

**Newton Planning Board  
Special Meeting of June 13, 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, and Chairman Le Frois

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

**EXCUSED:** Mr. Steinberg

**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

**OLD 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.

**SWORN:** Edward Martoglio, 77 Park Street, Montclair, RPM, John Carlton, 168 Alexander Avenue, Montclair, NJ, John Ingelese, 150 Union Avenue, E. Rutherford, NJ

Mr. Casciano stated: The expert testimony tonight will be presented by John Ingelese, He is a licensed architect and a professional engineer for the State of New Jersey, Jennifer Palmer is here to testify if necessary, Keenan Hughes our Planner and John Carlton, a licensed landscape

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architect are here as well as well as members of the RMP staff Edward Marloglio, Susannah Henschel and Steven Cantor.

Mr. Casciano stated: The meeting concluded last week with a presentation on reports from the Planning Board's Planner and Engineer and each of those reports set forth recommendations and conditions for approval that require a response from the applicant and we are prepared to provide that testimony tonight.

Mr. Ingelese stated his qualifications and that his license was current. The Board accepted them.

Mr. Ingelese has reviewed the reports from the Board's professionals and he is prepared to address them.

Mr. Ingelese stated: One of the issues raised was access for fire vehicles to get to the properties and to show how it would work. We modified the stretch of parking that is immediately off Trinity. He marked Exhibit A-6, Sheet C160 Proposed Traffic Circulation Site Plan with Fire Truck. We are showing the turning radius and a step by step in and out for an Ariel truck, dated June 13, 2013.

Mr. Ingelese stated: We have moved the dumpsters in a northerly direction towards Trinity and moved the transformer to the landscape area along the edge of Trinity Street. This will allow a fire Ariel truck to enter the site and make a complete 90% turn in one movement and then there is enough room for it to back into a K maneuver and come back out onto Trinity Street going straight. In addition to moving the utility and trash items, we have modified the back elevation of the building where previously there were bumped out bays over head towards the southerly side by the restaurant and those projected bays are no longer there. We have also added bollards at the back of the Chinese restaurant's property where it transitions to their trash area. These bollards signal this is where you want to stop. It stills give you more than the 60 feet of the T that you need for an Ariel truck. Beyond the bollards it becomes a pedestrian walkway to the stairs and into the alley between buildings.

Chairman Le Frois asked: Has the Fire Subcode Official looked at or have been in any discussions with you regarding this proposed circulation plan?

Mr. Ingelese stated: No.

Chairman Le Frois asked: So if we put forth a condition that that new circulation be approved by them you would be acceptable to that?

Mr. Ingelese stated: Absolutely. My guess would be that this sort of maneuver would take place with a pumper truck and not an Ariel truck because the buildings in the back are one or two stories.

Chairman Le Frois stated: The thing to think about is in the future a four-story building would be acceptable based on our zoning adjacent to your building so someday there could be a building right next to yours that could be four stories tall and you would need to be able to get an Ariel truck back in there.

Ms. Logan asked: So in losing those two spots you are down to 53 spaces.

Mr. Ingelese stated: Yes.

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Mr. Ingelese presented Exhibit A-7, Sheet C160.1, Proposed Traffic Circulation Site Plan with Trash Truck. This shows with the modified site how a trash vehicle would pull in straight, go into the T do a K, back up to the dumpster for the Chinese restaurant, pick up its dumpster, and back on to Trinity Street. Exhibit A-8, Sheet C160.2, Proposed Traffic Circulation Site Plan with Trash Truck. This shows the movement of coming in straight, picking up the dumpster overhead, backing up and coming straight out onto Trinity Street.

Mr. Stoner stated: These dimensions match ours within a foot or two. Once you make the ladder truck these movements for a trash truck is very easy. If they can get a ladder truck to turn around then most things should fit. Will there be any aesthetics to go around the dumpster?

Mr. Ingelese stated: We had an enclosure originally. I think in one of the drawings we don't have an enclosure, we have bollards around it.

Mr. Tharp asked: Would those be an additional variance or waiver?

Ms. Caldwell stated: That is a good question; I will have to check into it.

Mr. Stoner stated: This assumes the parking spaces behind the restaurant are full, that would be the worst case scenario. If there are no cars there it would not be a problem. This proposal assumes the parking lot is loaded with cars every place.

Mr. Russo asked: Have you had any conversations with the restaurant owner and shown them the schematics and made sure they are not theoretical and that they are accepting of them?

Ms. Henschel stated: Yes. We met with the owner and showed them the designs and he was amenable to what we discussed.

Discussion ensued on vehicle height.

Chairman Le Frois asked: Are any of the spaces marked "Compacts only"?

Mr. Ingelese stated: No. They are all standard spaces.

Ms. Caldwell stated: In answer to Mr. Tharp's question, it would be a waiver. It would be a design waiver for a dumpster enclosure. They can't have an enclosure because they have to come in at an angle and if they close it, it will block the driveway. They want to leave it out in the open but the ordinance requires it be in an enclosure.

Ms. Caldwell continued: We did have some discussion about the type of fencing that goes around it. They did some revisions to the landscaping plan and changed the fence type to a woven wire fence which is not permitted. They have agreed to do a different fence. Different areas would have different fencing between the different properties so the Board might entertain what type of fencing they want. I think in this area a board-on-board 6-ft fence would be appropriate. There is a home with a business in it next door and a dumpster and generator and I think there should be some visual screening between that. There fence is proposed on the back side by the dumpster and on both sides of Lot 4. The Board might want to entertain different types of fences depending on what is adjacent to the property.

Chairman Le Frois stated: I am concerned about no screening at all of the dumpsters. I am wondering if we can put something on the side of Trinity Street.

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Mr. Ingelese stated: We can do that.

Discussion ensued on the fencing.

Mr. Soloway asked: If you had not made these modifications, would the circulation have been adequate for the fire truck and the garbage truck.

Mr. Ingelese stated: I think it would have been ok for a garbage truck but not the Ariel truck.

Chairman Le Frois opened this portion of the application up to the public. With no public stepping forward, Chairman Le Frois closed the public portion.

Mr. Casciano started his questing to Ms. Palermo and asked if you had addressed any of the issues from the last meeting.

Ms. Palermo stated: We modified the aisle widths to 24 feet wide. There is a loading zone 200 ft. down the street on Spring Street. There is no reason why deliveries could not be made in the back of the building.

Mr. Casciano stated: There was a recommendation that the catch basins be redesigned to be shallower so it will not adjoin the properties.

Ms. Palermo stated: We made that modification as well.

Mr. Casciano stated: There were some questions about the relocation of the reinforced concrete height.

Ms. Palermo stated: We have modified that.

Discussion ensued on re-pitching the driveway.

Ms. Logan asked: Did you resolve the site distance issue coming out of the driveway on to Trinity Street?

Ms. Palermo stated: We are moving our driveway 10 feet down Trinity so it is improving our site distance. We believe we will lose one space on the street. We will work with the Town on that.

Mr. Russo asked: Were there any other conversations with the Utility Company regarding moving the lines?

Ms. Palermo stated: We will be initiating contact with them as soon as we are approved and money goes through.

Discussion ensued on the utility poles.

Chairman Le Frois asked: If the two additional trees of the property need to come down due to the utility poles would you included these in your calculations?

Ms. Palermo stated: Yes.

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Mr. Russo asked: One of the concerns the merchants have expressed to me is when this project starts and is ongoing the 36 spaces will not be in use. They want to know can you do 50 Trinity first and allow the merchants or the Town to do something with those spaces so there is some level of parking. Possibly make that a condition of the approval.

Mr. Soloway stated: They indicated they would do Lot 4 first.

Mr. Hardmeyer asked: From what I have seen over the years is that most of the people entering the parking will be coming down Union Street and coming down Spring Street and they have no idea how many of those parking spaces are available. So they will not know until they pull in there and then they will have to back out. To me it is not desirable by any situation.

Ms. Palermo stated: We have some grading issues. In order to get the parking under the building we will have to excavate underneath the building and we want to maintain the circulation for these six parking spaces in the back. There will be a grade level change.

Mr. Hardmeyer stated: It seems to me you could number those front spaces and then there would be no question to the public whether they or available for not. I know there might be some issues with the merchants.

Mr. Russo stated: This was a parking authority request. They wanted the spaces closer.

Chairman Le Frois asked: Are they aware of a situation like Mr. Hardmeyer is bring up?

Mr. Russo stated: I can't speak to that. I understand his point but that was a condition of approval to have the spaces closest to Spring Street.

Mr. Soloway stated: Would the applicant agree as a condition to at least request that the Parking Authority agree to that modification, because it is a good point.

Mr. Casciano stated: We have no objection to agreeing to pursue the possibility of re-designating the parking spots that would be reserved for the Parking Authority.

Chairman Le Frois stated: It is agreed that you will talk to the Parking Authority. I don't know if it is possible to put a handicap ramp there.

Ms. Palmero stated: It is not feasible to do that.

Mr. Marion asked: Is it necessary to have handicap parking in there since on Spring Street there is already handicap parking?

Ms. Palmero stated: The way the code is written you have a certain amount of spaces so you need a certain amount of handicap spaces.

Discussion ensued on handicap parking.

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Mr. Tharp asked: If you are going to have a mix of public parking and tenant parking under the building, how would they access the elevator and how are you going to keep the public out or just the tenants in.

Ms. Palmero stated: Our entrance into the elevator is an electronic entry so our tenants have a key, the public would not have access to anything.

Discussion ensued on the security.

Ms. Caldwell asked: How would people access the community center?

Ms. Palmero stated: They will access it from the front and tenants can access it from inside the building.

Mr. Tharp asked: I am not sure I understand completely the resolve to moving the public parking lots. Will it be a conversation with the parking authority and if nothing changes and it doesn't resolve then what would happen? It sounds like from Mr. Russo, the Parking Authority is not going to be all that accommodating.

Ms. Logan stated: I think we have to operate under the assumption that it is not going to change because that is not what is in front of us right now. We have to have some type of contingency plan that if the Parking Authority does say no.

Chairman Le Frois stated: That is an excellent point. We have to operate under what exists today.

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

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

Wayne Levante, 5 East Stuart Street stated: In my opinion I see the parking under the building for the residences only. If the spots are numbered then they would know what is available.

With no more public stepping forward, Chairman Le Frois closed this portion of the meeting.

Mr. Casciano introduced Mr. Hughes as the next witness and asked him to give his analysis and his professional opinion regarding the efficiency and adequacy of that number of spaces being proposed for this project.

Mr. Hughes stated: We have 53 spaces; we believe we can satisfy the requirement for retail spaces as well as the residential space. If we set aside 48 spaces for the residential as we calculate the potential ratio, we end up with 0.74 spaces per unit. If you look back at Mr. Maser's report, each of the projects they surveyed were well under 0.74 spaces per unit. Liberty Towers was at 0.48 spaces at peak demand. Berry Street Commons, not an age restricted project, 0.69 at peak demand. Two projects in Franklin in Somerset County were both well under 0.70 spaces.

Again, I think Mr. Jahr made the point last week and I agree with him if you look at actual built projects as case studies, that is more reliable than looking at national standards. Here we have data that shows .074 spaces per unit would be adequate to serve this project. That is all the direct testimony I have this evening on this issue.

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Ms. Caldwell stated: This is an unique project in that the applicant is constructing public parking on the site and in discussing with the Board Engineer we have talked about setting aside additional commercial spaces may not be as necessary as with another type of project that does not have public parking incorporated in the project and that would allow those spaces to be designated to the apartments.

Ms. Caldwell continued: My other concern is having three types of spaces on the site. We are going to work hard to make sure circulation is good and there is good signage but to have designated spaces for the apartments, public parking, and then some kind of commercial parking for the building makes three different size spaces, so I would recommend they utilize the 53 spaces for their apartments and the commercial spaces be used by the public and public parking and that would give them additional spaces. You have 5 additional spaces so in the future maybe they can work with the Parking Authority to provide more for the public so there could be comfort for the Board that you have those 5 spaces.

Mr. Stoner stated: The ratio would goes up to just over 0.8 spaces per unit.

Chairman Le Frois asked: Does that result in any additional variance or waivers?

Ms. Caldwell stated: It would take away their shared parking calculations. You are designating more spaces to the apartment that way and permitting the public to park in the public spaces which typically happens on Spring Street.

Mr. Soloway asked: Isn't that what the Parking Authority spaces are for?

Ms. Caldwell stated: This is a unique case and their testimony is good. I think it might give the more comfort to know there are 5 additional spaces.

Chairman Le Frois stated: I would say that if you have any spaces that are unused and it is proven over a certain period of time, I would allow the public to park there. There is no need to keep these empty spaces if they are not going to be utilized. We can balance the residential parking with the public parking and utilize all the spaces that we can.

Mr. Marion asked: The merchants, who will be renting the space, where would the owner or the employee's park?

Mr. Russo stated: I would not designate parking for the retail. I would keep them with the apartments.

Mr. Casciano stated: Normally when we enter into a commercial lease, it is worked out with the tenant.

Mr. Soloway stated: The Board directs that you are required to reserve all 53 spaces for residents; you would not have any more spaces to negotiate.

Mr. Stoner stated: There are 53 spaces. They are for tenants, residents or the commercial tenants.

Mr. Marion stated: If you build a brand new building and someone can't rent it because you don't have parking for them, then it will sit empty. You are shooting yourself in the foot before

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the building is even built by not providing those businesses with at least 2 spots or something where they can park their cars.

Mr. Casciano stated: Yes. We are aware of the need to provide the tenants with what they need to succeed.

Mr. Tharp asked: How many retail spaces are there?

Mr. Casciano stated: The retail space is 130 feet which would probably accommodate one tenant.

Mr. Tharp asked: So you only expect one commercial tenant in this building?

Mr. Casciano stated: Yes.

Mr. Tharp asked: We have spent a lot of time talking about the parking spaces and location of parking and there is only so much physical property to put parking spaces on, the only other option I would come up with is reducing the number of tenants you have.

Mr. Casciano stated: The project is designed to be commercial and financially feasible. This is the drawing we came up with. We are not in the position to reduce the number of units.

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

With no public coming forward, Chairman Le Frois closed this portion of the meeting.

Mr. Casciano introduced Mr. John Carlton, RMP's Landscape Architect.

Mr. Carlton gave his qualifications and stated his license is current. The Board accepted them.

Mr. Casciano asked: Can you speak about the removal of the trees?

Mr. Carlton stated: On the site are 148 diameters of trees that are being proposed to be removed. It also includes a 26 inch Ash tree. For replacement, this would require using the larger number for replacement of trees. Using 3.5 diameters as the replacement tree it comes up with 15 trees that need to be replaced. We have provided 63 inches worth of diameter. If you don't consider the Ash tree it is slightly more, if you consider the Ash tree it is a little bit less.

Ms. Logan asked: How do we consider if we use the Ash tree or not because that would be the difference between a waiver and not a waiver, is that correct?

Mr. Soloway stated: It is a little difficult for the Board tonight because there is a deadline to fix all of this. You have on other applications heard some testimony on these types of items and in effect deferred it until final to have the applicant submit the detailed or revised landscaping plan, work with the Board Professionals, and fix precisely what the amount of the deviation they are asking for is and if the Board approves the application with that kind of arrangement the requirements would be that the applicant would provide the same type of notice for final approval that it did for preliminary so the public gets an opportunity to hear it in detail and provide its input as well.

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Mr. Carlton referred to Sheet C150, Exhibit A-9, Landscaping Plan. Along Union Place we are planting the trees 10 feet from the building face so we don't want to create a situation when they get bigger they become too big. They are drought tolerant, will grow to about 25 to 30 feet tall but only to 15 to 20 ft. diameter.

Discussion ensued on the trees.

Mr. Marion questioned if the outside of Union's sidewalk is damaged from the tree there now we are not making the applicant redo the sidewalk are we? Who is going to fix the sidewalk?

Mr. Stoner: I would make the applicant do it.

Ms. Caldwell asked: There is a 10 ft waiver for the parking buffer. I am not sure if there is a waiver with the tree situation. There is a requirement of 15% of landscaping within the zone that is 15 in the back. We had discussed the parking but we did not discuss it on the other two lots. Technically they are supposed to have 15% landscaping and they won't so that is waiver. As well as the dumpster.

Mr. Carlton stated: The parking area, the landscaping under the original plan and we have changed it to 21% and the requirement is 15% so we will need a waiver. The ordinance talks about a 10 foot buffer. Obviously we cannot do that in this parking area. What we tried to do as an alternative was to replace with a mix of plantings with a seasonal interest.

Mr. Carlton stated: What we are proposing for the roof top garden is that we put 18 x 18 inch pavers on the roof on small little pedestals which allows the water to drain underneath and then use planter boxes to define three outdoor spaces. There will be a place for seating, dining and outdoor rug for yoga or gathering. They will be defined by using mixed perennials and grasses. It should be about 12 feet wide and trying to keep things off a couple of feet of the building.

Mr. Hardmeyer asked: Will it be visible from the street?

Mr. Carlton stated: No. There will be a parapet.

Ms. Caldwell stated: While is it not accessible for the general public would you say it offsets the 15% landscape requirement by providing some landscaping at a different level but on the site?

Mr. Carlton stated: Yes. I think it is a good point and we did not consider that.

Chairman Le Frois stated: Would the facility manager maintain the garden and not the residences?

Mr. Carlton stated: Yes.

Mr. Soloway stated: If you do approve the application, you do it with the acknowledgement of the need for a waiver for the tree and deal with it at final. Our professionals and their professional can decide how to deal with the Ash tree. I do not think it is fair for the Board to sit here and have to make a decision as to whether the Ash tree is healthy enough to count or not count.

Chairman Le Frois stated: That was my question. If it is not healthy, does it not count?

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Ms. Caldwell stated: It is not clear in the ordinance. They could make case to remove it or it could possible not be included. It is not cut and dry.

Chairman Le Frois opened up this portion of the meeting to the public. With no public stepping forward, this portion was closed.

Mr. Casciano stated: That concludes our expert testimony of our professionals.

The Board took a five minute break.

Chairman Le Frois opened this portion up the Board and professionals for any questions they may have.

Mr. Tharp asked: Will there be any security cameras on Lot 4 and between the pathways?

Mr. Tanser stated: Yes. We can put them in.

Mr. Tharp asked: So they are not on the plan currently?

Mr. Tanser stated: No. They are not on the plan.

Chairman Le Frois asked: Would a walkway be marked from the end of the defined path coming off of Lot 4 getting over to the building? Something like a crosswalk?

Ms. Palmero stated: Absolutely.

Mr. Russo stated: I would like to hear from Ed Mortgelio.

Mr. Mortgelio stated: I am one of the founders of RPM 27 years ago. We do all aspects of the development from the initial planning process to the construction and the management. We feel that is important because it allows us to control the product and makes the builders work better. Not only is it attractive to the community but it works well too. I would like to say up front that almost a year ago this project started and I can tell you that this has been one of the most deliberative, thoughtful, challenging endeavors we have engaged in but it also has been very collaborative. It is not often that we work with a municipality that wants to work in a creative way that works for the community and will last a long time. We take a huge amount of pride as an organization that hasn't advertised in 27 years. Our best advertisement is the quality of work we do. We build high quality, certified buildings that are real assets to community. We have built in downtowns that are having trouble. We are building in Woodbury in South Jersey, a very similar community to this right in the heart of their downtown. One of things that will happen when you are building something like this is there is a lot of energy. There are going to be 70 to 80 workers at one time. They will be buying coffee and sandwiches throughout the day. And then you will have a beautiful building on a site. We really feel it will help to simulate the downtown.

Mr. Russo asked: What do you feel will be the challenge in filling the retail space?

Mr. Mortgelio stated: In this case it is 1500 sq. feet. The challenge will be to get the right tenant. There will be plenty of tenants that want to come along. The challenge will be to find the right little restaurant or coffee shop that is a quality operator. One of the things we can offer since it is

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not a big space we can control the thin out process. It might take a little time to get the right tenant.

Mr. Russo asked: Are all of your products low to middle income. Some of the concerns from the merchants and some of the Board members is the ratio of the parking. The other projects that you have been involved in, how you seen a problem with the parking after the fact that you have had to go back and rethink the calculations?

Mr. Mortgelio stated: In most cases we have ended up with more parking. I know some of you might not want to hear this but I live in the Town of Montclair where we have a parking problem but we also have 200 thriving restaurants in Montclair. Having a parking problem really means you have a vibrant downtown. If people have to park a block away it is not the end of the world.

Mrs. Mattingly asked: Why did you pick Newton?

Mr. Mortgelio stated: It was through the Redevelopment Plan. Originally it was for Hicks Avenue. We met with your planner and Mr. Russo and in the course of meeting with them we talked about this site as well. We do market studies everywhere we go. There is a huge demand for senior housing.

Mrs. Mattingly asked: What areas do you expect to draw from excluding Newton?

Mr. Mortgelio stated: Most of the people come within 3 to 5 miles. We thought this was a really good site. We understand the problems of the downtown and felt this had enormous potential.

Mr. Russo asked: Some of the merchants and the Board would like to know that if in seven years for some reason these units are not rented and RPM decides they want to convert them to market rate, what will happen with this because the council has authorized that it must stay the same for 25 years and it is contingent on being a certain type of housing the ground lease with the Parking Authority refers to that as well. Am I missing something?

Mr. Mortgelio stated: Those are all the local laws. A very significant one is if we had the deed restriction that would be filed against the property that comes as a condition to us financially. It comes from the State Housing Authority Financial Agency. That goes with the land. If RMP goes away the building is still income restrictive for 30 years and a violation of that would be devastating to RPM.

Mr. Tharp asked: So what happens to this building if we have leasing problems?

Mr. Mortgelio stated: If that did occur, we would have to give rent concessions. We would have to lower rents. There is a demand for housing. The question would be are we at the right price point. I think we are. One of the things that have allowed us to be successful is that we have never had a building go into default. We a long term commitment to make sure the building is successful.

Mr. Tharp stated: I have heard about of good things but I am skeptical about the remote parking onsite. Tenants have to walk outside to get to their cars, the number of tenants with

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cars; I can see that might settle itself but I don't have a comfortable feeling about the parking. I am just not convinced the parking is going to work very well.

Mr. Mortgelio stated: I think there is going to be a huge demand for this building. It is a brand new, state of the art building, energy star, modern appliances. The demand for a high performing building is in demand.

Mr. Russo spoke about the Senior Shuttle and the schedule it follows.

Mr. Hardmeyer stated: With the Abelour project we had the opportunity to suggest all different things. We went through three or four additions, how big, it got smaller, it got bigger, it got taller, it got shorter. We don't seem to have that luxury here and I think that is a failing that we don't. I think we could have a better project if we had a chance to work on this some more.

Mr. Mortgelio stated: I understand.

Mr. Hardmeyer stated: I also would like to point out there are a lot of tax dollars going into to this and I think as a Board we need to be mindful of that and make sure we are spending those dollars and credits as wisely as possible.

Chairman Le Frois opened up this portion of the meeting up to the public for questions for Mr. Carlton. With no public stepping forward, Chairman Le Frois closed this portion.

Chairman Le Frois opened up the meeting to the public.

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

**SWORN:** John Andrews, 145 Spring Street, Spring Board Shops, Newton NJ. I am very involved in downtown. Three of the stores that are not vacant on Spring Street came out of the Spring Board Shops. One of the problems with downtown is there are not enough stores and while this will bring a new retail space into town we are trying to development critical mass of enough interesting stores to come to. The more we have the more other retailers will want to come join us. I will think this will be a very positive force on downtown. Second, regarding the parking, the year Spring Board opened I have never had anybody that has either been a customer or retailers have a problem finding parking. Except for the St. Patrick's Day Parade, I don't think we have a parking problem. I do think this will bring customers to Spring Street not only the tenants but also their families. These will be people who will be more inclined to walk down to the stores rather than to drive out of town to Hampton Township. I urge you to pass this and let us have it because I think it is a shot in the arm for downtown. Thank you.

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

**SWORN:** Fred Judge, 24 Hicks Avenue, Newton, NJ. It looks like an absolutely beautiful project. I commend the Board for the work they have done with it. I think it is a welcome addition to town. I welcome RRM to Newton.

**3<sup>rd</sup> Public**

**SWORN:** Wayne Levonte, 5 E. Stuart Street, Newton, NJ. I want to agree with Mr. Andrews and Mr. Judge. I think it will be a great asset to the Town. Quite honestly, I don't want to see censuses, dumpster, shrubs and trees get in the way of it.

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**4<sup>th</sup> Public**

**SWORN:** Rick Bilondo, we own commercial property at 216-218 Spring Street. My wife operates Maxell and Molly's Closet. I think there needs to be real careful and thoughtful consideration during the construction phase so that there are not significant closures of Union Street and Spring Street and so we can maintain pedestrian and vehicular control of traffic. I think it is important to have the Trinity Lot completed before the other lots are done. I don't think any business on Spring Street can afford to lose any customers as a result of the yearlong construction process. I think it is important that there are close parking spaces in close proximity to Spring Street for two of the businesses, one being A&G Pizza. They do a big take-out business and my wife's business, Maxwell and Molly's Closet. You cannot expect someone to haul a 30- pound bag of dog food 3 or 4 blocks so the proximity of parking to Spring Street is important. I would like to emphasize how important it is that parking be close to Spring Street.

Ms. Logan asked: During the last meeting we talked about some type of scaffolding. Has that been discussed any further?

Mr. Montgelio stated: It definitely works on a renovation type project. For new construction scaffolding would not work. We have done a number of downtown sites. We will work out a methodology that won't interfere too much with the businesses.

Mr. Russo asked: One of the things Mr. Mitchell looked at as the Vice-Chairman of the Parking Authority, was if the Authority was willing to lose 2 of the 27 spaces but preserve the spaces up front, do you think the merchants would find that balancing act acceptable? Otherwise they will get pushed to the back.

Mr. Montgelio stated: I think that would be preferable by the intersection of Union and Trinity.

**5<sup>th</sup> Public**

**SWORN:** Anwar Qamout, 45 Woodside Avenue, Newton, NJ, I own 9 Union Place also known as 58 Trinity. Before I would sign the contract, I wanted to have a clear conscience of what I was getting into and one of my conditions is that I wanted to see the project before I would sign the contract. I am speaking not just as a seller but as a resident and a tax payer. I have that big concern. As some of you know, I am active with Spring Street and many times have driven to Trenton to see what we need to do to bring Spring Street alive. I am an advocate for Spring Street and always have been. This will attract other developers, other merchants; it is contagious.

The other thing I want to testify for is that I have witnessed the pedestrian traffic. There are times during the day, from 8 AM to 5 PM there might be a dozen people who walk on the sidewalk and I can tell who they are. They work for the County or the Cochran Building and they take their little breaks like clockwork. When I had to do construction and had to close the sidewalk down they would cross the street. The parking lot across the street from me, that parking has never, never been full. The only time I have seen it full is for holiday parades or during Christmas time for that little span. When the barber shop across the street was open, he would have a couple of his customers there. With the beauty salon behind us, their employees actually parked there and they cut through my parking lot. They are the only ones that utilize that parking lot more than anyone else. When they approached me on this property and I wanted to make sure that my town is getting something good.

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I was very concerned about what is going to happen to my building and I can tell you that we were very flexible, willing and considerate of all things. That was one of the reasons I sold it. I will be honest with you, I am not attached to it, it is just another piece of property to me but I was concerned because it was my town. I have lived here since July 1978. I have had this property since 2002 and I own a lot of other properties in town. I am very concerned with this development and I would love to see a property like that as the entry way to Spring Street. One of the things we learned from Trenton is that the first building on the entryway makes a big impact on the impression for the rest of the block. I remember when we painted the fence black. Just painting the fence black made a big difference. Here is a cure to that parking lot. Here is a solution to the rest of the block. I am not talking as an investor. I will be honest with you that property makes me money. If they buy it or if they don't buy it, it doesn't really matter but I am looking at it as a resident who has invested a lot of time in this community and I love this property.

They did not come in here to put a cheap building that they don't care about. The Rite Aid building is a cheap building. They could have done that better. This is not a cheap building by any means if you look at the materials and designs they have. I am grateful they came in with that kind of design. I hope you consider this to solve a big problem to welcome developers in our town. Thank you.

With no other comments Chairman Le Frois closed this portion of the application.

Mr. Soloway summarized the conditions. I will start with what you are voting on. They need a use variance to allow age restricted units in the T-6 Zone, a variance to allow a residential use on the first floor in the T-6 Zone, lot coverage variance to allow 98.3 percent in the T-6 zone with 90% permitted, 96 percent in the T-5 portion of the project where 80 percent is permitted, a front yard variance on Spring Street of .33 feet. There is a 2-foot minimum required. Front yard secondary of zero on Union and 42 feet on Trinity. There is a 2-foot minimum and a 12-foot maximum required on both of those. A parking variance to allow 53 spaces, a partial tree replacement waiver to the extent that will be subsequently determined, a waiver from the requirement that 15 percent of the lot be landscaped in the T-5 zone, a variance from the ordinance requirement that there be a 10-foot minimum buffered planting strip between surface parking areas and adjacent properties, the precise extent to be determined. A waiver for the dumpster enclosure, although they are willing to screen it on two sides and preliminary site plan approval.

In terms of possible conditions that the Board might want to consider if somebody is going to vote yes on this is for the applicant to comply with the approved plans and the testimony here to tonight, the residential units in the building deed restricted for occupancy by low and moderate income residents, compliance with applicable laws, residential units to be age restricted as that term is defined, applicable municipal, state, and federal laws, a deed should be recorded requiring that Lot 4 be utilized as a parking lot serving the residential building so long as that building is utilized for residential purposes, zoning comparison chart on T-100 should be revised to reflect the 53 rather than the 85 parking space being proposed, plans should be revised to delineate the 27 parking spaces underneath the building that are to be utilized or controlled by the Parking Authority, at the time of application for final site plan approval to provide a plan for delineating and regulating parking spaces on the site for use by the Parking Authority, residential and commercial tenants and any visitors. The spaces reserved for residents and commercial tenants should be numbered with specific numbered spaces being assigned to the particular tenants in the lease and where no parking spaces allocated to a unit or commercial use, I recommend you require that be clearly stated in the lease. You might want

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to require that no unit be allocated more than one parking space. Unit leases shall provide the tenants who were not assigned a numbered parking space are prohibited from parking a motor vehicle on the property.

At the time of application for final, the applicant should present a signage plan to direct pedestrian traffic circulation to and within all the parking areas, to the uses in the building and on Spring Street, the use of the public alley and the space along the northern side of the building to connect to Spring Street should be included in that plan as should clearance signage for vehicles seeking to pass under the building. Also at the time of application for final, the applicant should submit sign details, dimensions, colors, materials for the place holder type signs they are showing in the plans and for any other signs they may propose unless relief is sought from the ordinance and they demonstrate an entitlement, it should comply with the all applicable ordinances. If the Board votes yes on this, they will have voted to grant variance and waiver relief from the number of required replacement trees for parking lot landscaping and for the required buffer strips between parking areas and adjacent properties but the precise extent of the variance and waiver relief is yet to be determined. With the application for final, the applicant should submit a detailed tree replacement, landscaping and buffering plan including fencing.

The Board would expect prior to final all to be reviewed by the Board Engineer and the Board Planner and because the deviations will not have been defined the applicant will be required to give public notice of the final site plan hearing. Color for proposed materials for the building interior should be provided to the Board at the time of application for final and that would include the colors for treatment for garage foundations and supports. Per Ms. Caldwell's suggestion, provide that the concrete wall that runs along the side of the parking lot be carried around to the rear of the Trinity Street elevation in order to screen the cars adjacent to Trinity Street, minimum height of 3.5 feet maximum of four. A lot of that came from Ms. Caldwell's report. The following from Mr. Stoner's report 2c, d, e, and f, 5 h, k and l, 6 a, b, d, e, f and g, 7 a-e, 8a and b, 9a-c, 10 a, c, and d, 11 and 12 a-c. The retaining wall along Spring Street and Union Place and the concrete steps along Spring Street and any footings relating to them are removed, the applicant to provide a plan for restoration replacement to the satisfaction of the Board's engineer.

Plans should be modified to clarify the grading will not occur on either side of Lot 4, the application to stake the property lines during construction, the applicant to ensure the sidewalks along Trinity Street comply with applicable ADA requirements, the applicant to provide a maintenance plan for the storm water management system to the satisfaction of the Board Engineer and file the plan with the Town Clerk, the applicant to make a written request to the utility company that it be allowed to locate utility lines underground. If the request is refused just provide a copy of the refusal, the applicant to make an effort to minimize any interruption in the electrical service to other properties that might be a result of the construction. Any situation where there is an accumulation of snow on the property, the applicant to make arrangements to have it disposed offsite because they said there is nowhere to put it on site. Modify the plans to show how the natural gas would get to the natural gas generator. The generator to comply with applicable municipal and state noise regulations and only be tested during business hours, i.e., 9-5, Monday thru Friday.

If any offsite trees have to be removed to accommodate the utility installations, the applicant will treat that in the same manner for replacement purposes as is treated onsite. They will try to save trees where they can. If they can't they will try to replace or mitigate. Provide a

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construction phasing plan to the satisfaction of the Board Engineer which will include a provision requiring that the parking lot on Lot 4 be constructed and completed before the proposed so that Lot 4 can be used for parking while the existing parking lot area on 7, 8 and 9 is shut down during construction. Applicant to provide an Easement Agreement between it and the Parking Authority establishing perpetual public easement of access across Lots 7 and 8 to provide pedestrian vehicular access and passage to and from Trinity, Union and Spring to block 8.05, Lot 5, 6, 10 and 11, a draft of such a document has been submitted.

The Easement Agreement should include provisions for maintenance and when finalized to be recorded by the applicant. If deemed necessary or desirable by the Board Engineer, the applicant should also prepare and submit for eventual recording of a cross easement and maintenance agreements for any drainage structures and improvements that will service the lots that are separately owned by it and the Parking Authority might want to think about that and any adjoining lots. You might want to provide that there will be no site disturbance prior to obtaining a final site plan approval without the approval of the Board Engineer. There was some discussion about requesting the Parking Authority to modify the ground lease a flip of the Parking Authority spaces with the tenant spaces. For purposes of the resolution you have to assume it is no. Require that the two handicap spaces for the Parking Authority be relocated from the very front to an area where they are closer to the driveway entrance to Union.

Security camera on Lot 4 and or the pathway from there to the remainder of the property. Performance, maintenance guarantees and entering into a Developer's Agreement. The applicant to make a good faith effort to work with the Town to minimize disruption from construction, attempt to keep some portion of Spring Street open for pedestrian use during the entire construction process and the standard pay your taxes, and your fees and get all other required governmental approval so that covers water and sewer and comply with ordinances.

Mr. Soloway stated: There should be a vote whether to grant or deny the application. The findings will be contained in the resolution. Five affirmative votes are required.

**Mr. Russo made the motion to approve the application for preliminary site plan as presented with the variances, waivers and the conditions that were stated by Mr. Soloway. Ms. Logan seconded the motion.**

Mr. Flaherty stated: Before I vote, there are a lot of positives to this, but I would like to agree with Mr. Hardmeyer that it was the process. I felt this was very rushed and I am not blaming the applicant for this, circumstances happen but I think it placed an unreasonable burden on this Board to address very complicated series of issues and I am hopeful that since there are other projects in the offering that we won't face this. To do the public right, we need to be brought into the process earlier so that we can address a lot of these issues. That being said I will vote yes.

**AYE:** Mrs. Mattingly, Mr. Flaherty, Mr. Marion, Mr. Russo, Ms. Logan and Chairman Le Frois

**NAY:** Mr. Tharp

**CORRESPONDENCE**

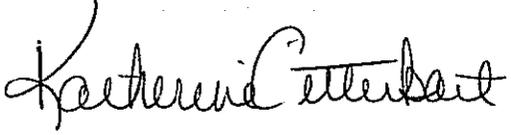
NONE

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ADJOURNMENT

Ms. Logan made a motion to adjourn the meeting. Mr. Tharp seconded the motion. The meeting was adjourned at 10:35 PM with a unanimous "aye" vote. The next regularly scheduled meeting will be held on June 19, 2013, at 7:00 PM in the Council Chambers of the Municipal Building.

Respectfully submitted,

A handwritten signature in cursive script that reads "Katherine Citterbart".

Katherine Citterbart  
Planning Board Secretary

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**EXHIBIT PAGE**

Exhibit A-6, Traffic Circulation Site Plan with Fire Truck. We are showing the turning radius and a step by step in and out for an Ariel truck, dated June 13, 2013.

Exhibit A-7, Proposed Traffic Circulation Site Plan with Trash site.

Exhibit A-8, Proposed Traffic Circulation Site Plan with Trash site.

Exhibit A-9, Landscaping Plan.