ask for relief from phasing.

Chairman Eckel asked for language for a motion to approve the relief requested.

Attorney Guliet Hirsch stated that the Board would be making a motion authorizing relief requested in Krista Harper's letter to the Board dated May 17<sup>th</sup>, 2022. A letter will be sent to Construction Official Ken Rogers stating that the four attached single-family units in the Country Classics project listed as lots 1.11, 1.12, 1.13 and 1.14 in Block 3 are relieved from the requirement of condition 4.a.7. of the Board Resolution, and that the Construction Official may issue the Certificate of Occupancy for those units if they otherwise qualify. Additionally the letter will state that the applicant has not requested and is not being granted any relief from the phasing requirements relative to those four units that are cited in 4.8.8. of the Resolution.

Brad Myhre made a motion to approve the request using the language provided by Counsel. Mike Reino seconded the motion, which passed by unanimous favorable roll-call vote.

Guliet Hirsch said she would get the letter out before noon the following day.

#### **NEW BUSINESS:**

##### **Resignation of Board member Gordon Dragt**

Chairman Eckel said that Gordon Dragt had submitted a beautiful letter of resignation. He said he was not resigning from the Board so much as he is "retiring," being 82 years of age.

#### **ORDINANCE #887 – BOARD DETERMINATION THAT ORDINANCE IS NOT INCONSISTENT WITH THE MASTER PLAN**

Chairman Eckel explained that this Ordinance deals with outdoor dining, which the Board has several times determined is not inconsistent with the Master Plan. Maggie Cooke asked why it had to be done again, to which Ms. Eckel replied that the Ordinance is temporary and expires. The one being proposed now would extend through December 31, 2022.

Kandy Ferree said that the Borough Council's long-term intent is to work toward a permanent outdoor dining ordinance. Ms. Eckel stated that the matter before the Board now is whether or not Ordinance #887 is not inconsistent with the Master Plan.

On motion by Jeanne Herb, seconded by Kandy Ferree and carried by unanimous favorable roll call vote, the Planning Board determined that Ordinance #887 was not inconsistent with the Master Plan.

#### **Time line to convene meetings in person**

Chairman Eckel stated that Covid cases were going back up again, so the Board is looking at continuing remote meetings through the end of 2022 as the Covid pandemic continues. Mayor Myhre stated that he spoke today with the County health officer, who told him that Hunterdon County has gone back to the "high" activity level, and that hospitalizations are up. There has been a lot of group spread due to large gatherings. The figures are not going in the right direction now. There has been a low response in the County to booster shots.

#### **Updated zoning map**

Chairman Eckel said she had asked John DenBleyker to look at the updated zoning map and report on it. Mr. DenBleyker said he had done so, and that Planner Darlene Green had provided a synopsis of the changes made. Chairman Eckel asked Ms. Green for her synopsis.

Planner Green said that everything in her synopsis was already included in the Re-Examination Report. These items included:

- 1 The boundaries of the Village Center overlay have been changed to match the boundaries in the Redevelopment Plan. This became an issue during the Oasis application, as the two documents had different boundaries.
- 2 The current Zoning Map calls out a potential Redevelopment overlay which does not exist. As it is not an adopted Zoning designation so that was removed.
- 3 She removed the R8-A Zone, as it has been replaced by the Eighth Street Redevelopment Zone that was adopted.
- 4 There are changes on the map that were not made by the Planning Board, but by the parcels of land themselves. These are based upon the County's "Mod 4 Data." Some of the parcel shapes have changed over time, although Ms. Green does not know why; the data comes from the County without explanation. Some of the properties south of Hawk Street look different on the new map, especially the ones along the river. This is not an error; it's the data we have.
- 5 Road labels have been shifted to the center of the street line, and State and County route numbers have been added. Each Zone has been labeled.

Chairman Eckel commented that the new map is much sharper than the old one. It is a neatly rendered digital map. She recommended that it be adopted. It doesn't represent any change, other than to correct the map relative to the County map, and to fix the Village Center boundary. She said that she and John DenBleyker have reviewed and recommend the map for adoption as the updated Zoning Map for the Borough.

Planner Green stated that a short Ordinance would be required for adopting the map as part of the recently codified Zoning Ordinance. The process would be: Borough Council would introduce the Ordinance and refer it back to the Planning Board for review. After that, it would be adopted by Council and become part of the Zoning Ordinance.

John DenBleyker suggested that the map be distributed to the rest of the Board, then acted upon at the next meeting. Chairman Eckel said it should be included in the next meeting packets, so all can review it before the next meeting. Borough Clerk Brenda Shepherd said she did not have a copy to distribute. Darlene Green will provide her with one, and Ms. Shepherd will distribute it right away.

## **OLD BUSINESS**

### **Cannabis Committee Report**

Kandy Ferree reported that the Committee was in the process of a leadership transition. She had been chairing the Committee, but because of work and personal demands, she is turning her role over to John Dougherty. The Committee convened a week earlier after she, John Dougherty and Darlene Green discussed how best to move forward. They concluded to ask Planner Green to look at the Zoning Map and overlays comparing the Zones with the requirements in the New Jersey State law for potential cannabis uses. Requirements for growing and manufacturing are different from retail. Another meeting has been scheduled for the first week of June. After that meeting, the Committee will be prepared to provide recommendations to Borough Council on what categories it might want to consider, and which Zoning areas could accommodate them. After Council makes recommendations (if any), the Committee will focus its work on drafting the appropriate documents. Progress is being made.

Kandy Ferree added that Sandra Dillon, an FBPA/community member, has resigned, and the Committee is looking for a replacement for her. Ms. Ferree said she didn't know whether Gordon Dragt's resignation from the Planning Board included his withdrawal from the Committee.

Chairman Eckel said there had been a good meeting on how various cannabis activities might fit into the Borough. They are looking forward to narrowing down their recommendations to Council. They have looked at such factors as traffic, parking, sounds, smells and space needs. The process is surprisingly complicated.

Ms. Ferree commented that they have had the benefit of other communities' activities. Lambertville, for example, has chosen to permit certain cannabis uses, so Frenchtown has the benefit of their experience, including Planning Board and Council actions, and their Ordinance development. John Dougherty and Jessikah Goodale have a meeting with people in Lambertville.

### **Escrow Fees Update**

Chairman Eckel said she had been working on a draft letter to the Borough Council, but had accidentally deleted it. She took the numbers the Board discussed to update the Escrow Fees and the Extracted Table of Escrow Fees from the codified Ordinance on line, and recommended changes. She will prepare a letter before next month's meeting.

Her comments include:

- A 2022 review of other surrounding municipalities has shown that Frenchtown's Escrow Fees are low, requiring the Borough Clerk to approach applicants frequently to replenish their Escrow Accounts. The low initial fees are unfair to applicants, leading them to think that certain applications require little professional review.
- The updated Escrow Fees she suggests are in the middle of the range of what is charged by surrounding municipalities.
- The recommended changes will make Frenchtown's Escrow Fees consistent with other municipalities, fairer to applicants, and will save time for the Borough's office staff.

Attorney Guliet Hirsch added that in the event that an application does not require the typical review, the remaining Escrow Fees are returned to the applicant.

## **VOUCHERS**

### **VOUCHER LIST 5/25/2022**

#### **GENERAL REPRESENTATION**

Colliers Engineering	Professional Services for General Rep. 4/22/22	\$1040.00
Colliers Engineering	Professional Services for General Rep. 4/22/22	\$1757.50



align traffic-calming measures with NJDOT and the TAP grant. She asked Board Members, when they speak to residents frustrated by the slow process to address these things, to encourage them to be patient and to tell them that Council is working with funding and permitting entities so that everything can be done at one time.

Mayor Myhre reminded the Board that the Memorial Day Parade is scheduled for Monday. It steps off at the school at 10:00 AM and concludes at the river bridge. The cemetery ceremony and 21-gun salute will take place before the parade begins.

The South Harrison Street, Lott Street and Front Street paving project begins on Monday. It will not affect the Memorial Day activities.

Jeanne Herb reported that the Environmental Commission wanted to have input on the Kathee's parking lot work in terms of impervious cover, the use of innovative paving materials, and the use of nature-based mechanisms to deal with heat and flooding. She added that the Commission is feeling overwhelmed by its responsibility for maintenance of the Borough's various open spaces, and is doing an inventory of those spaces together with a list of maintenance items for each one. They would like to begin a conversation with the Borough Council about how to address maintenance needs. They have discussed applying for some tree planting funds through the State Community Forestry Program. They are required to work through the Shade Tree Commission for this project, and Ms. Herb asked if there still existed a standing Shade Tree Commission.

Mayor Myhre said that there was a Shade Tree Commission, although it needs some new members. Geoff Stanley is the current chairman. The Mayor will get an updated list of its members to Ms. Herb.

Chairman Eckel said that the Planning Board is down another member. She knows the Mayor is looking for people. She said she might approach a neighbor of hers.

Responding to Jeanne Herb, Chairman Eckel said that in adding members to the Planning Board, one looks for various kinds of diversity, including age, gender, and neighborhood of residence. Frenchtown is small, yet it has a good variety of people. She was looking for a mix of qualities: people with and without children, business owners who live in the Borough. This last one is critical because the Board does not currently have anyone who lives downtown. She asked Board members to suggest names.

John DenBleyker asked the Mayor if there was news about River Mills. Mayor Myhre said he knows nothing new. Attorney Cruz has reached out to the new owners. Ms. Herb inquired whether the Developer's Agreement contained provisions for completion during a certain period of time. Chairman Eckel said that there was a time requirement, but she has not looked at the document for some time. The development is partially built. Kandy Ferree said the Board should understand the timeline requirements. Attorney Hirsch said that the issue should be addressed to Attorney Cruz, as he is most closely involved with the developer. She confirmed that deadlines are part of the Redevelopment Agreement.

Mayor Myhre said he would contact Mr. Cruz the next morning and get back to the Board. The last correspondence he saw advised the Construction Office in Lambertville not to issue any more permits on the project until the Borough had communicated with the developer.

John DenBleyker asked the Mayor about the closing on the Thompson Land property. He said he understood that the County and other Green Acres funding was being used, and wonders what is still required to make it happen. The Mayor responded that the closing date was approaching. The New Jersey Conservation Foundation has advised him that during their due diligence process, a few things had come up and has to be addressed. The property owner is willing to address them. The property is being purchased with a combination of State and County funding. It will be conveyed to the Borough after the closing. This should take place during the month of June, 2022. Jeanne Herb said that this property precipitated the Environmental Commission's concern about its responsibility for maintenance. She asked the Mayor about maintenance agreements for the Thompson property. The Mayor said he would send her the details, but that no one expected the Environmental Commission to maintain it. Chairman Eckel said that maintenance would have to be planned and accomplished otherwise rampant invasive species will take it over, as they have been doing with increasing rapidity. Invasive species are taking over the forests and fields in and around Frenchtown.

### **ADJOURNMENT**

Kandy Ferree moved adjournment at 8:37 pm and Jeanne Herb seconded. The motion passed on favorable voice vote.

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Brenda S. Shepherd  
Planning Board Secretary