

**Newton Planning Board
October 23, 2013
7:00 PM**

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

SWORN: Megan Gill, Alternate #1 Member

FLAG SALUTE

MEMBERS PRESENT: Mrs. Mattingly, Mr. Flaherty, Mr. Tharp, Mr. Elvidge, Mr. Ricciardo, Mr. Russo, Mr. Hardmeyer, Mr. Steinberg, Ms. Gill, Vice-Chairman Marion

EXCUSED: Ms. Logan, Mr. Le Frois

PROFESSIONALS PRESENT: Tom Molica, Esq., Board Attorney of Vogel, Chait, Collins & Schneider, David Simmons, Board Engineer of Harold Pellow & Associates, Jessica Caldwell, PP, of J. Caldwell & Associates

BOARD SECRETARY: Katherine Citterbart

CONSIDERATION OF MINUTES

September 18, 2013

Mr. Ricciardo made a motion to approve the minutes from the September 18, 2013 regular meeting. Mr. Russo seconded the motion.

AYE: Mrs. Mattingly, Mr. Flaherty, Mr. Tharp, Mr. Elvidge, Mr. Ricciardo, Mr. Russo, Mr. Hardmeyer and Vice-Chairman Marion

HISTORIC RESOLUTIONS

NONE

RESOLUTIONS

NONE

OLD BUSINESS

**Cellco Partnership d.b.a. Verizon Wireless (#HPC-2-2013)
Block 7.03 Lot 8
32 Liberty Street
Carried to December 18, 2013 7:00 PM**

Applicant proposing to construct a pre-package gas generator on an 8'x5' (40 sq. ft.) concrete pad and a 500 gallon above ground propane tank on a 4'x9' (36 sq. ft.)

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NEW BUSINESS

Lutz (#PBV-4-2013
Block 1.02, Lot 6
5 Overlook Road

Applicant is requesting approval to construct an addition on a property that is on an unimproved road.

SWORN: Jenny and Jeffrey Lutz, 5 Overlook Road, Newton, NJ 07860

Ms. Lutz stated: My mother is living in the house with us now and we need more room. I am an artist and would like to utilize the attic for the studio. My mother uses the accessory building as her get away. We would like to put a porch on it for her. We are not changing the footprint of the main house. We will put a roof above the existing house and add a porch on the accessory structure.

Mr. Ricciardo asked: You have recently received a variance to conduct a home business in your home. Where in your home do you conduct your business?

Mr. Lutz stated: It is to the right of the room on the right. It is currently my office.

Mr. Ricciardo asked: You not are using any of the additional area for your business correct?

Mr. Lutz stated: Correct.

Mr. Ricciardo asked: In Ms. Caldwell's report and Mr. Simmons report, previous applications on this road, required that the road be paved. It was asked to be done. Is that correct?

Mr. Simmons stated: I brought that up with my report. That was part of Mr. Aspero's application.

Ms. Caldwell stated: It would be the conditional use variance that the applicant received for the home business to make sure they were not impacting that variance at all and found what they were doing does not change the approval so there is nothing overlapped on that. It is strictly the planning variance and the reason for the planning variance is to make sure emergency vehicles can get to the property.

Mr. Ricciardo asked: Can emergency vehicles get to their property?

Mr. Simmons stated: If the existing roadway is plowed and maintained there one lane for the emergency vehicles.

Mr. Lutz stated: Yes, and I will continue to keep it plowed and maintained.

Vice-Chairman Marion opened up this portion of the meeting to the public.

With no public coming forward, Vice-Chairman Marion closed this portion of the meeting.

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Mr. Simmons went through his reported dated October 17, 2013. He stated: In regards to the zoning, this is permitted. There is an existing front yard setback situation with the garage but it is not being touched by this application. As far as the planning variance goes, I gave a brief history of the application next door which never came to fruition and as a result the improvements to the road at that location by the Aspero property were never done. What I did suggest is, if in fact those improvements are ever done, that a condition of the approval would be the Lutz's would extend the improvements onto their property. I believe they are in agreement with that.

Mr. and Mrs. Lutz stated: Yes.

Mr. Simmons stated: As far as the improvement goes, the Lutz's will be responsible for the maintenance and improvements of the road and not the Town. The other suggestion I have is they receive confirmation from the County Health Department because of the expansion to the existing dwelling to make sure the septic system is adequate and any improvements they deem necessary to be made.

Ms. Caldwell stated she had nothing to add.

Mr. Hardmeyer made a motion to approve the application based on Mr. Simmons conditions about the road being improved if the neighbor improves the road and maintains it. Mr. Tharp seconded the motion.

AYE: Mrs. Mattingly, Mr. Flaherty, Mr. Tharp, Mr. Elvidge, Mr. Ricciardo, Mr. Russo, Mr. Hardmeyer, Mr. Steinberg, Vice-Chairman Marion.

Mr. Molica asked Mr. and Mrs. Lutz if they would like to waive the adoption of the resolution and proceed right to the building permit.

Mr. Lutz stated: Yes.

PUBLIC HEARING

An Area In Need Of Redevelopment Study for McGuire Chevrolet Site and Surrounding Parcels
Block: 8.08, Lots: 6, 7, 8, 9, 10, 11, 29, 30 & 31

SWORN: Jessica Caldwell, Board Planner

Mr. Molica stated: The local Redevelopment and Housing Law authorizes municipalities to determine whether certain parcels of land within a particular municipality constitute an area in need of redevelopment as defined in the Redevelopment Law. The Redevelopment Law requires that a study be conducted. In this case the Board's Planner, Jessica Caldwell, has conducted that study. I am going to ask her to present testimony regarding the findings that she has made that are set forth in detail in her report which the Board does have a copy of.

Ms. Caldwell stated: This is an Area In Need of Redevelopment study for McGuire Chevrolet site in the town and surrounding parcels for Block 8.08, Lots 6, 7, 8, 9, 10, 11, 29, 30 and 31.

Ms. Caldwell stated: I created an exhibit of the study area and also handed everyone a smaller version to look at. The one in front of you has the Lot and Block on it for reference. This is an aerial photo of essentially the downtown. The study area is highlighted in red and as you can see

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it includes Lot 6, 7, 8, 9, 10, 11, 29, 30 and 31 all in Block 8.08. It is fronted on Main Street and U.S. Route 206. There is a small portion of frontage on Spring Street and there is frontage on Adams Street. The properties you are looking at are Lots 6 and 7 are two commercial structures. One was formerly a residential structure and one was formerly the Newton Academy. Then you have the McGuire Chevrolet Dealership. You can see all the cars parked on that site. That is their display lot. The grayish building is their showroom along with their garage. There is an auto body repair shop to the rear of that property that they also utilize and then to the Northeast is the U.S. Post Office. Behind those properties is Newton Public Parking Lot #1. That is three parcels there. That is essentially what makes up the study area we are looking at tonight.

Ms. Caldwell went on to state: In terms of the surrounding area if, you look to the Northeast you have the Newton Town Green, adjacent to that going around the Green you have the Newton County Buildings, you have the County Courthouse, several commercial and office structures, along Church Street you have a conglomerate of churches. Going down Main Street you have a mix of office and residential. Along Halsted Street you have residential and St. Joseph Regional Private School. The Southwest of the property you have the Newton Cemetery, and then along Washington and Adams Street you have a mix of office and commercial. Along Spring Street it is our main retail and commercial downtown. There is retail on the first floor and office/residential on the floors above. That is essentially the study area and the surrounding area.

Ms. Caldwell stated: Starting on Page 1, going into more detail about each property we start off with Lot 6, Block 8.08. This property is 79 Main Street. It is currently a commercial structure which is vacant. It was constructed around the 1900's in the Folk Victorian Style. It is on a lot size of .30 acres. It was converted from single family residential to office/commercial in the mid 1980's. It has been abandoned for a couple of decades and it is starting to become dilapidated. There is an unattached two-car garage in the rear which is also dilapidated. In between Lots 6 and 7 there is an access drive that is deed restricted which leads to the Newton Cemetery.

On Lot 7, Block 8.08 which is 75 Main Street, this was formerly the Newton Academy Building. It was constructed in the early 1800s and housed the Newton Academy between 1802 and 1831. Later it renovated to be a mercantile store and residence. It sits on a .204 acre lot. The building has been vacant and deteriorating for more than two decades. It was constructed in Georgian style in the front and there is an additional of a block structure to rear during an unknown year.

The McGuire site covers Lots 8, 9, and 10 in Block 8.08. It is 41-47, 59 & 63 Main Street. The McGuire site covers 2.44 acres and consists of Lots 8, 9, and 10. It is an early 20th century brick building that houses the showroom and garage on the rear of the property. There is also another concrete block building to the rear of the property where they conduct body work.

The U.S. Post Office Building is located on Lot 11, Block 8.08 which is 39 Main Street. It is a .482 acre lot. It is a red brick, single story building which was built in 1959.

The Newton Parking Authority Parking Lot is on Lots 29, 30 and 31, Block 8.08. It is 1, 3 & 11 Adams Street. It is a 38 space parking lot that is owned by the Newton Parking Authority and covers .6 acres. It has frontage on Adams Street and two parcels have frontage on Main Street/U.S. Rt. 206.

Ms. Caldwell continued: As part of the study, we investigated property reports, zoning reports and police reports for the Town. We found four criminal trespass reports for 75 Main Street in the

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last five years. We found three criminal reports on 79 Main Street including criminal mischief, burglary and unsecured premises. There were eight accidents in the last five years in front of the Post Office Site and there were six in front of the McGuire Site.

Ms. Caldwell stated: Also in looking through the records there was a preliminary site plan approval that was granted to Lots 6 and 7, Block 8.08 which is the two separate structures adjacent to McGuire. They did apply for a site plan and were approved to construct a parking lot to the rear and convert both of those buildings to commercial. From the records it appears that the site was cleared but the parking lot was never completed. Hence one of the reasons that 79 Main Street became vacant at that time and was never reoccupied because the site plan was never completed. A letter from the building inspector in the file in 2008 noted some foundation issues at 79 Main Street. There is also a follow-up letter from an engineer on behalf of the owner that also noted evidence of continued movements and settlements with the foundation as far as we can tell there has been no correction of these problems at that location. Additionally there was a construction official letter in the file on 75 Main Street which is the Academy Building. At the time the Historic Preservation Commission in 2001 requested that the building be reviewed to determine what would need to be done to make it a viable commercial space. It had already been abandoned for quite some time. What the Construction Official noted as what needed repairs was a rotted front porch column, peeling paint, broken windows, openings in brick mortar on exterior, disconnected leader drains causing water damage to building exterior, deteriorated roof causing water to enter building, water stained rafters, ceiling plaster falling down and missing, stud cuts in interior walls, holes in walls, electrical service in need of upgrading and plumbing pipes and fixtures in need of upgrading.

Ms. Caldwell stated: In terms of maintenance and zoning violations issued at 75 - 79 Main Street. There are 11 violations noted on 79 Main Street and nine violations noted on 75 Main Street. Many of those violations noted for those properties included failure to cut grass, lack of snow and ice removal. Some of the more serious issues at 79 Main Street were in 1985 conversion of structure from residential to commercial without permits, in 2008 the owner was cited for exterior paint issues, the porch needed repair, foundation needed repair, leader drains needed repair, and basement hatchway needed paint. At 75 Main Street some of the more serious issues were in 2000, failure to paint exterior of the building and in 2008, another issue with paint on the exterior of the building, roof in need of repair, glass needing to be replaced in the windows, address not posted, rear steps in need of repair and debris on the front porch. It appears to me from the files about that time in 2008 is when the windows were boarded up on 75 Main Street. On the next several pages there are some general site photos.

Ms. Caldwell stated: Page 34 of the study is dealing with Existing and Surrounding Land Uses which is noted on the exhibit. Page 36, I have noted several of the objectives for the Town's Master Plan and the goals for their relevancy study. On Page 38 is the Form-Based Code exhibit. The study area is located both in the T-5 Neighborhood Core District and the T-6 Town Core Zone. Most of the study area is located in the T-6 Zone. The back part of the property which fronts on Adams Street is in the T-5 Neighbor Core Zone.

Ms. Caldwell stated: Page 42, starts the analysis. In terms of the relationship to the surrounding neighborhood for the important aspects of this study area is that is in the Historic District. There are two historic districts within the Town. One is located in the historic district which is applied locally and there is also the Newton Town Plot Historic District which is on the State and Federal registers. The Town Plot District covers the front parcels of the buildings on U.S. Rt. 206 and the entirety of the parcel is located in the local Historic District. One of the concerns in evaluating this study area is the dilapidation, vacancy and other issues with the properties. But some of

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these issues have spread to some of our significant historic structures throughout the district. That is one of the concerns we are addressing with the study. In terms of some of the historic background on some of these properties, again 79 Main Street was built in 1900 as a residence and was converted to a commercial structure for offices in the mid-1980s. 75 Main Street was constructed in 1802 and has had several uses over the years. Following being the Newton Academy in 1831, it was a mercantile store and residence; it was converted into eight apartments for a period of time and later was converted to a commercial use in the mid-1980s. We have found in the records that it has been vacant since at least the early 1990s but more than likely several decades more than that.

The McGuire Chevrolet building was built in the early 20th century. It started in 1915 as the J.R. Roof Company and operated as a garage and filling station at the site. Interestingly, J.R. Roof was not the first structure on the site; there were structures that were demolished to construct the J.R. Roof Company. The original façade of the structure has also been altered. As you can see from the photos on the bottom of Page 43, the original façade was a Mission Revival style which is very typical of garage type stations. It has now been converted to a hip and gable roof façade as of today. On Lots 8 and 9, we found information that there was an old mansion called the Inslee Mansion that was on that site up until 1966. It housed the Town's Young Women's Christian Association (Y.W.C.A.) until 1966 when it was demolished to provide the display lots for the J.R. Roof Company prior to becoming the McGuire property.

Where the Post Office stands, it is actually the third use. Originally it was a drugstore in the mid 1800's. That was demolished and there was a Library Hall constructed. It was a three-story structure. On the first floor there was the post office and the library and on the second floor you had offices of the NJ Herald. On the third floor it was a community room for a while and later converted to the Town's Opera house. That structure was demolished as the library moved to its current location on Main Street and Elm Street and the Post Office building was constructed in 1959. We didn't find any information on the structures that are on the Town of Newton's parking lots but it is most likely buildings were demolished to make rooms for the lots as they have been before for most of the parking lots in Town.

Ms. Caldwell continued and stated: In terms of environmental issues on the site, there are no wetlands or riparian zones or category one stream or other DEP environmental constraints on the site. The study is not in the New Jersey Highlands Planning and Preservation Areas or no threatened and endangered species on the site according to the DEP databases. There have been, however, anecdotal reports that some environmental contamination is present on the dealership site. The Town has not had access to those environmental reports, however, given historic use of the site as an auto shop; it is likely that soil contamination may have occurred over the years as lack of containment of fluids for 16 vehicles as well as underground storage tanks may have leaked overtime. All we can say right now is we do not know of any severe contamination of the site but the environmental studies are ongoing.

Ms. Caldwell referred to Page 46, Findings, we did find that at least three or more of statutory criterion to qualify as being an area in need of redevelopment as found on all of the sites.

Ms. Caldwell stated: Starting with 79 Main Street, Lot 6 Block 8.08 meets qualifying criteria a, b, d and h of the Redevelopment Law. Criterion "a" states that the generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions. 79 Main Street exhibits these characteristics of criterion "a". The exterior of the building is dilapidated with peeling paint and rotting wood. The structure has been

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abandoned since approximately 1987 and is becoming more and more dilapidated overtime. The unattached structure behind the garage is being occupied by homeless people and filled with garbage causing unsanitary and unsafe conditions. The exterior of the garage is dilapidated with peeling paint and rotting wood. Numerous code enforcement notices have been issued on the property over the last 20 years and police reports have indicated four criminal trespass complaints in the last five years. For these reasons, 79 Main Street meets the "a" Criterion.

Under qualifying Criterion "b" abandoned commercial and industrial buildings states the discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable. 79 Main Street was last used as a commercial office space as we noted in 1987. Preliminary site plan approval was granted but never completed therefore eliminating any further occupation at the building without completing that site plan. The vacancy of the building has caused it to fall to a state of disrepair. The Town's records show a history of neglect of the property with property maintenance violations dating back to 1984. Eleven violations were issued and noted in additional four reports of criminal trespass on the property in the last five years. The vacant and dilapidated status of this property meets Criterion "b"

Under Criterion "d" stated: areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals or welfare of the community.

79 Main Street as noted under both Criteria "a" and "b" is dilapidated and vacant, having fallen into a state of disrepair, over long term vacancy of more than 20 years so as to be untenable. The dilapidation and vacancy has resulted in trespassing in the unsecure, unattached garage which is filled with litter and debris. The vacancy and dilapidation of the building has caused it to be detrimental to the safety, health and welfare of the community. As a result, the site meets Criterion "d".

Under Criterion "h" addresses smart growth and consistency and provides a municipality can designate an area in need of redevelopment if the designation is consistent with smart growth principles. There are 10 general principles that define smart growth. They are mix land uses, taking advantage of compact building design, creating a range of housing opportunities and choices, creating walkable neighborhoods, fostering distinctive, attractive communities with a strong sense of place, preserving open space, farmland, natural beauty, and critical environmental areas, promoting development and redevelopment in areas of existing infrastructure, provide a variety of transportation choices, making development decisions predictable, fair, and cost effective, encouraging community and stakeholder collaboration in development decisions.

The Town of Newton adopted smart growth planning principles in its 2008 Master Plan. Additionally, the Town has been endorsed by the State Planning Commission for its plans and deemed them in being consistent with the State Plan. Smart growth principles that apply to this site include walkable communities, creating distinctive attractive communities offering a sense of place and promotion of development and redevelopment in areas with existing infrastructure. 79 Main Street has become a blight to the community as noted under Criteria "a" and "b" because of its dilapidated exterior, unhealthy conditions, debris and other public and health issues. This hinders the property from being a distinctive, attractive sense of place to

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the community. The site is also located where existing infrastructure is and it is on a State Highway with water and sewer utilities. Therefore redevelopment at 79 Main Street would be consistent with smart growth principles and Criterion "h".

Ms. Caldwell referred to Page 55, qualifying criteria for 75 Main Street Lot 7, Block 8.08. The study found it met criteria "a", "b", "d", and "h" of the Redevelopment Law. Again, Criterion "a" of the Redevelopment Law states: The generality of buildings are substandard, unsafe, unsanitary, dilapidated or obsolescent, or possess any such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions. 75 Main Street exhibits every aspect of the "a" Criterion. The building has been abandoned for more than two decades, falling more and more into disrepair as time goes on. The investigation was limited to the exterior however an inspection conducted by the Town's Construction Official in 2001 noted numerous repairs need to be done to the interior of the structure. The exterior of the wood on the building is rotting, the stucco is deteriorating, gutters are not attached, water sheet flows over the building when it rains, causing the stucco on the exterior to wear. Paint is peeling on the exterior of the building, all windows and doors on the building are covered with plywood. There is no electrical service to the building. Evidence of foundation separation and bricks with deteriorating mortar are seen around the exterior of the building. The building is completely uninhabitable as it stands currently. For these reasons it meets Criterion "a".

Criterion "b" the discontinuance of the use of buildings used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings in same being allowed as great of disrepair as to be untenable. As noted under Criterion "a" the building has been abandoned and vacant for several decades. Windows and doors are covered with plywood and the building is completely inhabitable in its current condition. Preliminary site plan approval was granted to the site but never completed there by eliminating any further reoccupation of the building without completion of the plans. There are nine violations issued between 1984 and 2009 for code maintenance issues and there were three incidents of crime reported on the site over the last five years. For these reasons 75 Main Street meets Criterion "b" of the Redevelopment Laws.

Under Criterion "d" areas with buildings or improvement which by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors are detrimental to the safety, health, morals or welfare of the community. 75 Main Street as noted under both Criteria "a" and "b" has been abandoned and vacant for more than two decades. The building has been boarded up since 2005 and is not connected to electric utilities. Consequently, the structure is lacking in light, air, ventilation and sanitary facilities causing it to be detrimental to the safety, health, morals and welfare of the community. For these reasons, the site meets Criterion "d".

Under qualifying Criterion "h" addresses smart growth planning principles. The smart growth principles that apply to the site include: creating walkable communities, creating distinctive attractive communities offering a sense of place and promotion of development and redevelopment in areas with existing infrastructure. The vacant structure has become a blight to the community. The vacancy of the building and its dilapidated exterior, presence of unhealthy conditions, debris and other public, health and safety issues, cause this structure to hinder the distinctive, attractive sense of place of the community. The site is in a location with existing water and sewer utilities as well as frontage on an existing State Highway. Eliminating those conditions at 75 Main Street is consistent with Criterion "h".

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Ms. Caldwell referred to Qualifying Criteria for McGuire Site: 41-47, 59 & 63 Main Street: Lots 8, 9 and 10, block 8.08. The study found that this site meets criteria "a", "d", "h" and Section 3 of the Redevelopment Law. Under Criterion "a" of the Redevelopment Law states: The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space as to be conducive to unwholesome living or working conditions.

For the McGuire site it is a little bit different than some of the other sites. What we are looking at is obsolescence of design of this study. The McGuire Dealership has been operated as a car dealership since the early 20th century. Now, just under 100 years old, the dealership has become obsolete according to dealership standards set by General Motors and industry standards for dealerships in general. As a response to bankruptcy in 2009, GM launched a program called Essential Brand Elements to incentivize dealers to upgrade, improve and move their facilities. The goal was to increase the marketability of each dealership by focusing on a standardized dealership model that would be competitive with import dealerships. Starting in October 2010, GM sent inspectors to all its dealerships to grade them on their facilities and determine if they should upgrade their existing facility in place or move to a new location. As part of the program, GM offered large cash incentives for upgrades. It also looked to reduce its total number of dealerships in order to be more competitive. Dealers that didn't upgrade faced the possibility of losing their franchise. GM's Essential Brand Elements program is a response to a nationwide trend by car manufacturers to meet consumer's demands for improved retail appearances and better in-store experiences. Nearly all car manufactures, not just GM, are leaning on dealers to update the look and feel of their facilities to match a consistent image across the nation. In response to the manufacturer's push for upgrades, there has been a trend for car dealerships to move to the suburbs and away from downtown locations.

As a result of the Essential Brand Elements Program and the national car dealership trends noted above, the McGuire Dealership is in the process of moving its facilities to Hampton Township located at U.S. Route 206. If any of you have driven down to that facility, they are almost completed. I have heard they should be in the next month or two. The colocation of dealerships along with all the other dealers is another incentive for that dealership to move. With the trends in new dealership standards and location, the existing McGuire site has become obsolete for a car dealership. The small showroom, lack of customer waiting areas, lack of customer parking, small display lot and lack of space for vehicle deliveries, all hinder the ability of the dealership to meet the trends in demand for car dealerships. The site is also substandard for size and accessibility. The signage and building design are substandard according to General Motors corporate guidelines. The current site will be vacated by the end of 2013.

The McGuire site size and location limits any expansion of the building or the current use on the site. If the building were to be expanded, it would remove display lot space, which is already substandard. Because the site is specifically tailored to an automobile dealership, with a showroom, repair shops and display parking lot, the obsolete design of the site is not conducive to a different use without major alterations to the buildings and layout of the site. The lack of a sufficiently sized loading zone and the stacking of cars not only within the parking lot but also on a public sidewalk cause traffic safety hazards as well as encounters with pedestrians. Police reports have shown six motor vehicle accidents at the site over the last five years. The obsolescence and substandard aspects of the site meet the "a" Criterion of the Redevelopment law.

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Under Criterion "d" areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community. The McGuire site meets the "d" Criterion due to faulty arrangement and design noted, previously overcrowding, deleterious land use that has caused environmental issues on the site and the obsolete layout and design that result in a detriment to the health, safety and welfare of the community.

In terms of the deleterious land use plan I went through the obsolete layout and design with Criterion "a". For the deleterious land use has been destroying the land overtime. Under the environmental section there have been anecdotal reports of the site as an auto repair shop has created contamination of the soils on the site. Due to the historic lack of modern containment facilities for hazardous fluids and possible leaking of underground storage tanks and use of the site overtime as a car dealership has caused environmental contamination. The studies are ongoing on site however it is clear that they will result in the need for any environmental clean-up on the site when it is vacated.

Under the current T-6 Zoning, the Town Center Zone, a car dealership is not permitted use. This auto-oriented use is not appropriate in an urban downtown setting with a focus on pedestrian scale development. The McGuire site is not in conformance with the Town's ordinances and it is non-conforming for building type, parking area and landscaping design and screening and buffering. The McGuire Dealership is a deleterious land use and will require environmental mitigation. For these reasons and reasons noted above, the McGuire site meets Criterion "d".

Under Criterion "h" addresses smart growth principles. Some of the principles are creating a distinctive, attractive sense of place, mixing land uses, taking advantage of compact building design, promotion of development and redevelopment in areas of existing infrastructure. The McGuire site is an obsolescence land use that is noted previously and a large part if the obsolescence is that it is an auto oriented use in the heart of the pedestrian downtown. This use is not congruent with the Smart Growth Principals of creating walkable communities and creating distinctive attractive communities that offer a sense of place. The clutter of cars on sidewalks, alleys and adjacent lots hinders the pedestrian experience. The one story building and the underbuilt frontage of the lot are not contributing to the character of the study area or fostering a sense of place. The site does not take advantage of the mixing of land uses or a compact building design. Both of these smart growth principles are important in downtowns to create a mx of retail, office and service uses that provides for a vibrant downtown. The underutilization of the site with large expanses of parking and the one story, single use structure on the site are not in keeping with smart growth principles. For these reasons, the McGuire site is consistent with Criterion "h".

Under Section 3 of the Redevelopment Law, a redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety of welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.

The McGuire site is centrally located with the study area and provides frontages along U.S. Route 206/Main Street and Spring Street. The relatively large size of the lot, 2.44 acres, coupled with its central location in the study area and connective street frontages, makes it a necessary piece of the study area to facilitate the effective redevelopment of the area. For these reasons, the

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McGuire site should be included within the area according to Section 3 of the Redevelopment Law.

Ms. Caldwell referred to Qualifying Criteria for the United States Post Office, 39 Main Street, and Block 8.08 Lot 11. The study found that this site meets Criteria "d", "h" and Section 3 of the Redevelopment Law.

Ms. Caldwell read through Criterion "d".

The U.S. Post Office site exhibits an obsolete layout, design and insufficient circulation for the use. The Post Office site is not in conformance with the Town's ordinances as it is non-conforming for building type, parking area, landscape design, screening and buffering. The site is limited in size and allows no possible area for expansion. There is limited landscaping on the site and customers must park along U.S. Route 206 at a lighted intersection, which makes it dangerous to exit vehicles with adjacent traffic being so close. It is also difficult to merge into traffic when vehicles are stopped at the light. There is very little room for employee and mail truck parking along the rear of the building, which results in parking along the alley connecting to U.S. Route 206. Given the unique aspects of the Post Office use, it is not likely that the structure can be easily converted to another use or expanded to better accommodate the current use. Police reports have shown eight motor vehicle accidents at the site in the last five years. The property is non-conforming for building height, building type, landscaping design, screening and buffering. The non-conformities illustrate the faulty arrangement and design of the site. For these reasons, the Post Office site meets Criterion "d" of the Redevelopment Law.

Under Criterion "h" smart growth principles. Ms. Caldwell stated the smart growth principles as noted. The Post Office site has poor pedestrian and vehicle circulation on the site. The high level of use of postal vehicles in and out of the alleyway on the site creates a hazardous situation for pedestrians walking along the sidewalk. The single use aspect of the site and the one story façade do not contribute to the mixed-use nature of the downtown. For these reason, the Post Office site is consistent with Criterion "h".

Ms. Caldwell read Section 3 under the Redevelopment Law.

The Post Office alley access meets the existing traffic light on U.S. Route 206/Main Street, which would facilitate circulation into the site at a lighted intersection rather than directly adjacent to one. For this reason the Post Office site should be included under Section 3 of the Redevelopment Law.

Newton Public Parking Lot #1: 1, 3 & 11 Adams Street: Lots 29, 30 and 31, Block 8.08. The Newton Public Parking Lot #1 meets Criteria "c", "h" and Section 3 of the Redevelopment Law.

Under Criterion "c" states that land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.

Lots 29, 30 and 31 are owned by the Town of Newton Parking Authority and encompass Newton Public Parking Lot #1 for the downtown area. The tax lots are owned by a public entity; however they are the most difficult to access in the Town due to the lack of frontage on any

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arterials or higher level two way streets. The only access to the lot is on Adams Street, which is a narrow, one-way street. There are two egress points, either back onto Adams Street or through an one-way alley that connects to Spring Street. Additionally, the only frontage is on Adams Street. The site is located behind existing commercial structures on Spring Street and has provided access and parking for those structures for many years. For these reason, the potential for private capital to invest in upgrading the parking area or developing the area from some other use is not likely. The topography of the site is also a limiting factor, with the site being surrounded by retaining walls at several sections of the parking area. For these reasons, Newton Public Parking Lot #1 meets Criterion "c".

Under Criterion "h" addresses smart growth principles. Smart growth principles that apply to the site include: creating walkable neighborhoods; providing a variety of transportation choices; and promotion of development and redevelopment in areas with existing infrastructure. The sites can also be used for bike storage or additional types of activities. The site also has sewer and street frontage and for these reasons, the site meets Criterion "h" of the Redevelopment Law.

Ms. Caldwell read Section 3 under the Redevelopment Law.

Lots 29, 30 and 31 encompass newton Public parking Lot #1. The parking area provides frontage to Adams Street, parking potential for the area and provides for additional circulation and additional ingress and egress locations. Without the inclusion of these lots, the remaining lots in the area would not be able to be effectively redeveloped because of the need for area to provide for parking on those lots. For these reason, the Newton Public Parking Lot#1 should be included in the area sunder Section 3 of the Redevelopment Law.

The recommendation for the plan finds that the study area meets Criterion "a", "b", "c", "d", and "h", Section 3 of the Redevelopment Law. Conforming to the findings noted above, the study recommends the Town Council designate the study area as an area in need of redevelopment pursuant to the Redevelopment Law.

Mr. Molica stated: As a matter of housekeeping, I wanted it to be articulated on the record that this hearing was in fact noticed per the requirements of the Redevelopment Law. I should have made that announcement in the being like we do with other Land Use Development applications. A copy of the notice was posted and distributed to the Board members in their packets.

Vice-Chairman Marion asked the Board if they had any questions on the study.

Mr. Flaherty asked: I have a question on the accidents at 79 Main and 39 Main Street. Did you review the accidents reports? Did any of the accidents have to do with postal trucks? Or were they just accidents that happened on Rt. 206 in front of the US Postal Office.

Ms. Caldwell stated: Unfortunately there is not enough detail to determine the exact details on the accident.

Vice-Chairman Marion asked: If we had someone who was interested in these buildings what would happen to the access to the back of these buildings?

Ms. Caldwell stated: That was one of reasons that I noted in terms of needing a redevelopment area designated for these properties. There may be some rights to access for those buildings

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and that would have to be something that would have to be evaluated and taken into account. There probably are some property rights there. It could be an issue.

Mr. Flaherty asked: Lot 7, the old Newton Academy that is an historical site, what effect does that have on the redevelopment? Is it even possible to redevelop that site?

Ms. Caldwell stated: That is something we have to study if the designation is given. At this point we are evaluating if the area meets the redevelopment criteria.

Mr. Hardmeyer stated: I believe McGuire was looked at but because of its historical aspects they could not do anything with it. Is that your understanding as well?

Ms. Caldwell stated: My understanding was they could not come to terms on a price.

Mr. Ricciardo stated: From what I remember when McGuire came to the Historic Commission they wanted to demolish and put a new facility up there for another type of car dealership. The Historic Commission turned them down based on the fact they said it was a historic building. At the time, the building was not in as bad shape as it is presently. If they had been approved, they might not have been moving from Newton to Hampton. They may still be there. They were not permitted the ability to expand.

Mr. Hardmeyer asked: Did they appeal that?

Mr. Ricciardo stated: No. They did not want to go through the fight again. The Historic Commission did not approve their application.

Mr. Elvidge stated: That is correct. Ten years ago the Historic Commission did not allow that to be demolished. As the particular time, contemplating demolishing a building was new to the Historic Commission. It was something that was not going to happen. Since that time, I don't think there has been a nickel put into that place as far as repairs.

Mr. Marion stated: I was on the Historic Commission at that time and I was in favor of the demolition with a few other members but it was out voted. Their plan was to tear down the building a make it a parking and adjacent to the building at the back of the dealership add a "L" shape expanding their service, having a second floor for training. They needed the extra space because they were going to lose spots by adding on to the building. The Historical Commission voted it down and at that time the buyers decided not to buy that lot.

Discussion ensued.

Mr. Molica stated: It is your testimony that your report does reflect that each of the 9 lots in Block 8.08 satisfies at least one, but all of, the more than one statutory criterion set forth in Chapter 12A - Section 5 of the Redevelopment Law, is that correct?

Ms. Caldwell stated: That is correct. We found that each one had at least three.

Mr. Molica stated: So individually and collectively you look at the 9 lots together as a whole, regardless, they satisfy at least individually three of the statutory criterions?

Ms. Caldwell stated: That is correct.

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Mr. Molica stated: If 1 of 8 different criteria are found that is enough to satisfy the finding that it is an area in need of redevelopment. In this case we are talking about 8 lots where at least 3 of the criteria exist pursuant to the expert testimony of the Board's professional planner.

Discussion ensued.

Mr. Molica stated: The noticed materials do reflect that the necessary property owners were in fact noticed.

Vice-Chairman Marion opened up this portion of the meeting up to the public.

1st Public

SWORN: Nick Gangemi, 12 Birch Street, Randolph, N.J.

Mr. Gangemi stated: I am a redeveloper and I am interested in 79 and 75 Main Street. If anybody has been inside 79 it is beautiful. The woodwork, there is lead lined glass, hardwood floors throughout, 10 foot ceilings with the pocket doors. The exterior is probably 60,000 to 70,000 dollars' worth of work but is it well worth doing. There is nothing you can do with 75 Main. That has to come down. I was just questioning because it sounded like there were some references made to a developer coming in and purchasing it. I think anyone that owns a lot should be able to redevelop it themselves instead of someone coming in and doing something. That is my only comment.

Ms. Caldwell stated: If the Planning Board and the Town Council are in favor of the study then the next step would be to create a plan which includes those properties.

Mr. Ricciardo asked: What were you planning on developing it into?

Mr. Gangemi stated: I was looking to turn it back into a lawyer's office. Once I got into it and heard about this and if I am going to put a sizable amount of money into as an investment I wasn't going to start planning anything until the study was done.

Mr. Hardmeyer asked: This study doesn't prevent people like him who own a lot or want to buy a lot from proceeding, right?

Ms. Caldwell stated: No, it doesn't prevent that. We did notify and spoke with him personally and gave them a heads up that they might want to wait until the study is over and we do the plan.

Mr. Gangemi stated: I appreciated that.

2nd Public

SWORN: Jack Belici, Post Master, Newton, N.J.

Mr. Belici stated: Our lawyer Stuart James would like you to contact him on all issues. It is a federal building and they are telling us that it is not under these eminent domain laws. He would like me to give his name, number and any further contacts to be contacted through him if anything is going to transpire.

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Mr. Molica stated: He should send written confirmation.

Mr. Belici stated: In regards to the accidents, there has never been a postal accident in front of the building not an accident involving a postal truck.

Mr. Ricciardo asked: Is it a tight site and do you have adequate parking for your trucks?

Mr. Belici stated: Yes. It is a tight site and no, we do not have adequate parking.

Mr. Ricciardo stated: Just so you understand and I think the Governing Body and the Planning Board have said a thousand times the intention is not to use eminent domain ever on any building in this community.

Mr. Belici asked: They also wanted to know if there were any plans to put anything on the site?

Ms. Caldwell stated: There are no plans at this time.

3rd Public

SWORN: Peter Chletsos, President of the Sussex County Historical Society, Sparta, N.J.

Mr. Chletsos stated: Our building is right across the street from Lots 6 and Lot 7 is a very interesting lot for the Historical Society because as you said that building was the first Newton Academy which was then moved up to Academy Street and not occupied any more. It was used for dormitories. About 35 years ago it was the Republic Party. They left it and as you can see you no one has taken care of it. It is an important building. I hope part of the planning does take that into consideration as well as the access between Lots 6 and 7. It is the only access we have to the cemetery. We have rights to the cemetery as far as keeping it, cleaning it and taking care of it.

Mr. Ricciardo asked: Besides from being an Academy at one time and abandoned for the past 30 so years, what historic value in your opinion does that building have?

Mr. Chletsos stated: I wish it was in better shape because we would buy it. We need more storage space. Our building as you can see is a small building. We have a lot of artifacts and we are looking for more space. We did consider buying it. Aside from that no, it was an historical building.

Mr. Ricciardo asked: Is it on any historical registers?

Mr. Chletsos stated: It should be. I really don't know as far as that is concerned. It is part of the Historic District. The building itself, I don't think. Our building is on the Historic Register.

Mr. Steinberg stated: If someone did purchase the building and try to restore it, by the time you are done restoring it with new windows and everything else, it is not going to maintain any of its characteristics. It is going to have all modern materials and there are a lot of other buildings in Newton to buy.

Mr. Chletsos stated: I understand that. I have known builders that in other counties have taken old buildings and kept the face of the building and changed everything else to be more in line

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to what the building looked back in the 1800's or late 1700's. Builders have done that in the past but it depends on who purchases the property or the area.

4th Public

SWORN: Alex Everitt, Jr. Lafayette, N.J.

Mr. Everitt stated: I am a graduate of Newton High School; I have been a member of the Sussex County Historical Society for over 40 years, Board of Trustees. I would like to let people know that there is a picture on the 1854 map of Newton and that the front of the Academy Building is exactly the same as it was in 1854 and probably the same when it was built in 1802 and it is either the 2nd or 3rd oldest building in Newton. Most people know that Newton does not have a good reputation in saving historic structures. This may be a chance for Newton to redeem itself. There has been a lot of time, effort and money spent on this report and I would like to see that money and brains spent on trying to save the 2nd or 3rd oldest building in Newton.

With no more public coming forward, Vice-Chairman Marion closed the public portion.

Mr. Tharp asked: If we don't approve this, any property owner who wants to improve this property, they would have to meet the requirements of new the Master Plan and Zoning?

Mr. Molica stated: There is a resolution that is within your packets we will be adopting tonight. In the event the resolution is not adopted any parties seeking to develop or redevelop any of these lots in this particular area that we have been discussing tonight would be subject to zoning ordinances and the Town's Master Plan requirements. You would be subject to use requirements, bulk requirements, etc.

Mr. Flaherty asked: It was mentioned by the Post Master that they may not be subject to this redevelopment. It is true?

Mr. Ricciardo stated: I thought he said it is not subject to any eminent domain.

Mr. Molica stated: If the Post Office is going to take a position, then I would want to talk to their attorney or Mr. Soloway would like to speak to their attorney. There was no defect in the notice. We were not required to directly notice council for the Post Office. I would urge them to contact me if they have any issues they would like to talk about that. That being said I don't see any reason why the Board can't proceed with formal action tonight.

Vice-Chairman Marion asked about losing parking spaces. The town relies on public parking.

Ms. Caldwell stated: We are jumping ahead a little bit. Right now we are looking at whether this should be designated as an area for redevelopment. The next step would be to do the plans. I have no knowledge of the Parking Authority wishing to sell their property or not. My best guess is it would remain parking.

Mr. Ricciardo stated: A redevelopment plan always has to come back for approval.

Mr. Tharp asked: We need to be clear on this. It does not force existing property owners to sell their property?

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Ms. Caldwell stated: It does give the power of eminent domain.

Mr. Tharp asked: Isn't eminent domain only if the Town owns the property.

Ms. Caldwell stated: It only applies if the Town Council decided to utilize the power. They are granted the power through the eminent domain.

Discussion ensued.

Mr. Ricciardo requested Jennifer Creddido to explain eminent domain. Mr. Molica introduced Ms. Creddido as the Town's Redevelopment Attorney.

Ms. Creddido stated: I always like to start with answering any questions by stating I am not council to the Planning Board. You are very able represented with Mr. Molica this evening. As far as the procedures for eminent domain go they are set forth in the Eminent Domain Act which is 20:3-1 et seq. Whenever eminent domain is exercised whether it is for the acquisition of property, road or school or for redevelopment there has to be a negotiation evaluation. There is a process. Under statute, property owners will be given fair market compensation. There is always a lot of discussion as a policy matter as to whether the current eminent domain statutes are sufficient, whether they addresses that sufficiently or sufficiently protect homeowners. That is a debate that has been going on for many years. But yes, any condemnation by a municipality does require a purchase.

Mr. Molica stated: You are not just taking property and not paying for it. It is a future consideration possibly. We heard from Mr. Russo and other Board members comment in their knowledge it has necessarily happened in the town. But tonight what you are doing is one of the initial parts of this whole designation process and that is deciding whether or not to recommend to the Town Council to declare the area that Ms. Caldwell has discussed tonight an area in need of redevelopment.

Vice-Chairman Marion stated: I think what some of the members are worried about is if we were to vote on this and it passed, we want to make sure the people who own these lots are not immediately subject to eminent domain. We want to look out for them.

Mr. Tharp stated: We don't want to open up a door for a hardship.

Mr. Russo stated: This is no different from any other redevelopment that we have approved, so with no disrespect to the Board members, this process should be like the other ones we have entertained. The Council to their credit have been successful in tracking developers without the use of eminent domain. Sparta Avenue has been successful; we have a contract on the Newco property for Hicks Avenue. Patterson Avenue is doing well; the Armory. We have demonstrated success without using that stick and I don't see this being any different. If you look at these properties you have two dilapidated properties next to McGuire's, there is nothing worse than a vacant car dealership for a downtown. The Parking Authority has demonstrated through the RPM project that they are amenable to discussing leasing their rights, possibly a parking garage that would benefit the downtown and sustain any new businesses coming into town. I give Ms. Caldwell a lot credit. I know a lot of work went into this. I think it is a solid study and what we are looking at right now is whether the area qualifies under the legal criteria for redevelopment and based on the chart on Page 80 and everything leading up to it I think it meets the criteria.

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Vice-Chairman Marion stated: I was on the Planning Board for the Armory/Shoprite Redevelopment study. I think that is a little different. I think the Town owns the Armory. You are talking about one business. In this case, you are talking about the gentleman who owns a couple of houses, the rest of it is McGuire, the town parking lot, and now you are talking about the Newton Post Office. It is a little different than what we have dealt with in the past. The

Sparta Avenue project you are talking about, I was on the Zoning Board at that time, so I don't know what was involved with that. But I am trying to look out for everybody.

Mr. Russo stated: I understand, but I disagree.

Mr. Hardmeyer stated: A lot of these questions are good. There are a lot of new members on this Board that haven't been through redevelopment. One thing I haven't heard and I would like to hear is if I were a property owner what is the benefit to me as a property owner of having my property in a redevelopment area?

Ms. Caldwell stated: That is a good question. Sometimes people tend to focus on the negative. The reason why we went through this for Newton is the numerous benefits it provides not only for the property owners but to the Town. There are several benefits that are statutorily permitted through the Redevelopment Law.

Ms. Creddido stated: The Redevelopment Law confers upon municipality multiple zoning, planning, contract and financial powers including the possibility of granting a payment in lieu of taxes for an arrangement with properties that are redeveloped within an area in need of redevelopment. With all of the questions that we have been discussing tonight with the exception of the eminent domain question, which I think is a very valid point as in fact noted in the notice that was published and that was sent to property owners that the finding does authorize if made by the municipal governing body does authorize eminent domain. I am a little hesitant to get too far down the road to the redevelopment of an area because it really should not sway your decision, in my personal opinion whether it meets the criteria or not. The question is whether it meets the criteria now not whether we would like something different, better or new. Again, since I don't represent the Planning Board, you take my commentary for what it is worth.

Mr. Molica stated: Ms. Caldwell did testify that each of the 9 lots that we are talking about tonight satisfied at least three of the statutory criteria for finding a designation of an area in need of redevelopment, is that correct?

Ms. Caldwell stated: That is correct.

Mr. Molica state: That is significant, is it not Ms. Caldwell?

Ms. Caldwell stated: It is very significant. I think this is why the Town is going down the road that it is going. You have all these troubles that meet the designation criteria. It provides the Town with numerous benefits. We are following the McGuire vacancy and the impact it can have on the downtown.

Vice-Chairman Marion stated: I am glad the Town had the foresight to do this. I would hate to see the McGuire lot sit vacant for 30 years like the Newton Academy Street School. I just think some of the members on the Board wanted to make sure that all their questions were answered so they have a clear conscious when they vote yes or no.

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Mr. Ricciardo stated: Don't forget we have a final approval or disapproval of a redevelopment plan. Whenever the plan is developed by the redevelopment committee it will come to this

Board for review and approval. There are public comments, public hearings and you can vote yes or no when you see a plan of what they actually intend to do.

Ms. Caldwell stated: And you see the site plans as well. This is just the first step in a long process.

Mr. Ricciardo requested that Mr. Molica read the resolution into the record. (see attached)

Mr. Ricciardo made a motion to adopt the resolution as read into the record by the Planning Board Council. Mr. Russo seconded the motion.

AYE: Mrs. Mattingly, Mr. Tharp, Mr. Elvidge, Mr. Ricciardo, Mr. Russo, Mr. Steinberg, Vice-Chairman Marion

NAY: Mr. Flaherty, Mr. Hardmeyer

EXECUTIVE SESSION

NONE

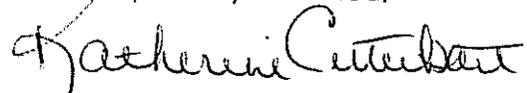
PUBLIC PORTION

NONE

ADJOURNMENT

Mr. Steinberg made a motion to adjourn the meeting. Mr. Ricciardo seconded the motion. The meeting was adjourned at 9:07 PM with a unanimous "aye" vote. The next regularly scheduled meeting will be held on December 18, 2013, at 7:00 PM in the Council Chambers of the Municipal Building.

Respectfully submitted,



Katherine Citterbart
Planning Board Secretary