

# Franklin Borough Planning Board

## Meeting Minutes for

October 21, 2019

The meeting was called to order at 7:33 PM by the Chairman, Mr. Wes Suckey, who then led the assembly in the flag salute.

Mr. Suckey read the Statement of Compliance pursuant to the “Open Public Meetings Act, Chapter 231, PL 1975.”

### ROLL CALL OF MEMBERS:

Mr. Wes Suckey, Chairman (Present)  
Mr. John Christiano, Vice Chairman (Present)  
Mr. Nick Giordano, Mayor (Absent)  
Mr. Stephen Skellenger, Councilman (Absent)  
Mr. Floy Estes (Present)  
Mr. Jim Nidelko (Present)  
Mr. Jim Williams (Present)  
Mr. John Friend (Present)  
Mr. Richard Knop (Present)  
Mr. Michael Raperto, Alternate #2 (Present)  
Mr. Stephen DeFinis, Alternate # 3 (Absent)  
Ms. Sharon Schultz, Alternate #4 (Present)

ALSO, PRESENT: Mr. Dave Brady, Board Attorney  
Mr. Tom Knutelsky, Engineer  
Mr. Ken Nelson, Planner

### Approval of Minutes:

#### **Franklin Borough Planning Board meeting minutes for August 20, 2018**

Motion made by **Mr. Friend**. Seconded by **Mr. Knop**

#### **Upon Roll Call Vote:**

**AYES: Friend, Nidelko, Williams, Knop, Christiano, Suckey, Raperto, DeFinis**

**NAYS: None**                      **ABSTENTIONS:**

#### **Approved**

#### **Franklin Borough Planning Board meeting minutes for October 2, 2019**

Motion made by **Mr. Christiano** Seconded by **Mr. Williams**

#### **Upon Roll Call Vote:**

**AYES: Friend, Nidelko, Estes, Williams, Knop, Christiano, Suckey, Raperto,**

**NAYS: None**                      **ABSTENTIONS: DeFinis**

#### **Approved**

#### **Franklin Borough Planning Board Executive meeting minutes for October 2, 2019**

Motion made by **Mr. Friend** Seconded by **Mr. Williams**

#### **Upon Roll Call Vote:**

**AYES: Friend, Estes, Williams, Skellenger, Knop, Christiano, Suckey, Raperto,**

**NAYS: None**                      **ABSTENTIONS: Nidelko, DeFinis**

#### **Approved**

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### **PAYMENT OF BILLS:**

**Mr. Christiano** made a motion to approve the escrow report for October 21, 2019.

Seconded by **Mr. Friend**

**All were in favor.**

**Approved**

### **APPLICATIONS OF COMPLETENESS:**

There were no applications for completeness

### **APPLICATIONS TO BE HEARD:**

**JCM investors, 1012, LLC, PB# 09-19-01, Block 2701, Lot 2, 110 Munsonhurst Road, Preliminary & Final site plan in MPR Zone.**

Ms. Rubright introduced herself as Susan Rubright and stated that she was with the firm Brach & Eichler in Roseland, New Jersey.

Ms. Rubright stated that the application before the board this evening is for the applicant who is proposing to construct 260 residential apartments within 8 buildings. Ms. Rubright stated within the 8 buildings 20% which equals 52 apartments would be set aside for affordable housing.

Ms. Rubright stated that this matter is being presented this evening for specific and limited purposes.

Ms. Rubright stated that this is a specific hearing resulting from a settlement agreement in regards to an appeal that Ms. Rubright's client filed due to this board denying the applicants site plan and variance application a year ago.

Ms. Rubright stated after intensive settlement discussions an agreement was made, using the areas of concern from the denial resolution to present changes to the board this evening in what is known as a "Whispering Woods Hearing"

Ms. Rubright briefly explained the changes that were made to this application.

Ms. Rubright stated the biggest changes being that the applicant agreed to go from 300 units to 260 units, with 52 units being affordable housing. In lowering the number of housing units the applicant has eliminated two buildings.

Ms. Rubright stated with building number two being eliminated it helps reduce the steep slope disturbance significantly, which also reduces the steep slope disturbance in regards to the variances.

Ms. Rubright stated after much settlement discussions the applicant, the planning board and the town entered into a settlement agreement.

Ms. Rubright gave a brief summary of what the whispering woods hearing purpose is.

Ms. Rubright stated that the whispering woods hearing is to conduct a public hearing and approve the site plans and variance application that the board has seen in connection with the settlement agreement.

Ms. Rubright stated that the presentation that the professionals would be focusing on this evening are the changes that have been made to the application that was denied last year.

Ms. Rubright stated that what they are seeking tonight is to present the final and preliminary site plan for the 260 housing units including the 52 affordable units. Both variances steep slope disturbances requirements have been reduced from the variance relief.

Ms. Rubright stated the professionals would present the changes made from the previous application which resulted from the settlement agreement.

Ms. Rubright listed them one by one.

- Elimination of two buildings

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- Reduced total number of units.
- Fewer parking spaces due to the decreased number of units.
- Total area of disturbance is being reduced from 15.6 to 15.0. acres
- Areas of slope disturbance has been reduced to 2.99 – 2.64 acres
- The architect rendered the club house plans, which was requested through the settlement agreement.
- Water reserve tank to provide an alternate water supply for fire suppression

Ms. Rubright stated that she does not foresee any issues with the planning board approving this new application, for the planning board voted unanimously to approve what was presented within the settlement agreement.

Ms. Rubright introduced the witnesses that will be testifying this evening.

Mr. Eric Keller the site plan engineer.

Mr. Eric Snyder the professional planner.

Mr. Ken Fox the architect.

Ms. Rubright stated that she also has with her this evening a colleague Francis Stella.

Ms. Rubright stated that Ms. Stella is an environmental attorney with the firm Brach & Eichler.

Ms. Rubright thought Ms. Stella's testimony would help ease the boards concerns with any environmental compliance issues within the site plan.

Mr. Suckey stated before going forward with hearing the witness's testimony.

Mr. Suckey stated he would like for Mr. Brady to give a brief summary of what the whispering hearing entails due to the fact that I as a chairman and this board has never had to be involved in such a case.

Mr. Brady stated that he did receive proof of notice from the applicant and that was in order.

Mr. Brady gave a brief explanation on how the planning board arrived to this present moment and what a whispering hearing was and the history of how the whispering hearing came to be.

Mr. Brady stated that the whispering hearing allows for a public hearing, a public vote followed by a written resolution.

Mr. Brady stated that it is not a complete restart.

Mr. Brady stated that in following the rules of the whispering woods hearing this allows for the opportunity to address the concerns that were drafted in the denial resolution that were worked out through the settlement agreement.

Mr. Brady stated that tonight's hearing is for the board and public to hear and see the proposed plans with the changes that have been made through exhibits and testimony from the professionals who are present this evening.

Mr. Brady stated professionals from both sides will speak and address the new proposed application.

Mr. Brady stated as well as the board being allowed to ask questions or address their concerns. The public will also have an opportunity to give their testimony as well.

Mr. Brady emphasized that questions and concerns would only be addressed on the changes that have been made not going backwards and addressing items in the proposed application that have not been changed from the previous application presented.

Mr. Potter stood up and stated that he would like to introduce himself.

Mr. Suckey stated that it was not open to the public at this time.

Mr. Potter proceeded in introducing himself.

Mr. Potter stated that his name was Bill Potter from Potter & Dixon law firm.

Mr. Potter stated that he was here this evening representing the abjointing property owners Mr. and Mrs. Sherwood.

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Mr. Potter also stated that he also has with him this evening Mr. Mark Gallagher the president of Princeton Hydro.

Ms. Rubright stated that she would like to proceed with Mr. Eric Keller the site plan engineer.

Mr. Keller introduced himself as Eric Keller from Bowman consulting – 54 Horse hill Rd. Cedar Knolls, NJ.

Mr. Keller was sworn in by Mr. Brady.

Mr. Keller gave his qualifications.

Mr. Suckey and the board accepted him as a professional.

Mr. Keller gave a brief summary of the property and what the applicant was looking to construct on the property.

Mr. Keller presented exhibit one and marked it has **Exhibit A1- October 21, 2019 described as Milly's Court existing conditions aerial.**

Mr. Keller explained that the property consists of 70 acres. Located on the west side of Munsonhurst Road. Mr. Keller gave a detailed description of the property and the location of the property mentioning buildings, roads and other structures that are near the property.

Mr. Keller stated that the property has a gravel road which is used on a daily basis by the town water department to get to the well sites which are on the southern end of the track.

Mr. Keller also mentioned the power lines that run diagonal southwest and northeast of the property.

Lastly, Mr. Keller mentioned that the property to the north of the site was owned by Trans Bank and is now owned by DEP Green Acres.

Mr. Keller proceeded with entering in **Exhibit A2 – Milly's Court site plan rendering of the project development including landscaping.**

Mr. Keller marked it with the date being October 21, 2019.

Mr. Keller went on to explain the exhibit focusing on what changes have been made from the prior site plan.

Mr. Keller described the units and gave a brief overview of the layout of where and what has been changed. Explaining that they made the changes from the suggestions of the board and followed the denial resolution closely to help make the necessary changes.

Mr. Keller stated he would briefly go over the concerns that Mr. Knutelsky brought up in his report.

Mr. Keller stated that one concern being bonding. Mr. Brady explained to the board because there was an amendment to the bonding laws, laws have changed within the last few years. The municipality is limited to what they can require as far as bonding.

Mr. Keller went on to state he was confused to the request made by Mr. Knutelsky requesting to have access to the boulevard road. Lot 27.01 Lot 3 and 24.01 lot 28 which are the two lots on either side of the subject property.

Mr. Keller stated that he does not know why a private road is now being opened up to be used as a public road.

Mr. Knutelsky stated that the reason why he is suggesting such a request is because the access to that property right now is made by the gravel drive.

Mr. Knutelsky suggested a cross access easement to be able to access to that property.

Mr. Knutelsky stated that just because DEP owns that particular lot does not mean they would not want access to the property.

Mr. Knutelsky stated the only other access to the property is over a wetland area.

Mr. Keller stated that it would then be for municipal and state access not public.

Mr. Knutelsky agreed.

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After much discussion the conclusion that was agreed upon was that Mr. Brady would draft a resolution. If the application was approved. Mr. Brady would have a condition in the resolution that read something along the lines of the applicant would in good faith reach out to DEP and address this particular matter of the access road.

Mr. Brady also added that the applicant would have to get back to the planning board as to what the end result was in speaking with DEP.

Mr. Keller went on to proceed with the other exhibits.

### **A3- Slope analyst**

### **A-4- Site plan renderings in regards to the water plan.**

### **A-5- Fire storage tank**

### **A6- Tree Save Plan.**

Mr. Keller stated that includes the items that needed to be addressed in both Mr. Knutelsky and Mr. Nelson's reports.

Mr. Suckey stated that before he asks the professionals and the members if they had any questions.

Mr. Suckey asked Mr. Keller if he has already addressed the areas of the temporary waivers that were addressed at the completeness meeting.

Mr. Suckey stated that the waivers were given to the applicant for completeness only and would need to be rendered during the hearing.

Mr. Keller addressed those checklist items and explained to the board that all of the temporary waivers issued for completeness have been addressed within tonight's testimony.

Mr. Keller gave specific details on checklist item #26 the Tree Save Plan stating that until you clear the main area within the site you can not see what you have out there.

Mr. Keller and Mr. Nelson spoke at length stating there would be flagging and distinct areas of tree clearing to hinder any unnecessary clearing of trees.

Mr. Brady stated that it would be written in a resolution that there were stake and flags in the tree Save areas before the actual clearing takes place.

Mr. Suckey asked Mr. Knutelsky to explain the checklist items 43-47.

Mr. Knutelsky stated that those were for final site plans only that can show construction on site.

Mr. Knutelsky stated that those particular checklist items would have to be drafted into a resolution has condition items.

Mr. Keller stated that he had nothing left to address at this point and is open to questions from the borough's professionals and the planning board members.

Mr. Suckey asked Mr. Knutelsky had anything to ask or add.

Mr. Knutelsky stated that in his opinion as a professional engineer when looking at the areas of steep slopes in particular he sees that there are areas that can be cleaned up or scaled back.

Mr. Knutelsky stated in particular between buildings C&D and within the extra 15 parking spaces that were noted.

Mr. Keller stated he would like to address buildings C&D and stated that those extra seven parking spots needed to be included to follow parking spot requirements in that area.

Mr. Knutelsky stated that he thought as a recommendation to help eliminate the slope disturbance a wall would help eliminate some of the steep slope disturbances in those particular areas behind the buildings.

Mr. Keller and Mr. Knutelsky both spoke at length suggesting different parking options and scenarios to help eliminate the slope disturbance area.

Mr. Knutelsky asked Mr. Keller if there could be any tightening up as far as removing slope disturbance behind building E. Mr. Knutelsky suggested possibly making it a stepper grade.

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Mr. Keller stated that he would have to give it a better look but he does know that particular area runs along the ridge and the land drops off.

Mr. Keller suggested looking at it in the field and suggested that Mr. Knutelsky a company him on a field site visit.

Mr. Suckey asked for Mr. Knutelsky to give the board a better explanation of why he is suggesting a wall over what could possibly be a natural slope opposed to getting into retaining walls and such.

Mr. Knutelsky explained that the town ordinance and what it allows.

Mr. Knutelsky stated the main goal in granting variances relief for an applicant that deal with slope disturbances is that it needs to have valued reasons to why they are disturbing the steep slope.

Mr. Brady stated that in Mr. Knutelsky 's expert opinion that he would prefer the retaining wall over disturbing the steep slopes.

Mr. Knutelsky agreed stating according to town ordinance.

Mr. Nelson asked what the total of steep slopes was on the newly proposed site plan.

Mr. Keller stated there is 15.05 acres of slopes and out of those acres 2.64 acres of that will be disturbed.

Mr. Nelson asked if it was fair to say that the applicant found other issues within the site plan more important than the actual number of slopes being disturbed.

Mr. Keller stated that it was not that easy and the slopes are the slopes they do not change from application to application.

Mr. Keller went on to explain that this slope discussion has been talked about at length and is a concern for them just as much as it is to the professional and board members.

Mr. Keller stated that the slope disturbance was mentioned in the settlement agreement and has not been taken lightly at all.

Mr. Keller went on to say that there were some other site plan issues such as draining issues that made it impossible not to disturb steep slopes.

Mr. Keller stated that it is a balancing act.

Mr. Keller stated that he understands Mr. Knutelsky 's wall suggestion however, if there is a wall being placed there. The wall will take place of trees and other natural buffers.

Mr. Keller stated it comes to which the board feels is more important.

After a very lengthy discussion on slope disturbance between both engineers.

Mr. Keller and Mr. Knutelsky along with Mr. Nelson ultimately decided that both Mr. Knutelsky and Mr. Nelson would walk the site along with Mr. Keller and look at the areas of concern and see what could be saved as far as tightening the areas of slope disturbance. Mr. Nelson would also be able to get a better look at the areas of concern in the Tree Save Plan area.

Mr. Brady suggested that the wording in the resolution would read along the lines of, if the variances are approved the condition in the resolution would be after a consultation on the site there would be areas addressed to reduce even more of the slope disturbance areas.

Mr. Rubright agreed to that suggestion made by Mr. Brady.

Mr. Nelson asked Mr. Keller to address the sidewalk waiver along the boulevard.

Mr. Keller believed that it was not needed in that particular area.

Mr. Brady asked if the sidewalks were on the other site plan.

Mr. Keller stated no.

The subject was dropped and Mr. Friend asked if there would be bussing for the children in the development.

Mr. Friend asked would the bus be picking up the kids in front of RT 517 or would the bus go into the development.

Mr. Keller stated that would not be up to the development where the school children were picked up.

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Mr. Suckey stated that would be a decision made by the school and or bus company.

There was a brief conversation among the board members on if bussing would be offered or not.

Mr. Keller stated that the likely hood of the bus coming into the development is high due to the busy county road.

Mr. Nelson stated that he had one last question for Mr. Keller in regards to the EIS report not including any reference to the Highlands Regional Master Plan.

Mr. Nelson explained that is something that has changed since the last application.

Mr. Nelson stated that the Borough is now involved in the plan conformance process.

Mr. Keller stated that is a separate annuity and as of now there are no ordinances in place.

Mr. Keller stated there is no change as far as effecting this application at this present time.

Mr. Nelson thanked Mr. Keller.

Mr. Christiano addressed his concerns for the water storage tank and problems with freezing.

Mr. Christiano asked if the emergency pump would be on emergency power.

Mr. Keller stated that the details have not been worked out but Mr. Keller does not anticipate having the tank on a generator.

Mr. Keller stated that the details will be worked out at a later time.

Mr. Rubright suggested that there should be a condition added to the resolution stating that the tank specifications and or manual of some sort be provided.

Mr. Brady and the professionals agreed that was a fair condition to ask for in drafting the resolution.

Mr. Suckey asked if any of the planning board members had any other questions.

Not hearing any other questions from the planning board members. Mr. Suckey opened the meeting to the public to ask questions to Mr. Keller on testimony that he presented tonight.

**Dick Durina** 23 Lozaw Rd, Franklin New Jersey

Mr. Durina gave a brief description of his fire safety credentials.

Mr. Durina asked Mr. Keller if the water supply tank was connected to the sprinkler system.

Mr. Keller stated no.

Mr. Durina asked if Mr. Keller could bring in a fire prevention engineer to certify that system to protect 500-1,000 people in case of a fire.

Mr. Durina gave a worst-case scenario and stated if you can answer that then you have heard the last from him.

Mr. Keller stated that he did not know how to answer that question.

Mr. Durina quoted the NFPA manual.

Mr. Durina expressed his concern for making sure that fire safety is high priority in constructing this development.

Mr. Durina voiced his concern and displeasure of the water tank that has been proposed this evening.

Mr. Durina referenced the tragic Bridgewater fire.

Mr. Keller stated that all 8 buildings and the clubhouse have sprinklers and tied into the water main with in the development.

Mr. Keller stated that this board asked if we could provide additional protection by providing a 50,000-gallon storage tank.

Mr. Keller stated that the buildings are fully protected automatically.

Mr. Christiano stated that the one point that has been lost in transaction is that the tank is not there to supply water to the sprinkler systems.

Mr. Christiano stated that the tanks are to be used for an extra water source for firetrucks if needed in an emergency situation.

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Mr. Keller and Mr. Suckey both agreed that the tank would solely be to provide additional water for trucks to pump out in the case of a fire emergency.

**Bill Potter** – Mr. Potter stated that his name was Bill Potter from Potter & Dixon law firm. Mr. Potter stated that he was here this evening representing Mr. and Mrs. Sherwood and the Wallkill Headwaters Association.

Mr. Potter explained that the group was a small group of neighbors and concerned citizens.

Mr. Brady asked for Mr. Potter to be more specific on who was in the group and asked if anyone was present this evening who belonged to this group to come forward and state their name.

**Ian Sherwood 189 – 193 Corkhill Road Franklin NJ** – Mr. Sherwood stated he was the president of the Headwaters Association. Mr. Sherwood explained that this association was developed from a necessity that came from this proposed project being presented.

Mr. Brady asked Mr. Sherwood who were the members in the association.

Mr. Sherwood stated he and his wife along with various members who are here tonight.

**Katherine Evans** – East Shore Rd Hardyston New Jersey. Highlands Coalition Heritage Committee along with the Head Waters Association.

**Gail Adrienne** -Stockholm Hardyston, New Jersey

**Greg Gorman** - Hamburg New Jersey Mr. Gorman stated that he was a state concierge for the Sierra Club.

**Elliot Ruga** -314 Main Street in Boonton, New Jersey

**Dawne Row-** 140 – Munsonhurst Rd Franklin, New Jersey

Ms. Rowe asked why it was so important why the planning board needed to know who the members of this particular association were.

Mr. Brady stated legally if you are being represented from Council. Council asks the question on behalf of you.

Mr. Rowe stated that means that she would not be able to come up and ask question on behalf of herself.

Mr. Brady stated yes that is in fact correct.

Ms. Rowe stated nice trick and returned to her seat.

Mr. Sherwood explained that he developed the group due to other entities to work with him.

Mr. Sherwood stated that these private organizations would not work with private landowners that he needed to develop an association or a club to get the help he needed from other resources.

Mr. Brady stated that Mr. Potter needed to be clear on who he was representing.

Mr. Sherwood stated he was paying Mr. Potter there for Mr. Potter is representing Mr. and Mrs. Sherwood.

Mr. Potter stated that he could call the members of the association as witnesses.

Mr. Brady stated yes.

Mr. Potter proceeded on giving a brief summary of the application asking if what he stated was true.

Mr. Keller stated yes.

Mr. Potter asked Mr. Keller a question in regards to applying for a hardship when asking for a variance.

Mr. Keller explained that was not his testimony that was something that could be addressed with the planner.

Mr. Potter broke down the percentage of slope disturbance and asked Mr. Keller if he agreed with what he was calculated as far as the percentages of slope disturbance.

Mr. Keller agreed.

Mr. Potter asked what the volume of dirt that would be removed.

Mr. Keller stated that it would be less than what was proposed for the last application.

Mr. Potter asked if Mr. Keller knew how many trucks loads it would take to remove the dirt.



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Mr. Keller stated that he does not know the volume off the top of his head.

Mr. Potter stated that truck traffic would make for a negative impact.

Mr. Keller stated he did not believe so, due to it being on a county road.

Mr. Keller explained the different factors that would go into considering the removal of the dirt truck traffic. Mr. Keller stated there is a list of factors that go into whether or not this would be considered a negative impact or not.

Mr. Potter stated that he would like to address visibility.

Mr. Potter asked if the buildings would be visible on the western side the Wallkill River side.

Mr. Keller answered to some degree yes.

Mr. Sherwood asked if all the trees on the western side would be clear cut due to the retaining walls.

Mr. Keller explained where clearing would be done and stated that it is clearly behind the buildings to the base of the wall and it is clearly shown on the site plans.

Mr. Potter asked questions in reference to low moderate-income housing.

Mr. Keller addressed Mr. Potters questions to the best of his knowledge.

Mr. Brady stated that his questions were not pertaining to the testimony that was given tonight by Mr. Keller.

Mrs. Rubright stated that there have been no changes to the environmental issues on the site plan.

Ms. Rubright did state that Ms. Rubright has with her tonight Ms. Stella who is working with Eco sciences MS. Stella is working on a habitat for the box wood turtles and other environmental concerns that were discussed in with the prior application.

Ms. Rubright stated that Ms. Stella would testify later this evening.

Mr. Brady stated that Mr. Potter save his questions in regards to DEP related questions for Ms. Stella.

Mr. Porter continued to ask Mr. Keller questions in regards to the site plan some of which Mr. Keller could answer and some that Mr. Keller did not testify to.

Mr. Brady reminded Mr. Potter that this meeting is being conducted under the Whispering Woods Hearing and is not meant to bring up old testimony from the previous application.

Mr. Potter stated he had no other questions at this time.

**Sylvia Solaun**- 2 Megan Terrace Sparta NJ – Director of NJ Forrest Watch and Friends of Sparta Mountain.

Ms. Soluan requested that the planning board look into where the fill that will be used on the site is coming from, and will it be screened for chemicals.

Mr. Brady asked Mr. Keller if this was an export site which means there is actually more fill then needed on the site and it would be taken away not brought it.

Mr. Keller stated that is exactly right Mr. Brady.

Ms. Soluan thanked Mr. Brady and Mr. Keller for the clarification.

Ms. Soluan asked Mr. Keller if he knew of the Highlands Council advanced property report and if he was aware that the slope disturbance on this property exceeded what they would allow.

Mr. Keller stated he was not 100% clear on the exact Highland's percentages.

Mr. Keller broke down the slope disturbance on exhibit A3 explaining the areas of disturbance and restated the borough of Franklin's steep slope ordinance.

Ms. Soluan asked if the development would have ground water recharge.

Mr. Keller stated that there is no water recharge within the development site because it is sitting on rock.

Mr. Keller stated that that does not mean that there is not water recharge in other parts of the site.

Mr. Keller noted that it has not changed from the last application.

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Mr. Keller also explained for the well headed protection that is shown on the plans and because building #7 has been eliminated the buildings are even further away from the wells.

Ms. Soluan thanked the board and returned to her seat.

**Patti Carnes – 289 Rutherford Ave Franklin, NJ**

Mr. Carnes asked Mr. Keller how is the water system in town going to be affected by the proposed development's sprinkler and hydrants coming from the town wells.

Mrs. Carnes also asked what will it do to the water pressure.

Mr. Keller stated that there will be no change.

Mr. Keller explained that the wells are located near the site however, the reserved tanks are in other parts of town totaling a million gallons of water storage.

Mr. Keller stated he did not see there being any sort of impact at all.

Mrs. Carnes thanked Mr. Keller.

Mr. Sucky stated not seeing anyone else from the public coming forward he would like to close the meeting to the public.

Mr. Suckey stated before introducing Mr. Fox the architect he would like to take a 10-minute break.

Mr. Suckey brought the meeting back to order after the brief break.

Ms. Rubright introduced Mr. Ken Fox the architect for the project proposed this evening.

Ms. Rubright stated that Mr. Fox would go over any changes to the buildings. Mr. Fox would be focusing most of his testimony on the clubhouse building due to concerns addressed in the denial resolution.

Mr. Suckey stated that usually the board does not hear new testimony after 10:00 P.M. however, we will allow for Mr. Fox to present tonight and give him a reasonable amount of time to present.

Mr. Brady swore in M. Fox under oath.

Mr. Fox introduced himself as Ken Fox with Fox Architectural Design 546 Rt 10 Ledgewood, NJ.

Mr. Fox listed his credentials.

Mr. Suckey accepted Mr. Fox as an expert.

Mr. Fox gave a brief overview of what the buildings would look like and referred to sheet **A1** in the board packet that was submitted prior to the meeting.

Mr. Fox stated that he would be showing sheet **A1** on the board for everyone to get a better understanding of what Mr. Fox was describing.

Ms. Rubright asked Mr. Fox to explain the reduced number of units in each building.

Mr. Fox explained that the floor plan of the different units was provided showing all of the different kinds of units whether it be a studio apartment one, two- or three-bedroom units.

Mr. Fox explained that the biggest change in the plan is the drop in the number of three-bedroom units.

Mr. Fox explained that changing the mix of apartment sizes it changed the number of units in the buildings ranging from 30 - 36 units.

Mr. Fox explained because of the elimination of the two buildings and the reorganizing of unit lay outs the new proposed application has 28 3-bedroom units opposed from the 60 3-bedroom units from the prior application.

Mr. Fox stated that they are required to have a certain number of 3-bedroom units according to the affordable housing laws.

Ms. Rubright asked if there were any other changes in regards to the building and units.

Mr. Fox stated no.

Ms. Rubright asked Mr. Fox to now focus on the clubhouse plans.

Mr. Fox stated that he would be referencing the **A1** sheet again.

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Mr. Fox gave a brief description of what the clubhouse would look like from the outside explaining that the clubhouse was a one-story building which would match all of the other buildings in the development as far as the facade.

Mr. Fox briefly described the floor plan as the basic area for a gathering.

Mr. Fox stated there would be the main gathering room a kitchen a utility closet, mechanical room and rest rooms for both men and women.

Mr. Fox stated that the property owner/ developer is still thinking of what would be added to the clubhouse, showers, a small gym, etc. are still not completely worked out.

Mr. Friend asked if every resident would have access to the clubhouse and would they be provided with a keyless entry format.

Mr. Fox stated that all the residents within the development would have access to the clubhouse it has not been addressed yet on how the residents would receive access.

Mr. Fox stated most likely a keypad or a key fob.

Mr. Williams asked what is the square footage of the clubhouse.

Mr. Fox stated 2,367 Sq. ft.

Mr. Fox stated that if there needed to be a development meeting for all residents not all residents would be able to fit in the gathering room in the clubhouse.

Mr. Fox stated that a meeting of that size would have to be held at another location.

Mr. Fox stated that the gathering room in the clubhouse would be for smaller gatherings and recreational purposes.

Mr. Fox addressed questions in regards to signage that would be placed on or near the clubhouse.

Mr. Fox stated there would be a small identification sign hung up on the gables.

Mr. Fox stated that it would conform with any of the town's codes.

Mr. Knutelsky asked if the pool, playground, clubhouse and any other amenities would be for residents of the development.

Mr. Fox stated yes.

Mr. Knutelsky stated that the public could not come in and rent the clubhouse or use the recreation areas

Mr. Fox stated that is correct.

Mr. Nelson asked if the clubhouse and other amenities would be for all the residents of the development for free or would there be a few for the amenities.

Mr. Fox stated that would be something that would be addressed at a later date and would be done through the building's management.

Ms. Rubright explained that the clubhouse would follow suite and match the earth tone colors of the other buildings.

Mr. Nelson asked Mr. Fox if he has looked at how the affordable housing units would be distributed throughout the complex.

Mr. Fox stated that they have and the adorable housing units are equally distributed throughout the development.

Mr. Nelson asked for a brief explanation of how Mr. Fox came up with distributing the affordable housing units.

Mr. Fox gave a brief explanation how he distributed the affordable housing units explaining the percentages and mixing them in with the 3-bedroom units which are a big part of the affordable housing units criteria.

Mr. Nelson asked if there would be a difference in the market value apartments and the affordable housing apartments.

Mr. Fox said one would not be able to tell the difference in the market value unit and affordable

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housing unit.

Mr. Suckey asked if the professionals or the board members had any more questions. There were no other questions from the Professionals or the members.

Mr. Suckey opened the meeting up to the public to ask Mr. fox the architect questions on only the testimony that was presented this evening.

Mr. Potter asked Mr. Fox if he was familiar with what a view shed was.

Mr. Fox explained that he did not know the exact definition.

Mr. Fox stated he did not feel comfortable with his ideas and thoughts of what a view shed is.

Mr. Fox explained that everyone has a different accept of what they consider a view shed.

Mr. Potter asked Mr. fox if he has worked on a rendering showing the visibility of this project form the road or abjointing properties.

Mr. Fox stated that he has not.

Mr. Fox explained that the buildings would be attractive and using historical looking gables and such.

Mr. Suckey stated not seeing anyone else from the public coming forward that he would be closing this portion of the meeting to the public.

Mr. Rubright, Mr. Brady and Mr. Suckey had a lengthy discussion on whether it would be a good idea to hear from Mr. Snyder the Planner.

Ms. Rubright explained that Mr. Snyder would not be able to attend the next meeting date and asked if the board would be willing to hear the planner's testimony this evening.

Mr. Suckey stated that the Borough's planner would not be available the first meeting of the month either. After a brief census of the board members the board ultimately decided to go ahead in allowing Mr. Snyder the planner to give his testimony this evening.

Mr. Snyder was sworn in by Mr. Brady.

Mr. Snyder listed all of his credentials both educational and professional and was accepted by the planning board as an expert.

Ms. Rubright explained that Mr. Snyder would be testify of the C1 and C2 variance standards.

Mr. Brady stated in other words the slope disturbance.

Mr. Snyder stated that the new site plans have reduced the disturbance in slopes.

Mr. Snyder stated that the slope disturbance has been changed in the new site plans and Mr. Keller testified stating that it would be quarter of an acre less.

Mr. Snyder also explained that it may be possible when the professionals go out on to the field there could be even less then stated this evening.

Mr. Snyder stated at this point everyone should know that there are two portions to this property.

Mr. Snyder went on to explain the buildable portion and the unbuildable portion because of the wetlands.

Mr. Snyder stated Mr. Keller explained and went over the buildable area.

Mr. Snyder stated the portions of the site that are envisioned for development by the borough's ordinances are compromised by slopes.

Mr. Snyder explained there is no way to meet the stipulations of the settlement agreement or no way to meet the revised provisions of Franklin's ordinance.

Mr. Snyder explained that they did everything they could within reasonable limits to avoid disturbing the least number of slopes.

Mr. Snyder went on to explain the C1 variance – hardship variance does apply.

Mr. Snyder stated they are not asking for anything that has not been agreed to or that is unreasonable.

Mr. Snyder stated that there is nothing that the applicant is asking for that is going to have significant negative impact to the neighborhood or the zone plan.

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Mr. Snyder stated that they will have an improved soil erosion and sediment control plan approved by the Sussex County Soil Conservation District.

Mr. Snyder explained that would deal with erosion issue during construction.

Mr. Snyder stated as soon as the construction is done all the steep slopes will be stabilized.

Mr. Snyder went on to explain that they would be developing what is called edge habitat.

Mr. Snyder stated as far as the C2 variance that's where the balancing comes into play.

Mr. Snyder summarized plan purposes.

Mr. Snyder addressed the question that was asked earlier in regards to the buildings being visible from county road 517/ Munsonhurst Rd.

Mr. Snyder stated it's a fact the buildings will be visible.

Mr. Snyder stated they will be attractive and they will look as if they belong.

Mr. Brady gave an overall summary what the points made from his testimony before asking anyone if they had any questions.

Mr. Brady stated that he would like to make a clarification that there were no changes to the ordinance rather than a mis publication and the proper slope ordinance was applied.

Mr. Snyder stated that he did not apply that there was a slope change rather then an ordinance change.

Mr. Brady agreed and stated fair enough.

Both Mr. Nelson brought up questions in regards to the steep slopes and if there was a chance of the slopes to decreased even more when going to the site.

Mr. Snyder stated that there would be some areas but there would not be a significant decrease in the number of reduced slopes.

Mr. Snyder stated he says that because he knows that Mr. Keller did his very best to be very diligent to save as many of the steep slopes as possible.

Mr. Suckey asked if there were any other questions or concerns from the professionals or the board members. There not being any more questions Mr. Suckey opened the meeting up to the public to ask questions to the planner.

**Sylvia Soluan** - 2 Megan Terrance Sparta, NJ

Ms. Soluan stated that Mr. Snyder stated that this is the most sufficient use of the property.

Ms. Soluan stated that she would like to have on the record that forests provide us with not only water but also to help clean our air.

Ms. Soluan asked where Mr. Snyder lived and the reason, she asked that question is because most people who live in this county like to get away from the city life and enjoy the wooded areas.

Ms. Soluan asked if there is anything that can be done not see the buildings from County Rd 517.

Mr. Snyder stated no.

Ms. Soluan asked if there as been a report done on the impact that the area will have on all the removal of the trees to accommodate this development.

Mr. Snyder stated that these are questions that Mr. Keller could better answer.

**Robert Moss** – Bloomfield, NJ

Mr. Moss asked Mr. Snyder if the edge habitat that he mentioned earlier was in relation to the hardship variance.

Mr. Snyder replied no that was variance C2.

Mr. Moss asked if Mr. Snyder as a planner are you an expert in anything science related as far as biology.

Mr. Snyder stated that he has a knowledge and study much of that and has continued his studies in such areas.

Mr. Snyder state that he does not consider himself an environmental expert and relies heavily on the testimony of those experts who do.

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Mr. Moss stated that he has no further questions.

**Bill Potter** – Potter & Dixon

Mr. Potter asked Mr. Snyder if he was familiar with the term self-created hardship.

Mr. Snyder stated that he was familiar with the term.

Mr. Potter asked if it was right to assume that this was something that JCM falls under buying the property knowing the conditions of the property.

Ms. Rubright interrupted and stated that Mr. Snyder would not be the one to testify to this self-made argument that Mr. Potter has developed.

Ms. Rubright stated that it is irrelevant at this stage of the application.

Mr. Brady disagreed with Ms. Rubright and explained why.

Mr. Brady stated that he did find the question relevant and suggested that Mr. Potter rephrase the question.

Mr. Potter asked Mr. Snyder if he was aware of the applicant doing diligences in researching the property.

Mr. Snyder stated he was not privy to those conversations and stated that he did not know.

Mr. Potter stated so you do not know if this is a self-created hardship.

Mr. Snyder explained that there is nothing that he has seen to date that suggest that this is a self-created hardship.

Mr. Potter asked Mr. Snyder how he measures efficacy in land use.

Mr. Snyder reminded Mr. Potter that this project has been approved from both this board and the governing body for 260 units. This is the most efficient way to accommodate this court order number.

Mr. Potter argued his point on this not being the most efficient use.

Mr. Potter suggested that there be less buildings.

Mr. Brady stated that the reason for this hearing and restated what the Whispering Hearing was and what has brought us to the present moment.

Ms. Rubright asked for Snyder a few questions as follow up questions to what Mr. Potter had asked in reference to what sufficient use of a property is.

Mr. Snyder listed the factors and or benefits that a planner uses when working on an application.

Mr. Suckey asked if Ms. Rubright had any more witnesses this evening.

Ms. Rubright stated no.

Mr. Brady stated that Ms. Rubright stated earlier that she has with her this evening one of her colleagues that could offer testimony this evening if any of the board members had questions as far as any environmental questions.

Mr. Nelson stated that he had a question and would like to address the affordable housing element that goes along with this project.

Mr. Nelson stated that there has been changes made in guards to the affordable housing element since the last application and thought those changes and issues should be mentioned if not tonight at the next meeting.

Mr. Potter asked if the hearing this evening would be carried over to another date and if so when would that date be.

Mr. Potter explained he had more witnesses that he has to present and the President of Princeton Hydro will also be presenting.

Mr. Brady and Mr. Suckey had a brief discussion on what would be the next step as far as going further this evening with testimony or carrying the hearing to the next meeting date. Which would have to be the next regular scheduled planning board meeting to November 18, 2019

Ms. Rubright suggested scheduling a special meeting.

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Mr. Suckey and Mr. Brady reviewed the calendars and came to the conclusion that the best date to have the next meeting would be the next scheduled regular meeting date of November 18, 2019.

Ms. Rubright stated that she had a question for Mr. Nelson in regards to what he needed from JCM as far as the affordable housing element.

Ms. Rubright stated that the applicant has done everything that he needed to do and does not see any reason why Mr. Nelson should be concerned.

Mr. Brady stated that this particular discussion should be addressed tonight before adjourning and carrying this hearing to another night.

Mr. Suckey agreed.

Mr. Nelson stated that he just wanted to have a discussion of key points that he brought up in his report.

Mr. Nelson went on to explain the reasonable market requirement.

Mr. Nelson stated that he wanted everyone to be aware that the affordable housing units will not be reserved for Franklin residents only. The reasonable market requirement opens it up to a region meaning other residents who reside other than in Franklin can potentially move into this development under the affordable housing requirement.

Mr. Nelson stated that this is something that the board would have to discuss and pass their recommendations on to Mayor and council. ultimately the Mayor and Council decides if they wanted to keep everything as is or to reserve these affordable housing units for Franklin residents first.

Mr. Brady stated that he would need to read over the 2-4 pages on the settlement agreement to review the details of what was discussed.

Mr. Brady stated that this would have to be something that all three parties would have to agree on. Planning board, Mayor and Council and the applicant.

Mr. Nelson stated that he believes that this could also be written as a condition in the resolution to be something to address with the Council at a later date.

Mr. Suckey asked if the board had any questions.

Mr. Raperto asked what did Mr. Nelson mean by region?

Mr. Nelson stated that Franklin is in region one and it includes several counties.

Mr. Nelson stated that he is still working on the affordable housing plan.

Mr. Brady asked Mr. Nelson if that would be finished before this application is voted on.

Mr. Nelson stated no.

Mr. Suckey stated that he would like to make sure the public has their fair time to share their statements.

Mr. Suckey stated that due to the late hr. it is only fair that we carry this meeting to the next regular planned meeting which is November 18, 2019

Mr. Suckey asked for a motion to carry this meeting to November 18, 2019.

**Mr. Christiano** made the motion to carry the meeting to November 18, 2019.

Seconded by **Mr. Friend**.

### **Upon Roll Call Vote:**

**AYES: Friend, Nidelko, Estes, Williams, Knop, Christiano, Suckey, Raperto, DeFinis**

**NAYS: None ABSTENTIONS:**

### **Approved**

Mr. Brady stated that this hearing would be carried to the November 18, 2019 meeting without further notice.

### **APPROVAL OF RESOLUTIONS:**

There were no resolutions

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### OLD BUSINESS:

Mr. Nelson gave a brief update on the Highlands.

Mr. Nelson stated that the equal housing report was 75% finished.

Mr. Nelson stated that there will have to be a special meeting with the council and the planning board to go over the housing plan in the future.

Mr. Nelson stated that he would be attending the Mayor and Council meeting tomorrow night to give the Council an update as well.

### NEW BUSINESS:

There was no new business

### OPEN PUBLIC SESSION:

Mr. Suckey opened the meeting to the public.

Mr. Suckey stated not seeing anyone coming forward.

Mr. Suckey closed the meeting to the public.

### CORRESPONDENCE:

No correspondence

### ADJOURNMENT:

Mr. Suckey asked for a motion to adjourn the meeting.

**Mr. Christiano** made the motion to adjourn. Seconded by **Mr. Nidelko**.

The meeting adjourned at 11:15 P.M

Respectfully submitted,  
Michelle Babcock  
Planning Board Secretary