

**Newton Planning Board  
Special Meeting of June 6, 2013  
7:00 PM**

The regular meeting of the Newton Planning Board took place on the above date. Chairman Le Frois read the Open Public Meetings Act and requested Mrs. Citterbart to call the roll. Katherine Citterbart, Board Secretary, stated there was a quorum.

**FLAG SALUTE**

**MEMBERS PRESENT:** Mrs. Mattingly, Mr. Flaherty, Mr. Marion, Mr. Tharp, Mr. Russo, Ms. Logan, Mr. Hardmeyer, Mr. Steinberg and Chairman Le Frois

**RECUSED:** Mr. Ricciardo, Mrs. Diglio

**PROFESSIONALS PRESENT:** David Soloway, Esq., Board Attorney, of Vogel, Chait, Collins & Schneider, Jessica Caldwell, PP. of J. Caldwell & Associates and Cory Stoner of Harold Pellow & Associates.

**BOARD SECRETARY:** Katherine Citterbart

**CONSIDERATION OF MINUTES**

None

**HISTORIC RESOLUTIONS**

None

**RESOLUTIONS**

None

**NEW BUSINESS**

**Newton Town Centre Urban Renewable, LP (#PBSPV-03-2013)  
Block 8.05 Lots 4, 7, 8 and 9  
Locations: 5 Union Place, 50 Trinity Street and 58 Trinity Street**

Applicant is requesting preliminary site plan approval to construct a 4-story, mixed used, age-restricted building with retail and parking.

Frank Casciano, Esq. representing RPM Development Group from Montclair, New Jersey.

Mr. Casciano stated: The application we present tonight request preliminary site plan approval for the demolition of the structures currently on the site and the construction of a four-story mixed use structure on Lot 7, 8 and 9 that will consist of 65 age restricted affordable housing units with approximately 1530 square feet of ground floor retail space and a 2220 sq. feet community center. The project will also include 82 parking spaces distributed among the four lots. Twenty seven of which will be under the control of the Parking Authority and 55 will be dedicated for the use of the project. Four of the 82 spaces will be handicap spaces. In addition, because this property is partially located in the T-6 Zone we also seek a use variance to allow age restricted housing, front yard setback variance, a front yard secondary variance, a lot coverage variance,

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a parking variance and a parking lot and design waiver along with any other variances and waiver that may be determined required. We will have testimony that will show that this use proposal represents an inheritably beneficial use of the property which serves the public good, promotes the general welfare and is consistent with intent and purposes of municipal zoning code without causing detriment to the public good.

**SWORN:** Susannah Henschel, RMP Development, Jennifer Palermo, Architect, Keenan Hughes, Professional Planner, Phillips Preiss Grygiel, LLC, Steven Tanzer, Director of Mangement Operations, RMP Development, Mike Knab, Senior Vice President, of RMP Development.

Ms. Palermo gave her qualifications. License is in good standing. The Board accepted them.

Ms. Palermo handed out to the Board as **Exhibit A-1, colorized rendering of four elevations, dated 6/6/2013** and **Exhibit A-2, 1 page of colored site plan dated 5/27/2013.**

Ms. Palermo stated: We are constructing a four story, 65 unit age-restricted mixed uses building around the corner of Spring Street and Union Place. We will have street level retail space fronting on Spring Street. The building also has 2000 sq. foot community center that we are proposing to open to the residents of Newton as a senior center. We have 82 parking spaces proposed that encompasses the old Parking Authority lot as well as Lot 7 and on 50 Trinity Street, we have acquired Lot 4 for additional parking. The retail will have a residential entrance for the tenants upstairs. We have a secondary elevator and stairs at the rear of the building, which is at the entrance of the driveway off of Union Place. We have two entrances to this lot, one is on Union and one is on Trinity. We have 82 parking spaces, 27 which will be allocated for the Parking Authority edification. They will determine how they would like to present the use and it is leaving us with 55 parking spaces for the use of our tenants. We are deficient by 15 parking spaces. We are required to have 70 and we are providing 55 for our tenants. We also have a few front yard setback variances as our building is on the property line which is keeping up with the architecture with the other buildings that are built up to the property line.

Mr. Soloway stated: For the record, **Exhibit A2** is identical to the drawing that was submitted with the application so it doesn't need to be marked as a separate exhibit.

Ms. Palermo referred to the Newton Town Center parking with an original date of 5/10/2013. There are 15 sheets.

Ms. Palermo stated: We straddle two zones of the Town of Newton's zoning ordinances. We are in the T-5 and T-6 zone. The T-6 zone is the zone on Spring Street and T-5 are the lots fronting on Trinity. **Exhibit A-3, colorized version of the zoning map in a larger print.**

Ms. Palermo stated: It was important to us to maintain the six parking spaces that are existing so our neighbor, the Chinese restaurant will be able to access the dumpster from the property through either of the lots. The secondary lot off of Trinity is access to our lot through the public alley along the side area.

Ms. Palermo stated: We have a 1500 sq. foot retail space along Spring Street and we have a 2200 sq. foot community room right off of the back of retail spaces. On the first floor we have one and two bedroom units. We have two elevators with one access off of Spring Street and one access off of the parking area in the rear. On the third floor there will be more apartments. We have created a public roof garden consisting of pavers and some planting and possibly some tree scaping. For the most part it will be for recreational use for the tenants. I would like to

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put on the record that we are a developer who believes strongly in going green. We will make an accommodation on the roof for solar panels. We have them on many of our buildings. We build very efficiently to energy star standards with very tight framing, highly efficient windows, highly efficient insulation, heating and cooling is designed very specifically within the energy modeling of our buildings. Most of the tenants reap the benefits from the energy efficient design.

Ms. Palermo stated: We are deficient in our lot coverage. The requirement is 80 percent in the T-5 zone and 90 percent in the T-6 zone. The lot in the T-6 zone that we are presently proposing to use is 100% percent covered. We are proposing 98.3%. The other three lots are at 83% coverage. We are now at 96% coverage.

Ms. Palermo stated: We are proposing storm water retention and we will comply with the local standards for dealing with all the impervious coverage.

Mr. Casciano asked: Have you had a chance to review the reports from the Town Planner and the Town Engineer?

Ms. Palermo stated: Yes. We are here for preliminary site plan approval. We have shown on our plans some places where we would put signs. We have a sign over the residential entry and a sign over the retail entrance. We are still working out the details and they will comply with the ordinance.

Mr. Casciano asked: Can you address landscaping issues?

Ms. Palermo stated: Part of the development requires us to relocate utility poles that are on Union Place to across the street. Once we do that, we will be able to plant street trees all along Union Place.

Mr. Tharp asked: For the neighboring homes, will they access those parking spaces from Trinity Street or Union Place so they would drive under the building?

Ms. Palermo stated: Yes.

Mr. Hardmeyer asked: Is there anyway the wires could be put underground? There is no sense in having this pretty building and then having all these ugly wires in the front.

Ms. Palermo stated: I would like to put them underground but the utility company will not. We will discuss it with them.

Mr. Stoner stated: The utility company may not want to put them underground just for maintenance and access but there is a cost issue as well. It is very costly to put them underground.

Mr. Soloway asked: Ultimately it is the decision of the utility company but you are willing to ask the utility company if they can go underground?

Ms. Palermo stated: Absolutely.

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Ms. Logan asked: Are their approvals then required before those utility poles can be moved or is that approval already been granted?

Ms. Palermo stated: We have to start discussions with them. We have not done that yet but have done it many times.

Mr. Stoner stated: That would be an additional approval outside of this.

Ms. Logan stated: So if for some reason they do not approve the removal of the utility poles would you have to get variance?

Ms. Palermo stated: No we can't build the building if they don't move the poles. They have to move the poles.

Mr. Soloway asked: The two lots owned by the Parking Authority are going to be subject to a long term lease from the Parking Authority and how long is the lease?

Ms. Palermo stated: Five years.

Mr. Tharp requested clarification of the parking.

Mr. Le Frois stated: So under the building, 20 are for the tenants, 27 are for the Town and the other 35 are for the tenants outside and on Lot 4?

Ms. Palermo stated: That is correct.

Mr. Hardmeyer asked: Why wouldn't all the parking be under the building?

Ms. Palermo stated: The Town specifically requested that they be under the building closest to the corner so they are emulating what is there now.

Mr. Soloway asked: Just to clarify, the 27 spaces as Mr. Marion said, are they the ones underneath the building closest to Spring Street?

Ms. Palermo stated: Yes. We have stairs that come up to the existing grade and then up to Spring Street.

Mr. Stoner stated: On my report, I had a question on the grade by Trinity Street as it is a little steep and I was worried about ADA accessibility on the sidewalks. It needs more grading information at the driveway. I believe it can work but we need more information to see that the driveways are not too steep.

Ms. Logan stated: The other issue is to make sure the fire trucks can get in. Will that be addressed later?

Ms. Palermo stated: Yes.

Chairman Le Frois opened this portion of the meeting up to the public.

No public stepping forward, Chairman Le Frois closed the public portion.

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Mr. Casciano called John Jahr.

SWORN: John Jahr, Traffic Safety Expert, Maser Consulting, PA.

Mr. Jahr gave his qualifications and credentials as a Traffic Safety Consultant and the Board accepted them.

Mr. Steinberg stepped out at 7:59PM.

Mr. Steinberg returned at 8:01 PM.

Mr. Jahr stated: **Exhibit A-4**, Mr. Jahr's traffic report, dated 6/6/2013, the report starts out with a brief discussion on traffic impact. The first part of the report is the trip generation which is how many cars are going to come and go during the AM and the PM peak hours. We find that at the AM peak hour's 12 new trips coming during that time period and PM peak hours will be 19 new trips and on the weekend it will be 27 new trips. Additional trips will give us an idea of how the development will impact the traffic flow in and around the community. This is a very low impact. We also find that for the seniors they come out during day.

The next part of the report is the parking. We have undertaken an ongoing comprehensive study because this particular customer, RPM, and because of the type of development they are producing is geared towards a senior development or low income. We have continued to study some of their developments and it actually becomes part of the national standard. The development can provide 82 spaces. We are going to take 27 off the top and say they are going to the Parking Authority. That leaves 55 spaces for the proposed 65 age restricted units. Based on the ordinance we have deficiently. I have looked at other developments in the area including Liberty Towers, Brookside Terrace, The Berry Street, Green Senior Facility, and The Parkside Senior Facility. The Berry Street and the Parkside continue to be an ongoing study for us. We started studying them shortly after they were built and we continue to study till now because we like to see that data become part of the national standard. It comes out to be 2 parking spaces for every 3 units you see how we came to the conclusion that there should be sufficient parking providing 55 spaces for the 65 units provided here. I always like to refer back to the national standard. It gives us a base line. The studies say that if you have a local study or you have a local establishment to what you are building, study that. That will give you the better answer. Luckily for us we have some that are similar. It is similar enough so that we have a high level of confidence that we are going to provide enough parking.

Ms. Logan stated: I would like to point out that Brookside Terrace is not age restricted.

Ms. Caldwell stated: It is a low income housing project but it is not age restricted. It is section 8 housing similar in some aspects.

Mr. Jahr stated: I will correct that in my report. This particular facility is going to have 65 units and they are going to provide 55 parking spaces for them. It is my opinion that there is going to be more than half of the spaces we are going to need. For the 65 units you will probably see about 35 units occupied. We find that initially when people move in they will have a car and after they find they can get their groceries within walking distance, take care of other needs, they find they do not need a car. That is the trend we are finding with the other studies we are making. I feel extremely confident that we have plenty of parking. The only way I can predict that is looking at the other developments and we are finding that they don't all have cars. We

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are providing .85 whereas the observed parking at all the developments we have studied did not exceed .69.

Mr. Flaherty asked: In your calculations you are including five retail spots. Should you be including those because those still have to be reserved so the .85 is really .77? The retail needs to be separated out. You are not going to let everybody park in the retail. Will the parking spaces be allocated to different departments in whatever fashion knowing that not everyone is going to have a car but you are assigned to spots 12, 13, 14. Will the retail be separated? You really can't count them just like to can't count the 27.

Discussion ensued on parking.

Mr. Jahr stated: I will try to answer your questions. I don't know how they will manage this facility but I do know how they manage the other facility and it does appear they always provide sufficient parking and that it has always been a high priority to make sure everyone is accommodated.

Mr. Flaherty asked: Do you have any differentiation in statistics between low income and amount of usage and a moderate income where a car or possibly two cars might be. Especially since age 55 and over are still going to be working?

Mr. Jahr stated: We do not look at the difference between a low and moderate income. It is all grouped together. That is where I fall back to the national standard. It is literally hundreds of studies that encompass all income levels. My studies for this area generally say about .7 spaces per unit. The ITE is coming up with .66 so I think we are in the right ball park. We are providing a few extra spaces for the project so they will not be under parked. It is not going to be good for this developer to build this project and spend enormous amounts of money and not have enough parking spaces. They are coming to me and asking me how many spaces do we need for this building? I don't want to tell them too many; if I tell them to put extra spaces and then they don't use them that won't be good. They do not want to build this and not have enough parking.

Mr. Tharp stated: You are the expert but I totally disagree. This is Sussex County. People are not going to walk to Shoprite or Weis from this location. They will want to drive. They will be 55 or older. They will still be driving. There is a very good possibility you could have two cars per apartment unit and according to what I am hearing your calculations are not taking that into account.

Mr. Jahr stated: The way to answer you is to look at Liberty Towers.

Mr. Tharp asked: Do you know what the average age is of the tenants in the developments or homes that you are studying?

Mr. Jahr stated: There is no way to tell.

Mr. Tharp stated: My perception of Liberty Towers is the age of the tenants is much older than 55. I am not sure of Brookside and GG Green and Berry Street and Parkside are not in Sussex County. We are very rural even though it is Newton. People like to drive. They do not want to walk. I don't think a lot of these tenants are going to walk to Weis. There is very little on Spring Street as well. They might have dinner at Andres but even that is rare because they will be on a

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fixed income. I am just wondering how much walking and local traveling these people are going to be willing to do.

Mr. Jahr stated: You will have a senior bus service. They are designing the building so the bus can come in underneath the building to pick people up. That is going to have a significant impact on whether I am going to pay \$1,000 a year or every 6 months in car insurance if I am over 55. That all by itself is something to consider.

Another thing we find in these developments, people do a lot of carpooling. Providing too much parking is bad for the environment, it creates public safety issues having cars in spaces that don't belong in them. The overall feeling is they want to do the right thing. They want to have the right amount of parking. They do not want to cut corners. I am very confident that 55 spaces will be enough and confident that there will be extra spaces.

Ms. Logan asked: I had a chance to look at the sample lease and I looked at the parking and we had discussed this at the last meeting how visitor parking would be handled? According to the lease, guests are not permitted to park in any of these spaces. There is no overnight parking right?

Mr. Russo stated: Correct, there is no overnight parking in Adams Lot 1, Western Plaza Lot 3 and Central Plaza Lot 4.

Mr. Tharp asked: Will there be overnight parking on the public part of this lot, the 27 spaces?

Mr. Russo stated: This will be determined by the Parking Authority. I would say probably not but it could be a combination theatre parking, community center, merchant parking that has not been decided yet. The only caveat is that we cannot charge for the parking. It will be some type of free parking to the community.

Ms. Logan stated: According to the lease agreement, guests are not permitted to park in any of these spaces. It creates a different issue which is the overflow of visitors onto the street or to other nonrestrictive lots, how does that get handled?

Mr. Jahr stated: My opinion would be not allowing them to park in the spaces provided for the residents and having them park in the other spaces will be a good thing for the town.

Ms. Logan stated: I am not suggesting that the guests be allowed to park in tenant's spaces, I am more concerned about the impact on the community. Can our existing parking handle it?

Mr. Jahr stated: It is a very good question.

Mr. Russo stated: The quantity is there.

Mr. Soloway asked: How are the spaces assigned?

Mike stated: They are assigned on a first come first serve basis.

Mr. Soloway stated: Is there any control in the lease as to who gets what parking space?

Ms. Logan stated: According to the lease there is a space for a permit number.

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Mr. Jahr marked the lease as **Exhibit 5**. This is a standard lease. We often modify slightly depending on the nature of the development.

Discussion ensued on tenant parking.

Mr. Casciano stated: For a building this size, we will have one onsite person and a property manager would visit the property daily. The manager is responsible for the day-to-day operation of the building. We have a separate leasing department but because this building is little further for us the manager will be involved in the leasing as well. He will not do maintenance. We do have someone on site full-time that will do that who lives there.

Mr. Tharp stated: Maybe they will need a vehicle to buy light bulbs and etc.

Mr. Casciano stated: We do have buildings where superintendents don't have them. We use a lot of services that deliver supplies right to the building and the property manager will also assist with that.

Mr. Flaherty stated: Lot 4 would not be a sufficient size to have tier parking. I just wanted to make sure.

Mr. Soloway asked: What are the eligibility standards for qualifying for the units age wise?

Mr. Casciano stated: One of the members of the household has to be age 55 or older and the building is restricted to any one below the age of 18.

Mr. Stoner asked: What is the size of the units.

Mike stated: 700 sq. feet and bedrooms are 12 x 14.

Mr. Jahr stated: I have gone to the other facilities they have built and currently maintain and I have gone into the buildings and I can say years after they have built them, they are clean; they keep their parking lots well maintained and have very good supers because every time I have gone to them everything is clean. So as your eyes and ears as a third party let me assure you that the traffic impact will be almost impossible to notice and let me further assure you that based on my national standards and based on local studies in the area, I feel very, very comfortable that you are going to have more than sufficient parking and even more than that there will always be a surplus on the site for the people that live there. This is due to a number of factors such as senior bus, carpooling, age, income, etc, many of these factors effect whether someone will have a car or not and we have seen this in studies in similar places and that is how we come to this conclusion.

Mr. Marion asked: Will the trees become an issue as they grow and mature?

Mr. Jahr stated: As long as they are kept pruned.

Mr. Stoner stated: The type of tree will matter.

Mr. Soloway asked: Who will be responsible for maintaining the trees?

Mr. Stoner stated: They will be in the Town's right of way.

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Mr. Jahr stated: I do like when the Towns' maintain them because they do a good job with the maintenance.

Ms. Caldwell stated: The Town can go in and maintain them regardless of who planted them.

Mr. Tharp asked: We do have plans to develop another town home development down the road. Have you taken into consideration the traffic impact from these two developments?

Mr. Stoner stated: As you redevelop your town, you will have traffic. You will not get around it. I don't think the 54 town homes on Sparta Avenue will make a difference at this spot. I don't think the amount of vehicles coming from this development will be a drastic change. If you want rateables, and development, there is no way to avoid more traffic.

Chairman Le Frois asked Mr. Stoner: Do you concur with the conclusion that the traffic generation from this project will be relatively minimal?

Mr. Stoner stated: Yes, I agree with the traffic. The parking also makes sense to me. I have seen Berry Street facility in Franklin Township and the parking lot was half empty on a Saturday. I don't know what it is like at peak times. The rationale that he has provided does make sense.

Chairman Le Frois opened up this portion of the meeting up to the public for questions of Mr. Jahr.

**1<sup>st</sup> Public**

Bob Mattea, 17 Parson Road, Newton New Jersey, wanted to know how he will get into his garage which is located near the site.

Ms. Palermo indicated to him where he can go.

Mr. Mattea asked: Is there any way to make up the 9 spaces lost for the Newton Theatre because there are 36 spaces in that lot and they will be reduced to 27?

Mr. Russo stated: I can say there is not a way to gain back those nine spaces. It was important to the Parking Authority through the negotiation to maximize the number that we retain and 27 was the number.

**2<sup>nd</sup> Public**

Ting Chu Chang, 23 Spring Street asked Mr. Russo: Are the 27 spaces paid or not paid?

Mr. Russo stated: They will be unpaid spaces.

Ting Chu Chang asked: How are you preparing the tenant from the development parking downstairs?

Mr. Casciano stated: Our tenants have stickers and if they are parked without a sticker in that space they are subjected to be towed.

Mr. Chang stated: If a tenant parked in a public space, how can you tow them?

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Mr. Casciano stated: We can make a restriction in the lease and we are controlling the lease on the public spaces.

Mr. Chang asked: Lot 4 is 300 hundred feet away. Who is going to walk that far? This becomes useless. Another thing, between the retaining wall to my dumpster is 25 ft., how will they make the turn?

Discussion ensued on this question.

Mr. Flaherty asked: Will any of the parking along Trinity be lost?

Mr. Chang asked about the time of the trip generation.

Mr. Stoner stated: You need to remember that the morning peaks are between 7 and 9 in the morning and the PM peaks typically in this area is between 4 and 6 in the afternoon. Between 7 and 9 in the morning there won't be a lot of activity going into the retail stores. There is an equation that you go in by the square footage and that determines the number of trips.

With no more public coming forward, Chairman Le Frois closed the public portion.

Mr. Casciano introduced Keenan Hughes, Licensed Professional Planner with Phillips Preiss Grygiel. His License is current.

Mr. Hughes stated his qualifications and the Board accepted them.

Mr. Hughes stated: In order to prepare for this testimony, I reviewed the application in detail and I have been involved for a number of weeks. I participated in a few meetings with the Town's professionals. I also participated in the TRC meeting. I reviewed the Town's Master Plan and I was asked to provide an opinion in regards to the variances that are being requested. I summarized my answer in a letter to the Town, dated May 29, 2013.

Mr. Hughes stated: From a planning view point, in my opinion, this type of project is consistent with what is envisioned for the Town Center both in the Master Plan as well as the general intent of the form based code. The use variance we are requesting is triggered by the fact that only a portion of the lot in the T-6 Zone does not permit age-restricted housing which is the portion closest to Spring Street. The bulk variances we are requesting are impervious coverage, both primary and secondary frontages, a number of parking spaces and parking lot buffers.

Ms. Caldwell stated: We spoke at the TRC meeting that there may be depending on the interpretation another aspect of the use variance and that would be in the T-6 Zone on the first floor we don't permit apartments. In this case there are some apartments, if you look at the architectural rendering, behind the commercial use and the senior center and then to the northern side of the building so I asked if that could be part of the testimony tonight. Another aspect of the use variance could be argued that it is not at street level or close to the street but it is part of the T-6 Zone.

Mr. Casciano asked: Can you provide us with some general framework for the D1 Variance?

Mr. Hughes stated: The applicant must fulfill both the positive and negative criteria consistent to the Municipal Land Use Law. In the case of an inherently beneficial use which is what we are

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dealing with this evening with this application. With respect to what is being proposed tonight, it is a 100% affordable project.

This type of use has been recognized by courts in New Jersey as an inherently beneficial use. I will cite four cases where that conclusion was put forth. The *Holmes v. Hope*, 2009, The Borough of Roselle Park v. The Township of Union, 1970, the *DeSimone Greater Englewood Housing Corp.*, 1970 case and the *Riese-St. Gerard House v. Paterson*. All of those cases came to the conclusion that 100% of affordable projects do inherently advance the public safety and welfare. The SICA test states where on the scale of the public interest does this particular project rank and the next step is to look at the potential detrimental impacts that may be created by this project. The third step is to look at potential conditions that can be imposed on the project to address the detrimental impacts and finally you weigh the negative and positive aspects of the project. If the public interest outweighs the negative impacts then we have grounds for the granting of the variance.

Mr. Soloway stated: SICA is a New Jersey Supreme Court case which tells you what the applicant's burden of proof is to demonstrate entitlement to a use variance in a situation where the proposal is for an inherently beneficial use. When it is an inherently beneficial use, it is considered as a matter of law to satisfy the positive criteria to grant the use variance. The SICA test is the analysis the Board is required to utilize to determine whether the negative criteria have been satisfied. I agree that the case law does say this is an inherently beneficial use.

Mr. Hughes stated: I think it is important to point out again the affordability aspect of this project and New Jersey as a state has adopted the fair housing act. Clearly the provision of equitable housing opportunities is fundamental to the state law and policies so in that respect this project does rank very high on the scale of inherent beneficial uses.

Mr. Hughes continued: At the last meeting there was some discussion as to whether or not there is a need for this type of project in the community and I did some digging into some census data. I think there is a general trend both in Sussex County and within the Town of Newton itself a graying of the population. If you look at the census data from 2000 to 2010 in Sussex County, the total population over the age of 62 increased from 11.1% in 2000 to 15.6% in 2010. The median age in the County is 41.8 years which is quite high. The national standard is 37 years old now. This trend is actually more pronounced in the Town of Newton between the years of 2000 to 2010. I noted that Bristol Glen was developed in the past 10 years so that may account for some of the change in the demographics but none the less the graying population is clearly a trend. The other aspect is many of the seniors are cost burden. In 2010, 74% of the households over age 65 in Newton have incomes under \$50,000 and 55.3% of owner/renter households in Newton are cost burden.

Mr. Hughes stated: Value Research Group in their report took a look at some similar comparable facilities within the primary market area and their primary market area was the Southern part of Sussex County which includes Newton, Sparta, Hopatcong, Stillwater, Byram, Green, Andover, Fredon, Stanhope and Hampton. Within those areas they didn't find any low-income housing tax credit developments within the primary market area. When they took a broader look and looked at Northern Morris County and the rest of Sussex County they found high occupancies on waiting lists.

In Sussex County and Morris County subsidized rental housing which is what we are proposing such as Liberty Towers is 99% occupied. Even if you look at the market rate developments such as Bristol Glen there is 100% occupancy there. I think that data portrays a senior population that

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has a significant housing cost burden portion and clearly that population is in need of affordable housing. It should be emphasized that this project is including a senior community center that I understand this community has desired for some time. I think this is going to create a very attractive gateway to downtown Newton and up Spring Street. We will be bringing some new retail. Hopefully, we will be bringing in a café type use which is a major benefit to the town. With this project, we are still able to retain some parking slots by the Parking Authority. We will be bringing new residence to the downtown and that is a benefit and advances the public interest and that does have real impact to supporting local business and activities. I think the bigger picture is a catalytic project along Spring Street; one that could stimulate additional development throughout the downtown and create a really nice precedent in terms of the quality of design and aesthetics.

I did review the Newton Master Plan and I would note that we encourage Senior Citizen Community Housing construction which is an objective in the Master Plan and this project clearly meets that objective. This is going to be a lead certified project which is really important. It is a very progressive approach. I think the Town should view this as a real benefit. I don't think there are any other lead certified projects in Town so this might be a really nice precedent to set for future developments. In light of all these reasons, I think the application being presented to us does rank high on the scale for inherent beneficial uses in reference to step one of the SICA test. Step 2 is detrimental impacts and how this project addresses them. In terms of aesthetics, I think this project seamlessly connects with the existing character within the Town along Spring Street. We are going to maintain an attractive and pedestrian oriented streetscape particularly around Spring Street as it wraps along to Union Place. As Ms. Caldwell stated earlier, there is a technical variance. In the form base code, they clearly do not want residential on the ground floor and along Spring Street. In this case the building extends through the lot so we need to have a technical variance so we can have residential on the first floor. The important point is that we have active ground floor uses on the key frontages, Spring Street and Union Place.

A typical concern is the school district for every municipality. Obviously this is age restricted; we will not be adding any new students to this school system. I know at the conceptual review there were some concerns on the potential impact on property values. I took a little time to look at the literature that is out there in the planning world on the impact of affordable housing developments on property values and one of the articles looked at a whole range of studies from across the country 17 of them and it concluded that there is little evidence of negative impacts on property values and the majority of cases there were a positive impact. What is more important is that when you look at this issue you need to look at each project on a case by case basis and look at design, management and maintenance. In this application we are obtaining a high level of design. We have an onsite superintendent. This is a very experienced affordable housing project and they are prepared to manage this facility over the long term. If you look at this project from an aesthetic view point, there is no difference between a market rate building or an affordable senior project. With those factors in mind, in my opinion, I would be very surprised if there would be any detrimental impacts in terms of property values with respect to what is being proposed this evening. In reference to the parking, as a general rule, as the households increase in age and as income levels go down, vehicle ownership goes down. In reference to the zone plan with respects to the use variance again, this is a mixed used development. It is consistent with what the Town is envisioning for Spring Street and the Town Center. We need very little relief in terms of the bulk standards and also advances a key goal of the Town's Master Plan. I don't see any substantial detrimental impacts with respects to the zone plan. In step 3 of the SICA test, we look at the benefits and some of the detrimental impacts and consider whether the Board feels additional conditions should be imposed on the project in order to address the detrimental impacts.

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Mr. Hughes stated: In my opinion with everything I have laid out I don't feel anything is a substantial detriment that the Board needs to be concerned about. The step is to look at the positives against the negatives and clearly with this project the positive aspects, the public interest to be advanced, there is no questions that it outweighs the potential impacts. I feel there are sufficient grounds to grant the use variance.

Mr. Casciano requested Mr. Hughes to give the Board some idea of the general frame work to justify the variance.

Mr. Hughes stated: Bulk variances can be justified on the (C) 2 variance and that we must show that the benefits of granting the variance outweigh the detriments and also purposes of the MLUL will be advanced by granting the variance and also negative criteria. The first bulk variance is impervious coverage. As we discussed earlier, we are looking at 100% coverage on Lots 8 and 9 with the parking lot. It is always a balance in a town center environment to accommodate the parking on site. The screening we are doing to the parking here is a great benefit in terms of the aesthetics of the project. That really drives some of the coverage. In addition, I do believe the applicant has made some strategic designs to include landscaping in important places such as the walk way over to Lot 4 and along some of the property perimeters. In my opinion, the benefits outweigh the detriments for the impervious coverage variance.

On Spring Street the setback is a minimum is a 2 foot setback. We are proposing a zero setback. I think in this environment, a zero setback condition is appropriate because it is going to maintain that pedestrian oriented character along the frontage particularly because we are including the retail. This is a function of the overall design of the building and the need to accommodate the building underneath. For the Trinity Street frontage, it is actually a 40 foot setback from the street. This is more of a site design issue where we would love to extend the building over to the frontage but we wouldn't be able to accommodate the parking. We are setback 40 feet from the street but we are prepared to make some changes to that façade. We will probably add a wall to make it more attractive. So those two front yard setbacks variances can be justified on (C) 2 grounds.

Mr. Hughes continued on the parking space variance, I would like to draw attention to Ms. Caldwell's review letter which she looked at the Town Ordinance and provide a shared parking calculation which actually reduced our overall requirement from 70 spaces to 62 spaces and that is very helpful. It doesn't exactly get us to where we need to be but we are providing 55 and we are required 62 under the shared parking requirement. We are in a downtown location with services within walking distance. The shuttle service is important to emphasis. I understand that RPM has been talking to Sussex County Social Services to do regular pickups at this facility. I think what is important about that is the testimony we heard earlier from the property manager is that spaces are assigned on case by case basis and theoretically we could get to a point where all the spaces are allocated and we have two or three units left on the market. I think there is a market aspect to this where if you absolutely need a car and you can't get a space perhaps this isn't the best facility for you, having said that I think there are enough services in this location where someone in their last sixty's into their 70's could get around without their car. We are only providing three, two bedroom units so they are mainly one bedroom. The Park Side Senior Project has a ratio of 1.1 residences per unit so this project you are looking at about 70 total residences. The parking spots will be permitted and managed by RPM. They will be able to manage that on site and in terms of the retail, this is a town center environment. There is other on street and off street parking spaces that could serve the retail. We are not certainly sure how the Parking Authority will allocate their spaces. So if the requirement is 62 spaces and we are at

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55, that is 0.89 spaces per unit and looking back at Mr. Jahr's report all of those reports were under 0.7 spaces on the peak demand so from a planning perspective, I am satisfied that the parking provided here will be sufficient. So I feel the variance can be granted on the (C) 2 grounds.

Mr. Hughes stated: The ordinance does require a 10-foot landscape buffer requirement along surface parking areas adjacent to property lines. This is a function of the overall project in making it work. All of those benefits that I described earlier including retaining spaces for the Parking Authority really necessitate using a lot of ground. We are providing 6ft. board-on-board fences, landscaping in targeted areas, and it is important to point out that some of the uses are not residential; they are office uses. I don't see any impact in that regard. This all ties together the C variances and it does advance purposes of the MLUL law.

Chairman Le Frois opened up this portion of the meeting to the public.

With no public stepping forward, Chairman Le Frois closed that portion of the application.

Ms. Logan asked: If there is a fire in one of the out buildings, how will the fire truck access it?

Ms. Palermo discussed the options they came up. She did state that the building is a fully sprinklered building. It will be a two-way sprinkler system. The upper floors will be a wet system and the parking area will be a dry system. We are very confident that they will solve any concerns with fighting fires in the back of the building.

Mr. Stoner stated: If the Fire Department requires a ladder truck, the generator and dumpster might have to be moved.

Mr. Russo asked: What was the outcome on snow removal?

Mr. Tancer stated: If there is an accumulation and no place to put it, we will haul it away. If it is a light accumulation it will get shoveled up. We can push it to the retention drains.

Chairman Le Frois asked: The storm water retention you talked about is an underground system?

Ms. Palermo stated: Yes.

Mr. Stoner stated: Pushing the snow to the retention drains will not work. The snow will have to leave the site.

Mr. Russo asked: How often does the generator get tested?

Ms. Palermo stated: It will get tested once a month.

Mr. Russo stated: An email from some of the merchants had concerns about what plans do you have for the sidewalks on Spring Street during construction and what kind of plans would you have to closing the sidewalks. Did you factor in the cost for police control?

Ms. Palermo stated: The sidewalks will have to be closed down.

Mr. Steinberg asked: How long will this project take and have you ever used a sidewalk scaffold?

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Ms. Palermo stated: About one year, and no we have not used sidewalk scaffold, but we can look into it.

Mr. Flaherty asked: What about the public parking during the construction period.

Ms. Palermo stated: I think what we can do is construct Lot 4 first so there will be 18 spaces and can be used by the public.

Mr. Russo asked: I just want to make sure your financial calculations included the water and sewer connections.

Mr. Hardmeyer asked: What happens after the 25 year property tax reduction?

Mr. Russo stated: It converts to conventional taxation.

Discussion ensued on the taxation.

Ms. Marion asked: Is there a limit to how many people can be in the 1 bedroom and 2 bedroom apartments?

Mr. Tancer stated: Occupancy standards is two for a one bedroom and four for a two bedroom.

Mr. Stoner stated: On page 4 talks about site plan and parking. Regarding 5 e, all the spaces are 9 x 18 and the isles are 24 feet and they do meet the ordinances, but my only question is if the applicant can provide some testimony regarding the size and spaces and if that is adequate underneath the building.

Mr. Jahr stated: You are right, when you have parking within the building there are some tighter turning radius and more care needs to be taken of the lay out of the parking spaces. You usually do end up with the same number of spaces. They should be able to provide this for this project. It is not a big underneath parking area.

Mr. Stoner stated: A good view of the height is indicated on the circulation map. The height of the building is 8' 4"; I think there should be some testimony regarding the adequacy of that height. What type of vehicles can go under 8' 4".

Ms. Palermo stated: 8'4" is a requirement for ADA for machine operated vans for wheel chair lifts. I also believe it can accommodate a van for seniors.

Discussion ensued.

Chairman Le Frois stated: So to confirm, we will try to get the senior shuttle bus to go under the building, but probably not delivery trucks. There will have to be proper signing regarding the height restrictions.

Mr. Stoner stated: I would like to see the area by the dumpster widened out to 24 feet and replace the fence with bollards so it doesn't feel so constraint.

Mr. Stoner stated: I have a question regarding the recycling area. I would like to see how the trucks will pick them up, back up and leave the site. I don't believe the truck can get

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underneath the building. So it will have to turn around. You might have to move it but you are limited on where it can go.

Discussion ensued on the location of the generator.

Mr. Stoner stated: They will have to show how the emergency vehicles will access the building and leave the building. And more information is needed on the site distances when vehicles are leaving.

Discussion ensued on deliveries and in particular the Chinese restaurant.

Mr. Stoner referred to item 6A on his report which is the retaining wall. I am asking for some information on what is going to happen there.

Ms. Palermo stated: I am proposing to keep the existing retaining wall and have our sidewalk stand over top of it and use it for extra storage. Going to the expense of taking it out doesn't make sense. The footing for the building will be worked around the existing wall.

Mr. Stoner stated: This is a construction detail that needs to be worked out. If they can't retain the wall there will be other impacts. I am confident it can be worked out. I want to point it out and make sure they don't forget about.

Mr. Stoner stated: The sidewalk in front of the property must be ADA requirements. This has to do with the grade of the property. Need to make sure fire trucks don't get hung up on the entrances.

Mr. Stoner continued with his report and spoke about the retention basins. Another thing is the plans don't show how the roof drains and tie into the system so that needs to be included. The drainage calculations included them in there but they don't say how they are getting into the system.

Mr. Stoner stated: Item 8A (6), the calculations show they get 6570 gallons a day. The water demand is acceptable for what the Town's allocation is from Morris Lake but they will need to get a DEP permit for that connection.

Mr. Stoner stated: The applicant is responsible for all water and sewer connection fees which is calculated on the number of units and the square footage of the retail space.

Mr. Stoner continued: The buildings in the back of the parking receive electricity from the poles, so they are going to have to make sure those buildings have electrical service once they remove the poles. You need to show how the natural gas will get to the generator. I recommend the light fixtures match the one on Trinity and Union. I also recommend they install an additional light on Lot 4 to light up the area better.

Mr. Stoner stated: Adjacent to the property in Lot 3 is an attorney's office and I had some concerns when taking the trees whether or not they would be encroaching on the next property when they are taking the trees down. It might not be the tree but it could be the root system. If any part of the construction goes across the line they will have to work it out with the adjacent property owner with an agreement.

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Mr. Stoner stated: For the town ordinance a 10 ft. buffer strip is supposed to be all around the parking area and the adjacent properties. If these buffers are not going to be provided they will need to have a design waiver for this.

Mr. Stoner stated: The plan illustrates a plan for a sign but there are no real details for signage. If you are going to come back in the future you will need to meet the town ordinance for the signage.

Mr. Soloway stated: All of these items are recommended conditions; does the applicant have any problems with any of them?

Ms. Palermo stated: No.

Mr. Stoner stated: My biggest concern is the movement of the delivery trucks and fire trucks around the dumpster and generator area.

Ms. Caldwell reviewed her report.

Ms. Caldwell stated: On page 4 under site plan, my comment is for parking Lot 4. It needs to be age restricted because it is part of this project but it is a separate lot. Under circulation and signage my biggest concern is to make sure the way finding signage is understandable. There is a minimum screening height around the parking area with the junipers. Section 240-70, under landscaping, there is the removal of several trees and after calculating there is about 112 inches of trees being removed. We have a tree replacement requirement which is 50 percent which would be 56 inches. There are five trees on Lot 4. There is a 42 inch tree that needs to come down. It was noted on the plan.

Mr. Soloway stated: There are a few landscaping and buffering waivers that they appear to be requesting, they should give some testimony on that.

Ms. Caldwell stated: On page 6 of my report, there is an aluminum garage screen that is proposed on the open area of the garage. I have some concerns how that might look and if you have any pictures you can bring them when you come back so everybody knows what we are approving before we approve it so it doesn't come as a surprise later on.

Mr. Soloway stated: Some of the things can be deferred like the colors and specific materials but if are going to be granting waivers you need the information to grant the waiver at preliminary.

Ms. Caldwell stated: I just had a condition about meeting all the affordable housing regulations for the county and the state.

Ms. Caldwell stated: I did mention this in my report a shared parking factor where you have a building that has more than one use. You have the ability to reduce the parking requirement and they did not take that into account in their original proposal so I'll note it. It is because there is commercial and residential within the building. It does not have to do with the public parking provided on the site but because of those two uses there is a factor reduction for 75 percent of the spaces which their plan mentions. 62 is the requirement with the shared parking reduction and 55 is their proposal so the magnitude is a little less because our ordinance considers the parking will be shared between the two uses.

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This application will be carried to June 13, 2013 with no further notice.

ADJOURNMENT

Mr. Flaherty made a motion to adjourn the meeting. Mr. Marion seconded the motion. The meeting was adjourned at 11:05 PM with a unanimous "aye" vote. The next special meeting is scheduled to be held on June 13, 2013, at 7:00 PM in the Council Chambers of the Municipal Building.

Respectfully submitted,



Katherine Citterbart  
Planning Board Secretary

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EXHIBIT PAGE

Exhibit A-1, colorized rendering of four elevations, dated 6/6/2013

Exhibit A-2, 1 page of colored site plan dated 5/27/2013.

Exhibit A-3, colorized version of the zoning map in a larger print.

Exhibit A-4, Mr. Jahr's traffic report, dated 6/6/2013