

WHARTON PLANNING BOARD
REGULARLY SCHEDULED MEETING
March 8, 2022

The regularly scheduled meeting of the Wharton Planning Board was called to order with Chairman Ken Loury reading the Open Meeting Statement as required by law as well as the Judicial Proceeding Statement.

ROLL CALL was taken and the following members were present: Chairman Ken Loury, Ms. Charlotte Kelly, Mr. Roger Steele, Mr. Marc Harris, Mr. Peter Rathjens, Mr. Christopher Fleischman and Ms. Barb Chiappa. Also present were Attorney Alan Zakin, Engineer Christopher Borinski and Secretary Patricia Craven. Excused were Mayor William J. Chegwiddden, Councilwoman Nicole Wickenheisser, Mr. Patrick O'Brien and Mr. Brian Bosworth.

The reading of the bills was next. A Motion was made by Charlotte Kelly and Seconded by Marc Harris to approve the bills as read. YEA – 7 NAY – 0

Next was the letter for the extension of the Smith Subdivision approval. A Motion was made by Roger Steele and Seconded by Barb Chiappa to approve the extension of the Smith Subdivision approval for 6 months from the February 8, 2022 meeting.

Under New Business was the application for Wharton Woods. Wharton Woods has asked to be carried to the April 12th meeting. A Motion was made by Marc Harris and Seconded by Charlotte Kelly to carry the application to the April 12, 2022 meeting. Attorney Zakin explained to a resident that the application for 57 S. Main Street, if approved, may satisfy some or all of the affordable housing for Wharton Woods. YEA – 7 NAY – 0

The continuation of the application for 57 S. Main St., Nouvelle, LLC, was next on the agenda. Attorney Matthew Capizzi addressed the Board. The application is a continuation of the application for property located at 57 S. Main St. that was before the Board a month ago. It is for a subdivision, site plan, use variance and bulk variance approval. They are proposing to subdivide the lot into 2 new building lots, one for an 11-unit affordable housing apartment building and one for a 4-bedroom community residence. They will be presenting amended plans dated 2/14/22, a materials board and color palette options. They will also be presenting 2 additional exhibits tonight. Attorney Capizzi asked that the public not ask questions on testimony from the last meeting in February. Chairman Loury stated that the public all live in the area and are the experts in the area and he will not marginalize their questions. Chairman Loury stated that he himself will be asking questions about testimony from the February meeting, February is not off the table.

The applicants Engineer Fisher, who was previously sworn in, addressed the Board. Marked into evidence was:

Exhibit A-3, 3-8-22, 2 pages consisting of Page 1 - Colorized Site Layout, Page 2 - Drainage Area map. Engineer Fisher passed out copies of this exhibit to the Board and public.

Engineer Fisher explained the changes to the amended Site Plan dated 2/14/22.

1. Eliminated 1 parking space on Lot B.
2. 4 ft high white vinyl fence between their property and the adjacent Block 1605, Lots 2, 3.01 and 3 ending at the existing garage.
3. 4 ft. high post and rail fence around the infiltration basin
4. Added additional landscaping throughout the site. Changed from White Pines to Green Giant Arborvitaes along the adjacent residential lots. Replaced the proposed Blue Spruce to Sky rocket junipers. Added additional street trees along the S. Main St. frontage.
5. Added buffering around the mechanical and generator pads.
6. Provided an area for movable picnic tables on Lot A with screening of Sky Rocket Junipers.
7. Added a walkway between the 11 Unit Building and the parking lot to connect to the sidewalk on S. Main St.
8. Added a directional sign indicating the location of the main entrance for the 11-unit building.
9. Added the details requested from the Board engineer in his memo.
10. Provided steep slope details

Engineer Fisher explained the 3 drainage areas, existing and proposed, shown on page 2 of Exhibit A-3. The left map is existing, pre-construction and the right map is proposed, post construction. The property drains in 3 different directions shown on the map in 3 different colors. The proposed blue area will drain to S. Main St. into the County system. The area detailed in yellow on A-3 will not run into the basin but will run overland un-detained, the difference is about ¼ of an acre less under proposed conditions. The green area flows to Thomas St. and under proposed conditions the green area will be reduced by 50%. The 3 “X”s on the map are points of study on where they analyze the drainage on how it drains across the site and discharges from the site. His opinion is the same as it was at the February meeting that once completed this project is going to result in an improved drainage scenario to the members of the public with no negative impact.

Chairman Loury asked about the height of the crown on Thomas St. Engineer Fisher stated that there is a natural crown in the road between 1 and 2 percent. There are spot elevations on the plans showing the entire roadway corridor of Thomas St. which based on the current and proposed conditions, the runoff should not cross over the roadway crown but will follow the gutter line to the cross streets. It will also be at a lesser rate than that of the current flow.

Engineer Borinski stated that at the end of the proposed sidewalk to Main Street there is a step. Can they realign that so to make it ADA accessible? Can he also add a curb ramp from their property to the sidewalk along Thomas St to make that ADA accessible also? Mr. Fisher will look into the realign along Main St. and will add a curb ramp along Thomas St. Chairman Loury asked if they came out either driveway in a wheelchair to the sidewalk on Thomas St., would they be able to get to Main St. with no problem from that sidewalk. Engineer Fisher stated that they would.

Engineer Borinski agreed with everything Engineer Fisher presented so far and that it will improve the water flow from what it is today. The Stormwater Management report shows that the runoff will be reduced with the onsite basin. The spot elevation on Thomas St. shows a crown and the runoff should run along the curb. If they ever repave Thomas St., they could always increase the crown which would not be an issue or difficult to do.

Marc Harris stated that the overall sum of the amount of the stormwater that comes off of the property from the 3 locations has been reduced; is it because of the detention pond, because the volume stays the same. Engineer Fisher stated it was because of the rate that it runs off.

Chairman Loury asked why subdividing the property and putting in 2 buildings is better than one building with 15 units and not have shared infrastructure? The big concern is shared infrastructure. Why do they need 2 buildings? Attorney Capizzi stated that they are totally 2 different use groups; you can't have the community residents co-mingled with the apartments. They will be owned by 2 separate entities. Chairman Loury stated that the requirement is affordable housing and it's not required to have the 2 different types of uses. It's required to have affordable housing so why not have 1 affordable housing type instead of 2? What's the benefit of 2 buildings? Attorney Capizzi stated that the Planner will speak to that.

The meeting was now open to the public for questions directed to the Applicant Engineer's testimony.

Mathew McDermott, 85 New Irondale Rd., asked if the underground water management of Site 1,2 & 3 is an underwater retention basin? Engineer Fisher stated that it is a surface infiltration basin with excavated earth and a level sand bottom which filters the water. Engineer Fisher stated that the Borough Engineer's memo recommended that there be an operations and maintenance manual for the basin and will name in the manual the entity that will be responsible for the upkeep and maintenance. Chairman Loury stated that this be a condition of approval. Attorney Zakin also asked that it be approved by the Borough Engineer and Borough Administrator. Chairman Loury stated that it has been approved by Morris County that our infrastructure can handle all the water going into it from this site. Engineer Borinski also confirmed that the runoff will be reduced and that the Borough DPW hasn't reported any issues with the storm water system in this area. The Borough is in the process of evaluating the entire stormwater system. Marc Harris stated that from the testimony, the rate has been reduced. Attorney Zakin stated that based on the previous testimony it was determined that it is sufficient to handle & reduce the flow. Chairman Loury stated that it is less impervious coverage. Engineer Fisher stated that there is nothing about the project that's an over development that would trigger a concern relevant to drainage.

Robert Wagner, 58 S. Main St., asked what the ground elevation and feet from the basin to the adjacent residential homes. Engineer Fisher stated that for the dwellings on Robert Street they do not have the sufficient topography for the elevation of those dwellings. Mr. Wagner stated that the adjacent homes on Robert Street are lower than the applicant's property and if they get enough rain runoff it will flood the yards of the homes on Robert St. Mr. Fisher stated that it is not intended to do that because any overflow will be discharged into the County system. Chairman Loury asked if they will be disturbing any slope in the back corner. Engineer Fisher stated that the only disturbance will be on their property. In that corner there will be 5 to 10 feet

of limited disturbance from where they would be grading to from the property line which is shown on their plans. There is no disturbance over the property line onto the adjacent properties. The area in question will have significantly less runoff and drainage than with the existing conditions. Engineer Fisher concurred with Mr. Steele that the runoff from that area would fill the basin first and then any excess would drain into the County system. Mr. Steele stated that it seems it will be greatly reduced from what it is today. Engineer Borinski agreed with what has been said and also on the north end of the proposed basin, the grade of that is roughly meeting the existing grade and the basin itself is being excavated into the ground and the berm will be above ground.

Michael Bezney, 1 Bartek Lane, asked if there are any drains on Thomas St. Engineer Fisher stated that there are no drains on Thomas St. Engineer Borinski stated that there is a drain on the corner of W. Thomas St. and Robert St. Engineer Fisher stated that the water would run down the gutter line along Thomas to Robert St. Engineer Fisher pointed out the drains along Main St. and stated that none of the pipes go underneath the buildings.

Peter Mullaney, 30 E. Thomas St. stated that they keep saying there is a reduced runoff; does that mean they are collecting the roof runoff and sending it right to the sewer system or is it going to the retention basin. How can it be reduced runoff when the same amount is coming down to the same area, where is the other water going to. Engineer Fisher stated that the majority of the project, shown in blue on the drainage exhibit, goes to the basin and if needed will overflow into the County system. It is not increasing the impact to the County system. Mr. Mullaney was concerned about mosquitos with any standing water in the basin. Engineer Fisher stated that there will not be any standing water, they will be supplying drain time calculations to the Borough Engineer that will indicate how quickly it will drain which has to be less than 72 hours. Engineer Borinski stated that that is in the Stormwater Management rules. He also stated that that is why they have the operation and maintenance manual so that if over time it doesn't drain within 72 hours, they will have to fix it. Every time it rains the clock starts again during normal operating conditions. It is not designed to hold water forever it is supposed to infiltrate into the ground and disappear. Chairman Loury stated that the 72 hours drain time be a condition of approval. There will be fencing around the basin.

Andrew Bizub, 10 W. Thomas St. asked if Thomas St. will be reconstructed. Engineer Fisher stated that it will not, the curbing will be constructed at the edge of the pavement and will not change the grade or elevation of Thomas St. Mr. Bizub would like to see the elevation of the existing asphalt and the proposed asphalt in reference to the center line. Engineer Fisher pointed out on the plans the elevation along the center line and gutter line. There is adequate crowning on the roadway for what they are proposing. The revised plans are on the website.

Mathew McDermott asked if the 100-year storm is in their Stormwater Management Report. Engineer Fisher stated that it is represented on this plan.

Dan Murphy, 24 E. Thomas St. asked about the runoff from the green area, shown on the drainage exhibit, to the parking lots. Engineer Fisher explained the runoff. Mr. Murphy asked about parking along E. Thomas St., right now there are cars parking along the applicant's side of the street and there is no signage about parking on that side of the street. Chairman Loury stated

that there are no plans to change that. Attorney Capizzi stated that they have no authority on parking and it was their understanding that parking is no allowed on E. Thomas St. Engineer Fisher stated that he did not give testimony about no parking on E. Thomas St.

Attorney Capizzi asked for a 2-minute break. A Motion was made by Roger Steele and Seconded by Marc Harris to have a 5-minute break YEA – 7 NAY – 0

The meeting was resumed. ROLL CALL was taken and the following members were present: Chairman Ken Loury, Ms. Charlotte Kelly, Mr. Roger Steele, Mr. Marc Harris, Mr. Peter Rathjens, Mr. Christopher Fleischman and Ms. Barb Chiappa. Also present were Attorney Alan Zakin, Planner Caldwell, Engineer Christopher Borinski and Secretary Patricia Craven.

Architect Yogesh Mistry, of Mistry Design LLC of Budd Lake, who was sworn in at our February meeting, addressed the Board.

Exhibit A-4, 3-8-22 – 4 pages of Color Rendition of Exterior Material was presented by Architect Mistry and marked into evidence for both proposed lots A and B respectively. Page 1 & 3 – shows the colors and materials. Page 2 & 4 - Colorized elevations of the apartment and group home

Architect Mistry stated that he had met with the Borough Planner and the applicant to come up with a revised look to the buildings.

Page 2 depicts the 11 unit building which they colorized with 2 tones. It has vinyl siding and shakes with a brick base. The shingles are a dark gray with a tint of green, more of a slate color. They wanted to modernize the colors with bluish gray colors versus the more natural colors they presented at the last meeting.

Pages 3 & 4 shows the group home elevation and the colors and materials they are proposing. They are going with a different color than the apartment building. They want it to look like a single-family home that is separate from the apartments. They are proposing a light gray siding with shutters. The shingles are a light gray with green accent. The siding is ply gem which is one of the top 3 manufacturers of vinyl siding and the shingles are GAF which is also one of the top 3 manufacturers of shingles. They are a very respectable quality of materials and are consistent with other developments.

Chairman Loury liked the colors and thanked Architect Mistry for delineating the 2 buildings. He asked if they could add brick on either the center of the 11 unit building or on the 2 areas that are on either side of the center of the building to help break up the color on the building. Adding brick would be in keeping with the street scape of all the other new developments in town. Planner Caldwell stated that she would also like to see brick added. Attorney Capizzi stated that they will add brick to the center mass portion of the building.

Peter Rathjens asked what the other 3 sides of the building would look like; will they have brick on those sides as well. Mr. Fisher agreed that the lower band of brick and vinyl will wrap around

the building and the front will have the brick in the center portion. There will not be any external egress or ingress to the basement. Chairman Loury wants this to be a condition of approval.

The meeting was now open to the public for questions directed to the Applicant Architect's testimony.

Mr. Bezney was concerned that the blue vinyl will fade. Engineer Fisher stated that all colors will fade overtime. He has no knowledge that blue fades more than others.

Mathew McDermott, 85 New Irondale Rd. stated that the majority of homes in this area are light colored and he is concerned that with this color this building will stick out and make a bold statement. He does not find this appealing.

Robert Wagner asked what the full height of the building is and was concerned that it would shadow the front of his property and his neighbors. Mr. Fisher stated that it is 32 ft. 8 ½ inches high which is within the 35 ft. allowed. They did not do a shadow study.

The Meeting was now closed to the public.

Engineer Elizabeth Dolan of Dolan and Dean Consulting Engineers, 181 W. High St., Somerville, N.J. was sworn in and qualified as a Traffic Engineer expert. She had prepared an original traffic study dated 7/8/21, and two supplemental letter reports dated 7/20/21 and 11/17/21.

Engineer Dolan stated that they have 2 proposed residents. The original study provided trip generation estimates for this new development. Engineer Dolan went over the ITE Trip generation chart on Page 3 of her report dated 7/8/21. There will definitely be an increase in activity on and off of Thomas St. and into and out of the site, but the volume of less than 10 trips in a peak hour is not considered significant. The state highway access management code in New Jersey defines significant as 100 or more trips in a peak hour. Under 100 trips will not create a negative traffic impact on the adjacent roadway system. In her experience 9 or 10 additional trips in an hour will not change the operational characteristics of S. Main St. or E. Thomas St. She stated that ITE has released a new edition of the trip generation manual which results in few trips than 9 per peak hour. ITE now has affordable trip rates which results in 1 fewer trip rate per hour than the non-affordable. From a traffic impact perspective, they are not looking at a significant amount of traffic or a number of trips that will change the operational characteristics but there will be an increase. She also stated that the County does require that they take access on W. Thomas St. and not on Main St.

Engineer Dolan stated that an important part of this application is the parking variance. They have to comply with the Residential Site Improvement Standards (RSIS) with regard to the parking requirements for the 2 residents. Engineer Dolan went over the Parking Requirement Chart – Table II on page 4 of her report shows that they require 22 parking space for the 11-unit building based on RSIS calculations. Their latest plan provides 17 parking spaces. She went over some additional provisions 5:21-4.14(C) and 5:21-4.14(f). that RSIS acknowledges, which are in her memo dated 11/17/21 as well as the Parking Generational Manual. Based on the Institute of

Transportation Engineers (ITE) studies for affordable Housing the number of spaces for this development would be between 11 and 18 space which is shown on the chart at the top of page 2 of the November report. The proposed parking supply is in line with ITE affordable housing parking data. There is also a requirement for 3 spaces for electronic cars and if they provide the electronic connections, they get a 10% reduction which would bring the count to 20 spaces and the shortfall would be 3 versus 5. Based on all of these factors the parking variance or diminimus exception from RSIS can be granted without any negative impact. Based on their parking observation in the area their 5-space parking deficit can easily be accommodated by the available on-street parking within immediate proximity to the site. Engineer Dolan agreed that of the 22 spaces – 6 are for guests and 16 for the tenants. Based on ITE standards affordable housing requires less spaces than market rate because vehicle ownership in affordable housing is less. Management will supply 1 space per unit and even with a more generous accommodation for possible vehicle ownership on the site. Engineer Dolan thinks they will still have 3-4 spaces available on the site. There is also off-site street parking for visitors. Engineer Dolan stated that the residential use of this property would generate less trips than an allowed use of the property such as retail or commercial use.

Engineer Dolan stated that they are required to have the electric car spaces on site. She is not sure if the electronic space is not in use can someone park in that space. Attorney Capizzi state that they would try and find a tenant that has a need for that space and if there was not a need then it can be used by anyone. Marc Harris suggested they be located in the most inconvenient spot on the site.

Engineer Dolan also stated that the parking requirement for the group home is 3 spaces and they are providing 4 spaces. She noted that on page 4 of her report the total number on Table II is 22 not 23.

Attorney Zakin stated that there was talk at the last meeting that there will be no paid, subletting, assigned or reserved parking spaces. Attorney Capizzi stated they are fine with that.

Mr. Steele stated that the Fire Dept is recommending there be no parking on Thomas St. and the town will have to make that assessment. In the anticipation that there be no parking on Thomas St. where are those people going to park? Engineer Dolan stated that they will have to park on Robert St. and Main St. It will not change the operational characteristics; it may be some relocated parking. Anytime that they have been out or she has been out in that area, the most cars parked on Thomas Street has been 5 and there is probably room for 5 more on Thomas St. She stated that it would not create a negative impact to the operations at Thomas and Main St. or Thomas and Robert St.

Attorney Zakin read the Police Chief Young's memo dated 2/3/22 to the Board which finds that there appears to be adequate on street parking available in this area if it is needed. The Fire Chiefs memo dated 6/28/21 stated since there is not enough parking on site, they feel the overflow parking onto Thomas St. would impede emergency vehicles. They also stated that S. Main Street is a major Thorofare and a response to this structure could cause Main Street and surrounding street closures.

Engineer Dolan stated that they observed no more than 5 spaces on Thomas St. and the police report stated that there were 11 spaces available. Engineer Dolan stated that on Main Street between Mill and Thomas there are 6 spaces on their side of Main Street and 5 across the street on Main St. The bus stop exists in front of their property on Main St. and the parking spaces are behind the already marked bus stop.

Planner Caldwell asked if the 1 ½ spaces per unit is a standard that is often applied to apartment developments. Ms. Dolan stated that 1 ½ spaces per unit would work for non-affordable and with affordable units they expect fewer vehicles and therefore less of a parking demand Planner Caldwell stated that that has been her experience as well.

Engineer Borinski also agreed with Engineer Dolan's testimony. He asked if Engineer Dolan had any information on other sites that Novelle may operate as far as affordable units and what the parking ratios may be. Engineer Dolan stated that the only one she is familiar with is one that was just approved last year in Bergen County in Glen Rock and was the same proposal and the same type of ratio. Engineer Borinski asked if Engineer Dolan can prepare one final report with everything in it. Engineer Dolan will definitely do that. Attorney Zakin would like that to be a condition. Attorney Capizzi agreed.

The meeting was now open to the public for questions directed to the Applicant Traffic Engineer's testimony.

Peter Mullaney, 30 E. Thomas St. said that the report stated that in July there were plenty of parking spaces available, have they come in the winter when the streets are snow covered and they are not allowed to park on the street. Engineer Dolan stated that there is more than ample parking on the property, based on the affordable nature of the proposal, to accommodate both residents and visitors. Studies were done to support RSIS's position that on street can be counted towards the deficit, so that is why those spaces were counted.

Michael Bezney asked about the number of handicapped spaces and would one of the EV parking spaces be handicapped. Engineer Dolan stated that there is one in front of the multifamily building and she did not think any of the EV parking spaces would be handicapped. They have not designated any EV parking spots yet and will be happy to work with the Board Engineer and Planner on that. It is her understanding that the EV has to be one space and cannot be shared. An EV spot is not required for the single-family group home. Attorney Capizzi stated that the residents of the group home do not drive so they have no plans to provide an EV space. Chairman Loury stated that they will have to comply with the state standards for EV parking spots.

Bonnie Lavoy, 84 E. Central Ave., asked if they took into consideration the impact of the huge new development on the corner of Central and Main St. and their parking and traffic when they did the traffic study. She stated that she is 2 blocks from the new development which has impacted her block as well as this block. Engineer Dolan thought that the new development had done their own formal traffic study because they have a higher trip generation. Her report did not take into consideration the other developments, it just addressed the trip generations characteristics of this use.

Robert Wagner, 58 W. Thomas St. said that they had counted 5 cars along W. Thomas St.; what time of day was that count done. Engineer Dolan stated that it was at 8 pm on 3 different occasions, between 5-7 pm on another occasion and on Saturday, mid-day in October. Mr. Wagner stated that he has counted as many as 9 cars parked there in the evening after 8 pm. He wanted to know when it snows where are all these cars going to park once this project is built. Engineer Dolan stated that they will park wherever they park now when it snows, when they are not permitted to park on the street. Chairman Loury stated that the testimony given was that the parking lot they are proposing will accommodate the tenants and the Borough experts corroborated that. Engineer Dolan agreed.

Andrew Bizub, 10 W. Thomas St., stated that they talked about parking on Robert St., are they going to add a sidewalk. Engineer Dolan stated that her testimony was that if parking was displaced on Thomas St. they could park on Robert St. This application is not proposing a sidewalk.

Bonnie Lavoy asked if anyone checked the demographics regarding age and safety with sidewalks and parking, etc.? We are kind of inconveniencing people and it seems there is a very elderly population in Wharton. Engineer Dolan stated that, with regards to this application, she has not.

Dan Murphy, 24 E. Thomas St., stated that Robert St. allows parking on one side of the street and during the evening hours there is no place to park on Robert St., the cars are bumper to bumper on Robert St. He asked if the 11 parking spots on both sides of Main Street in front of their property are for overflow parking for visitors and other non-resident guests. Ms. Dolan stated they are if needed.

Michael Elardo, 21 Ross St. stated that the testimony was for 17 onsite parking spots which include 1 handicapped and 3 EV spots they are now down 4 spots or 13 spots for normal parking. Ms. Dolan stated that the EV spots only have to be EV ready they don't have to actually be EV positions. 22 parking spaces are required, they are asking for a variance for 17 parking spaces and she believes 17 on site spots is sufficient for the tenants and anticipated visitors.

The meeting was closed to the public.

Roger Steele asked if there is going to be signage or striping by the dumpster so that there is no parking in that area? Engineer Dolan feels that it is obvious and at this time no striping is proposed but if the Board wants striping or signage that can be achieved. Planner Caldwell agreed to a sign.

Peter Rathjens stated that the testimony was that if the snow removal exceeded one parking space, they would have to remove the snow off site. Does Engineer Dolan agree with losing a parking space? Engineer Dolan stated that this is going to be a managed site and the testimony that she heard was that if they need to remove the snow to run the site then they will take the snow off site.

Planner David Troast of David Troast, LLC, Hawthorne, N.J. was sworn in and qualified. He presented:

Exhibit A-5, 3-8-22 – 5-page Main Street graphic schematics.

Exhibit A-6, 3-8-22 – 15-page Planners Report outline amended date 11/16/2021

Copies of both exhibits were passed out to the Board and public.

Planner Troast stated that the site is in the Central Business Zone and that is why they need a D variance. The area is a mixed use zone. They are proposing to subdivide the property into 2 lots.

Lot A will be the 11-unit multi dwelling, affordable housing apartment and Lot B will be a different use which will be a group home with 4 bedrooms, a common area and managed by a certified group home operator with 24-hour presence on the property. Both of the uses require a D Variance because they are not permitted in this zone. The existing house is a preexisting, non-conforming use because a single-family home is not allowed in the CBD zone.

Planner Troast stated that as far as transportation, there is a bus stop in front of this property. Public transportation is vital to any affordable housing projects. Also, affordable housing should blend in and fit the street character and is what they are trying to do here. He has looked at our Master Plan and the town has done a lot for affordable housing; they have a plan and this project is part of the plan. The Borough goal is to have a variety of housing which includes affordable housing and supportive housing. That goal is being met by both of these projects. The Highlands Plan goal is to create a mix of uses and create a sustainable self-reliant core for the Borough. Any core to be sustainable requires people on the ground which this development will provide. The building they are proposing is appropriate as far as size and scale for fitting into the character of the neighborhood.

The Borough needs low, moderate and very low affordable housing. The group home would be considered very low and is providing 4 credits, well above what a normal development would provide. They are adding extra credit that the Borough may need in their overall plan. It is tied to the other development. Chairman Loury stated that it is because of the other development. Planner Troast stated that these uses are as important as hospitals as they promote the general welfare of the community. They are here to help the Borough fill that need, although they may not want it, it's a good thing. Chairman Loury stated that the Board has already approved the plan with the affordable housing in it and Planner Troast's comment that we do not want it is way out of line. Planner Troast apologized and stated that there are a lot of towns that do not want it.

Planner Troast went over the variances for both lots on pages 8 & 9 of his report, exhibit A-6. Mr. Harris pointed out on page 9, Lot B: #1 – should read ...deviation of 22 feet - not 12 feet. Planner Troast agreed.

Planner Troast will present the negative and positive criteria based on the D-1 variance and the same reasons apply to the C-1 and C-2 criteria. He read from his report on page 9 and 10, the application of the Master Plan. He also stated that they have added picnic tables on site. This project is helping provide the residential component in an area where you really don't want

commercial. He feels having a commercial use on this site would be a mistake and this is a more appropriate use and better plan than the zoning allows. It is consistent with the Master Plan and there will be no substantial impact to the Master Plan if these variances are granted. It is an inherently beneficial use which means he does not have to prove the positive criteria. They meet the purposes of Section a, e and g shown on page 11 of Mr. Troast report. They are guiding municipal growth and appropriate uses; they are near a bus stop and they are providing sufficient space in appropriate locations for a variety of uses. This is an appropriate use and should be provided. They are also furthered by granting the C variances', you are getting appropriate development in the right location.

Planner Troast stated that the slopes are minor in nature and some may appear steep but the way it's being graded is all handled on site. The drainage that was described is a true benefit to the neighborhood because it's going to consolidate the drainage to a controlled basin and overflow into a county system which can accept it. It is a real positive benefit for the community and definitely outweighs any detriment.

Planner Troast stated that the community residence is inherently beneficial because there is a need as a community and as a state. By all the prior testimony of the applicants professionals it shows that this site can handle the development they are proposing. This can be developed with minimal environmental concerns. Drainage will be better for the surrounding properties. Again, there is bus service to this property.

Planner Troast stated that the existing building is older but is not on any historic register. It has no outstanding character and is not near and will not impact any of the towns significant structures. As far as the negative criteria the uses are not permitted in this zone but are consistent with the planning of this community. He feels the visual change to the neighborhood will be positive. Their plan provides for enhanced architecture, new landscaping plantings as well as street trees which he feels are vital to the character of the downtown.

Planner Troast, as far as parking, believes that we have heard compelling testimony from the Traffic Engineer. He has been involved with other affordable housing projects in situations like this with 10 – 11 unit buildings and they are always overparked and have excess spaces. It is his opinion, based on the Traffic Engineer's testimony that there will be no negative impacts.

Planner Troast stated that as far as the architectural plans, they have proposed a desirable building that will complement the Borough center and town.

Planner Troast went over Exhibit A-5. Page one is from the Borough ordinance passed 4/1/09 and shows an illustration of what a half story is. It shows the difference between a gambrel roof and a gable roof which is a 3 ft. difference. The other pages show what is in the neighborhood. Photo A-1 – multi use 2 & 3 stories photos

A-2 & A-3 show different height structures in the neighborhood

After looking at these structures Planner Troast does not believe that what they are proposing is out of character for this neighborhood, especially when the height they are proposing is several feet lower than what they are allowed; that diminishes the impact. The height of the building has the biggest impact. They are actually proposing a compliant height which helps to negate the half

story or the full story issue that they are dealing with. In his opinion that lessens the negative impact of the project.

Planner Troast stated that in association with the use variance for both lots and the C variances it is his professional opinion, that the development proposal is in the interest of the public, the benefits or positive criteria presented for the application definitely outweighs any negative impacts. They have done things to reduce the negative impacts on the use variances and the bulk variances and is his opinion as a professional planner that the Board can grant this without substantial detriment to the public good and it would not substantially impair the zone plan and zoning ordinance

Attorney Capizzi asked Planner Troast if the Medici case applies here and Planner Troast stated that it does not. Planner Troast agreed when asked by Attorney Capizzi that the Municipal Land Use Laws definition of inherently beneficial use, provides for both group homes and affordable housing and the positive impact is met. He agreed that what they are providing here is a true benefit to the town. Planner Troast went over, on page 13 of his report, the Sica case. He also agreed that this application can be granted without substantial detriment. They are not in need of an impervious coverage variance and this amplifies the positive. The right-side yard setback bulk variance for the group home will only impact the proposed multifamily building. The group home is strategically designed as a 1 floor building for a specific use. Planner Troast also agreed that the rear yard setback for the group home is typically applied to a commercial building in the CBD zone.

Planner Troast explained the benefits of the 2-lot subdivision with 2 separate uses. They are bringing in 2 distinct uses that meet the Borough's affordable housing. They are providing for family and for special needs which is a different use. The group home has to function like a single-family home. He believes there is ample buffers in between the two uses. There will be cross agreements between the 2 uses. The benefits of the group home are that the Borough is getting 4 very low-income units.

Chairman Loury asked why they need the two different uses and not have one 15 unit building with all affordable housing. Planner Troast stated if they were to add 4 more units onto the apartment building you would get a bigger and bulkier building. What they are proposing is a smaller building. The buildings in the center of town are urban, this is not urban, this provides a transition from single family to urban.

Marc Harris asked what can be put in the CBD zone, what is allowed? Is there something allowed that would have a less intensive use than a residential unit and group home? Planner Troast stated that restaurants, office, mixed use, and retail are some other things that are allowed in this zone. In his opinion, from a traffic standpoint, the testimony was clear and the answer is no. With the group home located in the back they are reducing the impact versus adding more units to the apartment building.

Roger Steele likes both uses but is worried about the size of both uses on this property. Mr. Steel stated that Planner Troast testified that there is ample buffer between the two units yet the subdivision between the 2 units took out half of the frontage of the group home for 4 parking

spaces which still leaves them 5 short of the number of parking spaces allowed. He also doesn't know who would want to sit on the front porch of the group home that is about 18 inches away from the dumpster. He is concerned about the location of the dumpster being so close to the group home. His conclusion would be a smaller apartment building, if not one building as the Chairman had suggested, might be better suited because the apartment building could be a little bigger and still meet the parking requirements without taking away ½ of the front yard for parking spaces as well as locating the dumpster next to an outside porch. He does not think there is ample buffer between the 2 units. Planner Troast stated that no application is perfect. He feels they are meeting a need for the community and he believes any of the negative elements are outweighed by the positive which is the true test of whether a variance can be granted. Mr. Steele asked if a dumpster within a couple feet of a front porch, does the positive outweigh the negative criteria of that. They are also taking ½ of the front lawn for parking spaces. This all says to Mr. Steele that they are too close together. The plans say that it is a covered porch. Architect Mistry stated that it is a handicapped accessible ramp that articulates around the building to help get residents in and out of the various bedrooms. Architect Mistry pointed out on Exhibit A-2 and the plans, the ramp in brown that leads to the what is labelled covered porch. The front door is adjacent to the dumpster. Mr. Steele feels that the size of the apartment building and the parking versus one building that suits the same purpose might be a better idea.

Planner Caldwell stated that it is a bad location for the dumpster which is also adjacent to the front door of the larger building. Mr. Steele also pointed out to Planner Caldwell the subdivision line which puts parking spaces for the apartment building just feet away from the front of the group home. Planner Caldwell stated that they are irregularly shaped lots and it seems like the lots are more together than they should be. The way they are separated seems pretty artificial. The subdivision line is not a straight line.

Attorney Capizzi stated that there is no path forward by virtue of treating these as one lot. These projects are going to be owned, maintained and financed by 2 separate and distinct entities. One is a group home for disabled and one is an affordable housing project for low to moderate income levels. They have an opportunity here in the Borough for a piece of property that can be subdivided for this purpose and this is the lot configuration and proposal that they have before the Board. They have talked through many concerns from the public and have met the industry standards. He spoke with Engineer Fisher about the dumpster location. They are able to trim some width from it to create a further separation and they can also enhance the landscaping in that area. Engineer Fisher explained to the Board that they were able to trim 5 ft off of the dumpster and allowed for additional landscape buffering between the dumpster and covered porch. Right now, there is 5 ft. between the group home and the dumpster; they are increasing that to 10 ft. The dumpster will have a lid and will be enclosed.

Planner Troast reiterated that they now have a 10 ft. separation between the ramp of the group home and the dumpster with a wall of evergreen trees. When the trees grow, you will not be able to see the fence around the dumpster. Mr. Steele was more worried about the smell from the dumpster. Dumpsters smell and they smell more than 8 feet away and he wouldn't want it outside his property. Planner Troast stated that odor is under the health code and it may have to be picked up appropriately.

Attorney Capizzi stated that Planner Troast will not be at the next meeting and would like to hear any public questions for the Planner. Chairman Loury stated that it was after 10:30 and he will continue the meeting until 11:00 only for question for the Planner.

Peter Rathjens asked Planner Caldwell what are the implications when you tie up this property for 30 years in the deed in the CBD business zone? Does that prevent businesses from even looking at or considering that property for a compliant business use? This is the start or beginning of the CBD zone. Planner Caldwell stated that this property would be tied to that use for 30 years, it's deed restricted to be affordable for 30 years. It's something the Board has to consider. She doesn't think it negatively impacts adjacent properties. One of the uses in the CBD zone does allow multifamily above commercial uses. It's not completely out of character. The CBD requires the ground floor be retail. In this case the ground floor is residential. Chairman Loury stated that there are multiple ingress and egress on the ground floor so in 30 years someone could by this and put retail on the ground floor. Mr. Rathjens stated that the testimony was that after 30 years it would probably be rolled over for another 30 years.

Attorney Capizzi stated that the Affordable Housing law supports the use and that is why the deed is an inherently beneficial use. The impacts on the Master Plan and the surrounding neighborhoods, from a use perspective, are considered by New Jersey courts to be a non-issue because they are trying to encourage this use here. Chairman Loury stated if it was that case, they would not be here.

Attorney Capizzi stated that the only assessment before the Board, by law, is an assessment of the impact on surrounding properties, of having this use here. What kind of impact does the lighting, the landscaping, the parking, site plan considerations, the trip generations, etc. have on the surrounding properties?

Planner Caldwell asked if this application is tied to Wharton Woods. Attorney Capizzi stated that the town can allocate the credits however they want. Attorney Zakin stated that he thought it was independent of Wharton Woods. Planner Caldwell stated that it is her understanding that the reason this application is before the Board is because someone who is building a development wants offsite affordable housing and they are here for offsite affordable housing. She did not think that they can have it both ways, they can't be part of an inclusionary development and 100% affordable. They have to pick one. Attorney Capizzi stated that they are 100% affordable housing development. They do not have the authority to dictate if they count toward Wharton Woods development. Attorney Zakin stated that Wharton Woods had said that if this application is approved it would count and if not, they would supply on site or somewhere else. Roger Steele stated that if this does not count toward Wharton Woods then when Wharton Woods comes back before the Board, the Board can tell them that this does not count and they will have to supply their affordable housing on site or provide something else. Mr. Steele stated that they all know it is because Mr. Crimi certainly made that clear to the Board at the meetings. Chairman Loury asked how is this going to be tied to Wharton Woods 10, 15 years down the road, where is the evidence. Planner Caldwell state that it is important to know before this applicant is gone, what is going on with this application. It was Attorney Zakin's understanding of how this was described in the Wharton Woods context, that the 2 are independent. If Wharton Woods were approved, this would apply towards it but if not, then in some independent way they would have to supply either on site or offsite housing. Planner Caldwell stated it would be fine if this was

after Wharton Woods but it is now before Wharton Woods and you are saying this is fully independent. More discussion followed and it was decided that this can be discussed by the professionals between this meeting and the April meeting to address this question.

The meeting was open to the public for questions for Planner Troast.

Mr. Peter Mullaney, 40 E. Thomas St. stated that Planner Troast had testified how beneficial this development is, he asked if they canvassed the people who live in this neighborhood as to whether they believe these benefits are good for them. Planner Troast stated it is not required and it is his professional opinion as to the benefits, his 35 years of experience helping communities meet their affordable housing needs. Affordable housing helps average people get reasonable rates. No, he did not poll the public.

Michael Bezney asked a question that Chairman Loury stated was not relevant.

Attorney Zakin stated that all the testimony from the applicant, including public questions for the applicant and their experts, has concluded. The April 12, 2022 Planning Board will be the time for public testimony. If any of the public is going to testify, they will be sworn in under oath. There will be no notice for the April meeting. No motion is needed. They will also resolve, among the Board, the affordable housing question

Chairman Loury also stated that the April 12th meeting will be the time for the public to give their testimony, present any pictures and any other evidence.

Peter Rathjens stated that he thought it would be a good idea to have someone at the April 12th meeting that could answer any Planning questions since their Planner Mr. Troast would not be available for that meeting.

Attorney Capizzi stated that they will consider having their experts at the April meeting. He would like them to carry this application to the April 12, 2022 meeting without notice. He will extend any time frames to the Board up until April 13, 2022.

A Motion was made by Marc Harris and Seconded by Peter Rathjens to adjourn.

YEA – 7 NAY – 0

Meeting adjourned 10:53 pm. (Chairman Loury extended the meeting past the 10:30 pm close to allow for all public questions for the applicant testimony to be completed)

Patricia M. Craven – Secretary

Ken Loury - Chairman