

**Newton Planning Board
August 7, 2014 Special Meeting
7:00 PM**

A special 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: Mr. Flaherty, Mr. Marion, Mr. Tharp, Mr. Elvidge, Mr. Flynn, Mr. Russo, Jr., Ms. Logan, Mr. Hardmeyer, Chairman Le Frois

EXCUSED: Mr. Steinberg, Ms. Gill

PROFESSIONALS PRESENT: David Soloway, Esq. of Vogel, Chait, Collins & Schneider, Jessica Caldwell, PP, of J. Caldwell & Associates, David B. Simmons of Harold Pellow & Associates.

BOARD SECRETARY: Katherine Citterbart

CONSIDERATION OF MINUTES

None

HISTORIC RESOLUTIONS

None

RESOLUTIONS

None

NEW BUSINESS

Julie Richard, LLC (#PSP-2-2014)
Block 18.02, Lots 2, 3, & 18
4 Diller Avenue

Applicant is requesting minor subdivision, preliminary & final site plan approval with variances to permit the renovation of an existing building and construction of a commercial building and building pad together with a 122-space parking lot improvement.

William Haggerty, Esq. of Dolan & Dolan represented the applicant. He stated: I would like to thank the Board members for their attendance and for helping us get before you with a special meeting.

Mr. Haggerty stated: The application is for site plan, and minor subdivision approval and variances. The application was reviewed and deemed complete on July 16, 2014. We have three properties we are dealing with. The Moose Lodge property which is Lot 3, we have a parking area property Lot 2 and Lot 18 which is the DMV building. We would propose joint use of the parking area. We are sensitive to the issues with grade easement, we are sensitive with the issues of the bike path and we will address those specifically.

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Mr. Haggerty called the engineer.

SWORN: Mr. Joseph Golden, 21 Main Street, Newton, NJ.

Mr. Golden stated he is a licensed professional engineer in the State of New Jersey and a professional planner since 1986. I have appeared before this Board on several occasions. I have testified with this Board prior and my license is current.

The Board accepted his credentials.

Mr. Golden referred to **Site Plan Exhibit as Exhibit A-1, dated 5/20/2014, last revised 8/6/2014.** The Moose Lodge is located at the corner of Diller and Lower Spring Street. This concept has been developed over many years. I felt parking would be important and to make sure we have adequate parking for other uses in the area. The idea for this is that the Moose Lodge will be expanding. The original site was 65,776 sq. feet. The Moose Lodge lot will be 12,132; the building we propose to build immediately is located in the center and identified as Lot 3.02 and that contains 28,337 sq. feet. The 3rd lot which is part of the subdivision but is not part of what we are asking for in the site plan is going to be for future use and we want to do the subdivision so we can have everything planned out for the future and that lot will be 21,049 sq. feet. The Moose Lodge will remain and be renovated. It will essentially maintain the core base and have a bit more in the rear. At the center of the site we propose a new building which is 8,490 sq. feet. That will be an office use. It will be a 1 1/2 story type facility and the last pad is proposed for an approximately 6,000 sq. ft. commercial office type use for future development. For each of these lots we have been in front of the Council. We have made arrangements and have satisfied Mr. Simmons concerns about water and sewer connections in an endeavor to get these connections installed before they repave Diller Avenue. The parking lot will be repaved. We are going to use material that is like asphalt. We are proposing a 3 inch leveling overlay to ensure it is a flat lot. We will end up with 5 inches of asphalt. It will be very substantial for a parking lot. We are proposing two-way access on lower Spring Street. We are proposing one-way access out of the parking lot. There is very little drainage. It is a flat lot. We are reducing the impervious; we are creating significantly more green space; we are adding a lot of landscaping and the intent is to make this very nice looking.

SWORN: Anthony Guzzo, Principal Owner, Guzzo & Guzzo Architects, Lyndhurst, NJ.

Mr. Guzzo gave his qualifications and the Board accepted them.

Mr. Guzzo went **over Exhibit A-2 -Fixture Plan.** This is on Lot 3.02 and will house the Housing Dept. of Labor. He described the interior of the building and how they will utilize the building. The building will be incorporated with what is there now.

Mr. Guzzo went over **Exhibit A-3 Colored Elevation.** He gave an overview of this and what materials they will use. Their goal is to use natural material and make it look like it has been there for a long time.

Mr. Guzzo referred to P2 exterior elevation of Dept. of Labor. This highlights the sign we are proposing.

Mr. Tharp asked: Can you clarify elevations on P2?

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Mr. Guzzo stated: The top north elevation is correct; the third elevation would be south then east and west. He said he would correct P2 and it should read North, East, South and West elevation. I will correct those in the revised plan & file these changes.

Mr. Guzzo went on to talk about Lot 3.01 the existing Moose Lodge and the drawing of P1 of floor plan dated 7/2/2014; he mentioned the renovations being done. It will be moved back 50 ft., and will be rebuilt. Upgrading the building will bring it up to code, upgrading the kitchen, and creating a separate entryway to maintain the clinic they have. We will create a new front entryway.

Chairman Le Frois asked if he could clarify the clinic, the Moose Lodge and who uses what.

Mr. Guzzo stated he did not know but Mr. Haggerty could explain it.

Mr. Guzzo talked about the exterior of the Moose Lodge. We are keeping it in the same flavor that is there. We want to give a more traditional feel.

Mr. Hardmeyer asked: What are you planning for the Lower Spring Street side of the building?

Mr. Guzzo stated: We will be carrying the same materials through. We are just not going to have the opportunity to do that many windows. We do have a door opening on that side.

Mr. Tharp stated: The side is missing in the drawing. That is the side most people are going to see at that intersection and it would be nice to see a little more than just a verbal description?

Mr. Guzzo stated: Yes. I didn't have time to draw up something before the meeting. I can only let you know that we are going to take the same elements that we are doing along that side.

Mr. Hardmeyer asked: Can you use something to break the wall up a bit?

Mr. Guzzo described what they can put in.

Mr. Tharp stated: I see two different style windows but to me it looks like two separate buildings.

Mr. Guzzo stated: We actually have a variety of windows through here. We will probably take a closer look at some of the windows here to see if we can incorporate and make them more uniform. I am not sure if you are referring to the arched windows but we felt that that was the party room and wanted to give that a different feel.

Mr. Tharp stated: It looks like an afterthought.

Discussion ensued on the windows.

Mr. Flynn asked: Looking at the side elevation I am wondering why you didn't mirror the party room facing Lower Spring Street and have the utilities facing the office building on the rear? Based on this drawing the back of the building will be facing Lower Spring Street. It seems much more inviting to look at as you are driving through the streets and see windows with people in it rather than the back of the kitchen.

Mr. Guzzo stated: This is a different elevation for them. We are addressing the parking lot and the activities they would have out front.

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Mr. Tharp stated: This side is not included on the drawing so it is hard to picture how it will look.

Mr. Marion asked: Where will the dumpsters be.

Mr. Guzzo stated: They will have a consolidated area for trash which is located at the far end of the site. It is designed for all three buildings.

Mr. Tharp stated: Since they are starting from scratch on this back section has any consideration been given to moving the kitchen to the back and you'd have more property off Diller that you could put a driveway for trucks to make their deliveries in back and make the kitchen area be in the back and move everything else to the Lower Spring Street side?

Mr. Golden stated: This is a three-way stop intersection. We tended to leave it somewhat pristine. We are going to have a lot of landscaping, sidewalk, and screening. The delivery for the lodge will be minimal. It is not a restaurant. I envision it will be coming from the front and they will cart it around to the back. The entire garbage is self-contained. The entire garbage will be bagged. I don't think there will be any outside garbage.

Mr. Tharp stated: My concern wasn't the garbage but from a practical sense the people living across from the Moose Lodge on Lower Spring Street. It just might be nicer to have a little more presentable side of the building and I don't have a picture or an artist rendering so you are asking me to approve something that I don't know what it is going to look like. This proposal is better but I just wanted to see if we can tweak it.

Mr. Golden stated: There are ways to make it look nice.

Mr. Elvidge stated: I don't necessarily agree with Mr. Tharp. I think it is a significant change to what we have. I am very sensitive to the fact that just because something is in a depressed state I am not going to be solely happy with something new there but I think it is a tremendous improvement to the piece of property there. It makes sense to where the parking is. The proposed building has a good look to it. I like the preserving of the Moose Lodge. I think the focal point of the building is what looks towards the parking lot. For the number of times that I have come to that intersection I know what I am seeing now and if it is a new building, we have to design something that is functional for inside purposes. I don't like the idea of a fake blank window. I think maintaining what you have now, you are limited.

Mr. Guzzo stated: We can make some adjustments to the interior side and still have some benefit to the elevation and addressing the street. I think with some minor adjustments inside we can accommodate a little bit of the concerns we have regarding the elevations. Having consistency with the windows, I did speak with some people from the Moose Lodge and they do not want to open up the front of the building up to windows and a store front like it originally was; it really does not fit the use. We will try to use a board and trim work and something that will last and give it a more decorative feel, a more traditional feel to it and then getting a little better consistency with the windows. We do want to stay consistent with the windows.

Ms. Caldwell suggested using false windows along the pedestrian way.

Mr. Guzzo stated: We can build or make it to look like false windows on the Lower Spring Street side.

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Chairman Le Frois opened up the application to the public with no public coming forward; Chairman Le Frois closed this portion.

Mr. Golden added some comments to the plans regarding road dedications, positioning of buildings, some of the open spaces will be filled in with landscaping. Landscaping is essential to make it look nicer. We are asking for variances for not having the buildings within 6 ft. to 12 ft. of the curb line. I understand in this particular zone we want to have the buildings very close to the road, however, this is the exact point where we are transitioning to the residential. I think it is a good transitional planning concept. We can keep the elements of the T-4 and meet the intent and purpose of it. We are creating more light and open space and it will be visually attractive even though we are right on the road. These buildings are going to be serviced by the parking lot. We are not trying to promote people to park on Lower Spring Street or Diller Avenue. We do have a central area where folks can park and walk through. This is a compliment to the businesses that are already there. The opportunity for parking in this area is really slim. This parking element is essential to the presentation of the planning element of why we think this is a nice concept.

Mr. Golden pointed on the drawing where the focal point will be and it will be in the middle. He stated it does make reasonable sense. We had talked about different concepts for the bike trail. We put a lot of thought into the position of the buildings and the bike path. There is a decent amount of bicycle traffic and we want to make sure the plan can meet it if the Town does go through with the full bike path that we space there. The office use will be a 9 - 5 office use. There are no evening hours. One of the issues we have to address is the number of easements, cross access easements, access to the dumpster, maintenance. There is a sanitary easement that goes through this area. Mr. Simmons talked about water lines and gas lines. We do have a lot of flexibility here. We are putting in islands and islands with trees.

Mr. Haggerty asked: How will this lot be changed.

Mr. Golden stated: For the most part this lot is entirely paved. The impervious existing coverage is 76.3%. With this lay out we are going to go to 80.1%

Mr. Haggerty asked where the increase is.

Mr. Golden stated: It is somewhat distributed. There will be more green in certain areas. There is minor change to the impervious coverage.

Mr. Haggerty asked: How will the lighting be set up?

Mr. Golden stated: We want to be cognizant of the lighting. We will do what is best for the neighbors. The lighting will be shielded.

Mr. Haggerty asked about the drainage.

Mr. Golden stated: We will maintain existing drainage patterns. We have a low point on site. The water will go into the existing site. From a drainage perspective, we will be adding a lot more green space. In Lot 3 is the old building that is coming down and then there is a parking area. We are reducing that area by 10 percent. Concern about adding storm water is decreasing.

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Mr. Haggerty stated: We want to address the Board's concern about the parade easement. We talked about that at the TRC meeting and we also talked about that when we asked for a temporary variance to allow the parking for Lot 18 for the overflow parking from the DMV. The parade easement is in the deed records and certainly the property owner would advise any tenant that the parade easement exists. We would accommodate that. We also as indicated will make provisions to the bicycle path easements. This is better planning.

Mr. Golden referred and showed the Board the exhibit and stated that it was going to be dedicated to the Town. We are going to deed out the property line very close to the building. That is creating a variance because the building 6-feet away and the rear will be 2.1 feet. Right now there is enough space to meet the ordinance but after we do the dedication and with the existing building we are creating a minor variance situation.

Mr. Le Frois asked Mr. Golden if the purpose of that was to provide consistent right-of-way width along Lower Spring and Diller.

Mr. Golden stated: Yes.

Mr. Haggerty stated: One of the concerns is the back wall. Will you be installing landscaping to break it up?

Mr. Golden stated: Yes. What that does is the sidewalk, curb and everything new sits in the right-of-way. As part of our application, we are extending the sidewalk along the entire Diller frontage. Right now that sidewalk ends at the three-way stop sign. We are going to extend it to the far end of the property. Going back to the plan, all this area will be landscaped, a bench was asked for and a sidewalk. The rear of the buildings to be screened, there will be quick growing type shade trees that will blossom so as you start coming out of Newton. It is going to be significantly different than what you see right now.

Mr. Haggerty asked: Another comment in the report is the number of parking spaces. Will your design accommodate all of the parking?

Mr. Golden stated: Yes, we have 60 spaces for the proposed office and we have 16 that will be dedicated as overflow for the DMV and we have 25 spaces for the proposed new use. We consider these to be shared spaces except for the ones dedicated for the center use.

Ms. Logan asked: Are there a certain number of spaces that are required for the Moose Lodge?

Mr. Golden stated: Yes. By COAH we are required 54 parking spaces. We are exceeding what is required. We are asking for a variance for 4 percent impervious on the total parking lot. I can take spaces off so that we have more coverage but I don't think it is appropriate. We have room for a fire truck to park to gain access to the fire hydrant. We can drop the curb so the hydrant is maintained.

Mr. Marion asked about handicap parking along the buildings.

Mr. Golden stated: We have adequate handicap parking. We have sidewalk across the entire thing and the bike trail will be there. Our intention is not to build the bike path but we want to have it available if the Town does want to put one in.

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Ms. Logan asked: Regarding the proposed future building on Lot 3.03, you said you will not be showing any on the site plans but according to the report they were several variances requested based on the future building on that. Have those variances been withdrawn?

Mr. Haggerty stated: We know we will have to come in for a site plan and all the notices and all the applications would have to be in place.

Mr. Soloway stated: As I understand it, the only thing being proposed on that lot right now is the dumpster area and maybe some sidewalks and landscaping. The Board would not approve this application beyond that, grant any site plan approval and certainly not any variances.

Chairman Le Frois asked: What will be there in the interim?

Mr. Golden stated: It will be grass and landscaping with the dumpster.

Ms. Logan asked about the building on Lot 3.02. I agree with Ms. Caldwell. Why can't we flip it and have it front to the Diller side?

Mr. Golden stated: There is nothing that says physically you can't put it there. In my opinion as a planner the building will be completely accessed from this parking lot so I would like to have it close to the parking lot. We did move the building 20 feet back. I don't think it does the site justice to move the building closer to the road when there is no access there. I think it will be better to have a landscape buffer there.

Mr. Hardmeyer asked: Can the sidewalk be extended further out.

Mr. Golden stated: Yes. If we are going to leave it where the bike access will be, we can put a sidewalk there.

Mr. Hardmeyer asked: Can the sidewalk be extended so people can walk?

Mr. Golden stated: Yes. Right now we have the bicycle easement now.

Discussion ensued on the bike path.

Mr. Tharp asked: So by moving the building as you did, all setbacks have been met and there are no issues?

Mr. Golden stated: No. The requirement is the building must be 6 to 12 feet from the right-of-way. We are more than that. It has changed a few times so I don't know off hand.

Mr. Soloway stated: The T-4 is a different concept that you may not be used to. The setback requirements not only have to be a certain distance away but frequently you have to be within a certain distance. So here you are not close enough, which most of you are used to.

Mr. Golden stated: There will be no fences, so it will not look like a compound. There will be a sidewalk, a potential bench, street trees and landscaping along the building and a manicured lawn.

Ms. Caldwell stated: The whole concept of the minimum and maximum front yard is that we are creating a pedestrian street frontage and I mentioned as an option possibly to have benches,

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street scaping, and street trees so you could have some pedestrian interest. You are establishing the beginning of the railroad right-of-way area which is redeveloping and that is the beginning of the road. There is an issue with having it as far back as you have proposed. It is one thing if the bike pass comes through. There is no resolution to drop the bike path off at the three-way intersection. I don't really see the issue of having a bike path in front of the building that pedestrians have to cross when they have to cross a parking lot. I think it more dangerous to cross the parking lot than a bike path. I think putting the bike path along the frontage makes sense if that becomes a really busy parking lot, drawing the Sussex Branch Rail Trail in the middle of it is not a great idea. If you are going to put a sidewalk there it could easily be a bike path, we have to start somewhere.

Mr. Golden stated: Again, this has been an item that has gone back and forth.

Chairman Le Frois stated: I agree, the easement would be ridiculous to put it down the middle of the parking lot. It makes sense where it is.

Mr. Golden stated: We are fine with that. We are still 49 feet away with the variance. Again, this really is just supposed to be a store front area; benches would be in front of the buildings. Now we are going to have the benches in a more park like setting so if you are walking, the properties to the west become commercial properties as you walk this will be in a more open area and you can sit down in a shaded area.

Mr. Tharp asked: Which way will those buildings be facing, Diller Avenue or the parking lot?

Ms. Caldwell stated: These buildings will be facing Diller Avenue because they won't be backing up to this right-of-way anymore. It is a bit of an anomaly. I think using the parking is a good idea.

Mr. Hardmeyer asked: Will there be a sign on the Diller side of the building.

Mr. Golden stated: We don't have a problem adding more signage.

Mr. Marion stated: I almost like the fact that everything is going to the parking and you are reducing the traffic off of Diller.

Mr. Golden stated: I didn't put the signs on the plan. I like less signs, more landscaping, less formality, etc.

Mr. Marion stated: The 50 feet of grass to me looks like a park setting. I don't see an issue with that.

Mr. Elvidge stated: From my perspective, we have been talking about the road frontage and yes it is an unusual piece of property, I think what hurts is you don't see what is above this. You have Camp cliff, the railroad station, what we are trying to do is improving the entire commercial area and expanding Lower Spring Street as a connection that leads up to Spring Street. Most of what you are seeing is it is lending towards that park like setting. In my opinion it was never looked at as road frontage it is a bypass area. I think the setback lends itself to a nice area where the residents can get some relief in looking at those buildings and a greener area. I think it is an enhancement to what we have now.

Mr. Golden stated he was finished with his presentation.

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

1st Public

Theresa Iliff, Camp Iliff, 280 Spring Street asked about the parking for open use and general use? What does the open use and general use mean? We do park cars in that old strip of property. Our staff had parked there when we have had overflow in our own parking. The Town has allowed us to put our cars there.

Mr. Golden stated: The intention for this parking is primarily to serve the uses of everyone we are putting in there. We were envisioning the parking more to the west to be available as the area gets built out. I don't believe there is any intent with any restrictions on this parking lot. It won't have Title 52, but on the other hand we don't want to promote public parking.

Mr. Haggerty stated: This parking lot is privately owned at this point and opening it to the public, in terms of liability, for the property owner becomes a liability if it is a public parking area.

Chairman Le Frois asked Mr. Soloway would you put up signs such as "No Public Parking Allowed" or "Private Parking"?

Mr. Soloway stated: Nothing too specifically was proposed. I know Ms. Caldwell's report did address using that area for public parking. Mr. Haggerty does make an interesting point that I want to think about that if you open it up to anyone or everyone there could be liability concerns. I would suggest that there be some kind of quasi directional signage out on the street to direct the users so people know who are visiting those buildings that is where they go to park.

Chairman Le Frois stated: So private parking policed by yourselves as you see fit and not intended for public parking?

Ms. Iliff stated: The reason I am talking about this is I would like to open this up so that new owners will understand what the situation will be because I have been there for 14 years. The weekends are when parking becomes an issue for the church and for us and it has been an issue for 14 years because what happens is the general public does not understand our little "compound". What we don't manage well together is on the weekends. We bring in birthday parties on the weekends which bring in hundreds of people. The people that come to our parties don't understand that the Train Station is the Train Station and Camp Iliff is Camp Iliff. Through the year the Train Station has transitioned ownership. The first ownership that was established there did not work well with us and they towed cars for people who came to our birthday parties. I have opened up my parking up to the church. I have told them no problem, anytime they want to use it. I want you to be aware of it because on Saturdays and Sundays, it will be a problem because the parking is so close to our building. I just want you to know that the only issues are the weekends not for us but it is very difficult for us to control that overflow when we are inside or we would have to man a person on the road with directional.

Mr. Haggerty stated: I think we can work together and work something out.

Chairman Le Frois closed the public portion of the application.

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Mr. Soloway asked Mr. Golden for clarification. You said that there will be two-way parking lot access as to Lower Spring, and then you said one-way to Lot 18?

Mr. Golden stated: One-way exiting Lot 18 and "Do Not Enter" from Lot 2.

Ms. Caldwell went through her report as of July 24, 2014. I had a few comments regarding the minor subdivision and the build outs. I didn't receive the changes from Golden and Moran that Mr. Simmons did.

Mr. Golden stated: I believe the percentage in the build outs are the same just there were some varying issues.

Ms. Caldwell stated: As I understand it the bike path location is now outside of the buildings that was one of my comments.

Mr. Golden stated: I can also say if we need to make minor modifications or you want to move things a little bit, I don't think we have a problem with that.

Ms. Caldwell stated: I haven't seen the latest revisions. I am just confirming the things the way they are now.

Chairman Le Frois stated: I think that is part of our issue too. We want to try and document that as best as we can. A lot of times if there are minor issues between what we have seen and what the professionals are talking or asking about depending on what it is we sometimes leave it up to another submission, subject to their review and approval. Everyone on the Board needs to be comfortable that there is a solid understanding of what the changes are going to be.

Mr. Golden stated: Generally what you have in front of you is what we are proposing. There will not be any major changes. Dimensional things, things like that.

Ms. Caldwell stated: With respect to the parking comment, I know there is a lot of opportunity for shared parking and there is a lot of surrounding uses and this is a large parking lot. I would hate to see an adjacent property have to build another large parking lot because they cannot come to terms with the owner to come to some sort of shared parking agreement. I wanted to hear was some sort of an arrangement for shared agreements.

Mr. Haggerty stated: It can work.

Mr. Golden stated: The tone of the concerns is maintenance, etc. that there be some shared cost as well.

Mr. Soloway stated: I can write a condition if you approve this that if the applicant agrees that it will in good faith entertain or enter into discussions with nearby property owners for shared parking as long as it does not unreasonably interfere with the parking for the properties.

Ms. Caldwell referred to page 4 of her report and wanted to know if they would be proposing street lighting?

Mr. Golden stated: We were not proposing street lighting.

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Chairman Le Frois asked: Don't we normally like to have sidewalks lit if there is going to be a sidewalk proposed?

Ms. Caldwell stated: Typically we have street lights going along the sidewalks. This will be a new sidewalk so I am assuming street lights will be put in.

Mr. Simmons stated: Subject to checking, I think they are the traditional street lights from JCP& L or the utility company. I would have to double check.

Mr. Golden stated: We don't have a problem adding a street light but it would be the Town's light.

Mr. Soloway stated: Just so I am clear you would install the light but the Town would be responsible for it?

Mr. Golden stated: Yes.

Ms. Caldwell referred to page 6, Signage. Signage is permitted with a zoning permit on Diller Avenue.

Mr. Marion asked: Has there ever been any thought to putting the bike path to the far side of the parking lot along the property line. Shifting the lot so you have a 4-foot path all the way across, the northern most part? Wouldn't it be better to get it out of the way and put it at the farthest end?

Mr. Golden stated: The bike path will not be on the sidewalk at this location. It will be totally independent.

Discussion ensued on the location of the bike path.

Ms. Caldwell stated: I don't think it is a conflict. I don't think it will be dangerous.

Ms. Caldwell asked: Did you add a dumpster?

Mr. Golden stated: Yes.

Mr. Soloway stated: I am a little confused when you say you added them to the plans. The plans that were submitted to the Board?

Mr. Golden stated: It will be to Mr. Simmons' satisfaction.

Mr. Soloway stated: You have said that a couple times where you said something has been added to the plans but it hasn't been.

Chairman Le Frois stated: I think a general statement can be made that anything that is addressing these comments we have not seen. It might be on your version but we have not seen them and they have not been submitted.

Mr. Golden stated: It is a standard detail. We clarified that it will be to the side not the front.

Mr. Tharp stated: It is one of many we have not seen.

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Chairman Le Frois stated: So we heard no concerns or disagreements with any of Ms. Caldwell's comments.

Mr. Golden stated: I just verified that the dumpster is on the plans, I wasn't 100% sure.

Mr. Golden mentioned there is a waiver for the landscaped strip.

Mr. Simmons stated: Just so the Board knows I did receive a set of revised plans that the applicant's consultant brought over. I think their main intent was for me to look at them as much as I could given the time and see which items they did work on versus the ones that were still outstanding.

Mr. Simmons reviewed his report as of July 30, 2014. Items on Page 2, 3 and 4 are basically technical details for the subdivision. The one thing I want to point out is that the subdivision involves the creation of the Moose Lodge plus the two other lots but there is also a small triangular piece that is basically part of Lot 3 and is being annexed to Lot 2 so if you could make the lines cleaner. I wanted to point that out so it does not fall through the cracks plus the right-of-way dedication along Diller and Lower Spring Street. On the top of Page 3 the Board Attorney should comment on the timing of the filing of the deeds to create the proposed subdivision with regards to the removal of the buildings and foundations to be razed. I understand the applicant has the site plan to construct on Lot 3.02 right-of-way. If you look at the existing conditions the buildings that are being torn down basically crossed the proposed property lines that are shown on the subdivision map. Technically there is no variance being applied for that I am aware of to have a zero side yard setback or anything like that because the plan is razed. My assumption is they want those building down before the deeds are filed.

Mr. Soloway stated: That is the way it is supposed to be. You can't create a subdivision with lot lines with structures that overlap it. I think if the Board approves the application one of the conditions should be that those buildings be razed before the subdivision is perfected.

Mr. Golden stated: In the interest of time these things would happen relatively quick so it is in the best interest to get those buildings out of that site. I don't want there to be an issue with the building permit. We are not going to be filing our deeds but we will get our building permits and demolition permits all at one time.

Mr. Haggerty stated: You would get the demolition permit, perfect the subdivision and then get the building permit.

Mr. Simmons referred to Page 5, we talked about the bike easement and that should be conveyed. Under Site Plan a big issue that needs to be undertaken would be a condition of any approval subject to Mr. Soloway's opinion on this for all different cross easements between the Lots and the ownership of the reconfiguration of Lot 2 as far as rights of all three lots having interest in that, so that they have a vested interest in keeping that lot, paying the taxes on it, doing the maintenance and repairs etc.

Mr. Soloway stated: That should certainly be a condition. I think the easements should be filed simultaneously with the deeds. That makes the most sense. Another issue on the easement is, based on the testimony, if you are going to have the one dumpster serving the three properties that needs to be rolled into the easement.

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Mr. Simmons continued: The other issue is the fire hydrant referring Exhibit A1. Just so the Board knows if you recall the site plan for Nova Phase for them to construct that parking lot, that is the one we got the easement for, and finally perfected that so the easement for the fire line coming off of Sparta Avenue went to the Town of Newton. This is basically an area that should be reserved in any kind of legal documents so that it is restricted to the number of spaces required by the Fire Department to gain access to that hydrant.

Mr. Simmons continued: We talked about the parade staging easement that was an issue making sure it was covered in all the legal documents and worked out with all the tenants.

Mr. Soloway asked: How exactly are you proposing that?

Mr. Haggerty stated: It is already on record but I think we are putting these in deeds and we could reinforce and indicate in any lease on these properties the tenants will have to include a copy of the parade easement and acknowledge that the leases are subject to a parade easement.

Mr. Simmons continued: The bike path easement we talked about and the construction of the bike path itself.

Mr. Simmons continued: There were a variety of variances and some of them have changed because of the relocation of the buildings slightly on Lot 3.02. Ms. Caldwell went over all the easements involved. Under Storm Drainage when you look at the overall properties Lot 2 and Lot 3, I get slightly different numbers than the applicant's consultant but they are a little less on the impervious coverage for the overall property. They did change one of the pipes from an 18-inch pipe to an Elliptical pipe and that should help them get some additional coverage over their pipe that was resolved in one of the plans I looked at this afternoon.

Mr. Simmons continued with Lighting. Just so the Board knows we did send the applicant's consultant the detail for the type of lighting that you have on all of the Town's streets to maintain that theme. They did show those lights in the parking lot. They still have to be checked as far as light coverage goes. The one thing that Mr. Golden brought up is the lights are not on their property but are on existing utilities poles that basically go from Lower Spring Street on a radio line into the property and they have the JCP&L flood lights shining down. They are not on your property but I know we discussed whether they could be paid for by the Town and I am not sure who actually pays for those lights right now. The question is whoever pays for them now is it the intent to pay for them in the future or what is happening? I think the first couple of poles may go to some electric services to some of the buildings. The last two poles maybe just have floodlights on them.

Mr. Golden stated: From best I can tell, all the poles are off our property so we do not intend on using those lights. We don't want them there and they are not ours.

Mr. Russo stated: A condition that the Town is not responsible going forward with those lights. If we are now I do not want the responsibility.

Mr. Golden stated: They should be disconnected by JCP&L.

Mr. Simmons stated: So the Town will not have anything to do with it. When we look at the patterns in the lights the ornamental lights have to supply all the light coverage.

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Mr. Golden stated: Correct.

Mr. Simmons continued: With regards to the utilities just so the Board knows that the 12-inch force sanitary main that comes from the Sparta Avenue pump station does go through Lot 2, the former railroad bed. That is one of the reasons that Mr. Golden mentioned before that they have to do some test holes as necessary just to make sure they are not putting any infrastructure above that main that you might have to get at some day for repairs. The Moose Lodge is already connected to the sewer and water system. The two buildings that are proposed on 3.02 and 3.03 also have to get connected. The one thing the applicant was made aware of was is that Diller Avenue is going to be milled and resurfaced imminently. My understanding from talking to Harold today is that the contracts are going back and forth with the contractor right now. Just so the Board knows after our meeting with the TRC the applicant did go to the Utility Board and get their recommendations subject to certain conditions. The resolution has been completed and it is all subject to the applicant getting it all done and subject to the applicant meeting all the conditions from the Unity Board, the Town Council and also paying the necessary fees. There was a question when it was first proposed whether separate fire lines would be required for the two proposed buildings on Lots 3.02 and 3.03 and the applicant did make contact with Mr. Butto, the Town of Newton's construction official's office and it is my understanding that based on the size of the buildings proposed and the type of use that sprinklers are not required. So they withdrew those taps. It will be the domestic service and the sanitary sewer service.

Mr. Golden stated: That is correct.

Mr. Tharp asked: Depending what happens here with the Board tonight can they still proceed to tap off from the mains? I don't know if we are going to approve this tonight.

Mr. Simmons stated: The way it was presented to the Utility Board was the main intent was to get the service lines tapped into water and sanitary sewer and get those connections beyond the curb line before the milling and paving begin. Whether the Boards wants to move the building or not will not affect the location of the lines. They can always bend the mains to get to the building where ever it may be. The main intent of the Utility Board was to get that out of the way of the road project.

Mr. Tharp asked: So no matter what happens here tonight they can proceed?

Mr. Simmons stated: My understanding is they are waiting for the funds to be deposited with the Town for the connection fees.

Mr. Simmons continued with electric. We talked about the flood lights and the Town will not be responsible and the applicant is not banking on them. The gas lines, I understand what Mr. Golden is saying that they are trying to track them down. I just want to make them aware of other parts of the right-of-way and the applicant was surprised unknowingly. Regarding the intersection of Lower Spring Street and Diller Avenue, there are additional sections of water mains along/near those intersections that are not shown on the plan. Just want to make sure everyone is aware from a construction point that these other mains do exist and it is important to show. Ms. Caldwell talked about signage. I do concur that some directional signage is needed to get to the proposed buildings for those traveling who are not familiar with the area. Under Architectural on Page 9 we talked about the door opening towards Lower Spring Street, I didn't have a lot of information on the elevations on that side so I didn't know how that was being handled and how delivery vehicles will park to unload in this area. Under item b, I don't know if

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the architect discussed it or is the intent to have the HVAC equipment mounted to the roof or have it grounded or some other place and screening will have to be provided.

Mr. Gusso stated: With the Mansard roof that will provide screening so we will put smaller roof type HVAC units on the roof and on the Moose Lodge we will have separate split system. It has not been designed out yet. There could potentially be some smaller condensing units outside, typical ground mounting units which will be on a concrete pad on the ground 36 inches high, this will be on the Diller Avenue side if we do add them and it could be screened with some landscaping. It wouldn't be the Lower Spring Street. We do not have enough room there.

Mr. Simmons stated: I didn't have this in my report but I posed the question just to make sure everybody is on the same page but is there any emergency generator equipment being proposed? None is required through the unemployment office through the State?

Mr. Gusso stated: No.

Mr. Simmons continued with construction details. The applicant is still working on putting them on the plans. The various approvals that I have listed would be subject to and last but not least the as-built plans once the project is completed.

Chairman Le Frois stated: Again, Mr. Haggerty, we have not heard any disagreements from the applicant.

Mr. Haggerty stated: Because of all the professionals that have worked with us from the TRC and addressing the concerns, I think we have come up with a plan that addresses the concerns of the applicant as well as the Town. These are our final plans that we have presented tonight.

Mr. Golden stated: These are plans that we have submitted. Everything is the same except for we have added the sidewalks, eliminated three parking spaces and provided dumpsters. I don't really think you would find anything that is really different. We have gone through the TRC and have been to the Town Council.

Mr. Tharp asked Mr. Simmons about the drainage. Walking down across Lower Spring Street this new piping that is going in being added to the existing drainage ditch and eventually running to Trinity Street, I am concerned about the amount of water going to Trinity Street. The Town does a great job with snow plowing but this is a maintenance headache and I am sure this needs to be done on a regular basis. My concern is that these converts are already clogged and if we get a heavy rain and this application goes through there is going to be flooding at Trinity. I am not sure how the responsibility goes back to the applicant. I am concerned about the infrastructure that's there is not sufficient to allow the extra water going down.

Mr. Simmons stated: If you look at the plan that you have, if you go over to sheet number 4/7, the applicant has the drainage calculations, areas of existing impervious and existing pervious for both existing and proposed conditions. There numbers show that in the overall analysis there is a net decrease in impervious of 6,687 sq. feet. I got slighting different numbers than that but it is in the same order of magnitude where I got a net wash as far as the impervious as today vs. the impervious as tomorrow if this is rebuilt in the future. When you look at that map, you will see where they have existing storage buildings, they have some concrete foundations, those are the structures that we have talked about before that are getting razed and help to mitigate some of the additional increase in run-off. When you go up to the former railroad right-of-way from Lower Spring Street towards the proposed connection of Lot 18, basically that is impervious

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to today and that drainage area as far as where the water is going is still going down to Lower Spring Street. The drainage pattern, it is fair to say, stays the same. That is not to say that something downstream may not be under capacity. The way I looked at it is this applicant is picking up water before it gets down towards Lower Spring Street by one of the requests we had to extend the inlet further so the water did not travel as far. From that standpoint it protects from any potential flooding from a 50 year storm. As far as this applicant goes I think it is fair to say that they have maintained the status quo.

Mr. Tharp stated: I am confident you checked it. I am just concerned. The other question I had was the landscaping. There are some improvements to landscaping according to Ms. Caldwell, Mr. Golden but we have not seen any plans of the increased landscaping.

Ms. Caldwell stated: There is a landscaping plan. The only thing they added was the street trees along Diller and a bench. Sheet 5 has a landscaping plan and Lot 3.03 has an individual plan.

Mr. Soloway asked Mr. Golden: What did you submit to Mr. Simmons for record?

Mr. Golden stated: The revised plans have minor changes on them to address Mr. Simmons comments. I have them bolded out on the drawing.

Mr. Soloway stated: My concern is normally at the beginning of my resolutions I identify approved plans by latest revision date.

Mr. Le Frois stated: Right now the latest revision date is sitting in Mr. Simmons' office waiting for further review.

Mr. Golden stated: I would like to highlight that the majority of final plans are not the ones that are approved by the Board frankly I have rarely had any applications that are final, there are always revisions.

Chairman Le Frois stated: We understand that. Like I said at the onset, we typically in our resolutions include our professionals and defer certain things to their professional opinion. Very rarely do we have a brand new submittal that we have not seen. We have an elevation from a street that is pretty important, we haven't seen that. We talked in general about ways to make that not a big broad expanse of siding and try and break it up a little bit, there have been some ideas tossed around, but again we would be assuming that you could come up with an acceptable resolution to that and as Mr. Soloway said, he is even having a little bit of trouble keeping track of what has been approved, what has been looked at, what has been submitted, etc. It is a little unique. We are struggling with that.

Mr. Haggerty stated: It is unusual in a sense because generally you have an applicant come in here without rushing to get all these things done. Generally we would come in here and say we will leave that for the professionals and this is what we will do, but what has made this more confusing is the fact we went and did these things already without asking you to defer to the professionals. The changes are pretty minor, a dumpster enclosure, we have a couple of parking spaces that went out, recognition of the fire hydrant, we moved the building a little bit to address Ms. Caldwell's comment and we provided a little bit of landscaping. We don't have many things.

Mr. Tharp stated: We had a discussion tonight and you agreed to change the windows and I for one would like to see it before we vote. There was discussion about the air condition location

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and how it will look, general description about the landscaping both behind the office building, hiding the air condition and before I give my vote I would like to this on a plan.

Ms. Logan stated: We understand the timing concerns but it is one thing to rush to get everything in and it is not complete and not correct and it is another thing to hurry to put together a researched well-presented piece that we all have an opportunity to see in its final form.

Mr. Marion asked: Do you have to have a decision tonight on all or can we have you come back with more information on the Moose Lodge?

Mr. Golden stated: I think what we would like is a site plan for the DMV, the center building. I think we have time to come back for the Moose Lodge.

Mr. Flaherty asked Mr. Golden about the snowplowing. Mr. Golden stated: There is a lot of green space where we can put snow.

Mr. Flynn stated: You can pile it by the dumpsters.

Chairman Le Frois asked: Mr. Soloway: Would this result in a bifurcated approval if we elect to deal with this?

Mr. Soloway stated: That seems complicated to save a few weeks.

Chairman Le Frois stated: I am getting a feeling from the Board members that they are not comfortable making a decision without seeing the additional details on the Moose Lodge building.

Mr. Haggerty stated: It sounds like that is your primary concern. If you are comfortable with the site plan on the new building our focus is being able to give the potential tenants some assurance that we are there that is our primary goal.

Discussion ensued on the changes that have been brought up.

Mr. Soloway stated: The Board's attorney is sort of complaining that he does not have enough information to prepare a resolution if it was voted tonight so that is kind of the problem because in terms of the particulars of the architecture I am not sure I know what the Board would be voting on. This is very unusual and there are things tied into both applications.

Mr. Haggerty stated: I know this is our problem but if we could get the tenants something to work with.

Mr. Russo stated: With no disrespect to Mr. Soloway who works for the Board, there is no issue with the cross easements. The only things I have seen are additions to the comments from the professionals where they are related to the Moose Lodge. No offense Mr. Soloway but I don't see any issues relating to the State building and I don't want to see him lose the tenant.

Mr. Soloway stated: I don't want to see him lose the tenant either. You are right; I will do what the Board says but it is up to the Board whether they feel it is appropriate to vote on it. I am reluctant to separate it.

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Discussion ensued on getting a resolution tonight.

Mr. Haggerty stated: I don't think it puts the Board at risk because we will be back in September and there is nothing we can do because of all the conditions that are going to be in this. We have lots of stuff to do, with cross easements, agreements etc.

Mr. Soloway stated: The way to do it is if the applicant asks tonight and the Board agrees to divide this site plan into Phase I and Phase II. Phase I of the site plan would be the office building lot. The applicant can ask tonight for a vote on the minor subdivision approval and the Phase I site plan and it then comes back on Phase II, which is the Moose Lodge. He said you can grant them preliminary now and then they come back for final.

Mr. Haggerty agreed this is an option because there will not be any substantial changes between preliminary and final.

Mr. Soloway stated: I don't think this request is going to grant them a permit any faster. What they are saying is we have a tenant and the tenant is very anxious and we are in a position that we have to show the tenant that we have an approval as soon as we can otherwise we might lose the tenant. The end result of the whole process should not be any different in terms of what the applicant is require to do and when it gets done. They will have to come back for final rather quickly. The Board on occasion has separated preliminary from final. My thinking would be is that you would grant preliminary approval for the entire site plan as well as minor subdivision approval but one of the conditions for preliminary approval would be that they revise the architectural on Lot 3.01 to the satisfaction of the Board and that would be the subject of testimony at another hearing. My concern is that I did not know what you were approving. I was taking notes as Mr. Russo was too and honestly I got lost.

Chairman Le Frois stated: The applicant is willing to do anything but it has to be defined so we can say this is it. I like the preliminary now entire plan and final later.

Mr. Soloway asked Mr. Haggerty if the applicant is requesting we defer final site approval and asking the Board to vote tonight on preliminary site plan approval.

Mr. Haggerty stated: We will make a separate application for final site plan approval.

Mr. Soloway stated: Yes, as long as you are not requiring any variances unless the Board requires differently you don't have to notice for that. I do have to look at it closely because I have to look at the shape of the building and that could trigger variances that you have not already asked for.

Mr. Haggerty stated: If the architect's plans alter it then we will have to get variances.

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

1st Public

Theresa Illiff, 280 Spring Street, I am really trying to help the owner of the property just because I am familiar with that side. I think the bike trail should be closer to them and not me. There is a lot of pedestrian traffic there. The other issue that I have is the dumpsters. I get people that come and dump their garage. I am putting this out there for the landlord if they want to call me

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or just so you know some of the issue could be with the dumpsters. I am recommending a locking dumpster. As an owner, I know the importance of getting them in. I think a few changes shouldn't hold them from a very large project to give to our community.

Mr. Haggerty stated: I am concerned that we will lose parking spaces if we move the bike trail. The bike path has to cross the parking lot somewhere.

Chairman Le Frois closed the public portion of the meeting.

Mr. Soloway crafted the motion to grant preliminary site plan approval, minor subdivision approval and all variances listed on reports on the following conditions subject to final site plan approval. At the hearing on final site plan approval the Board would address and render a final decision on the architectural plans for the Moose Lodge property. I would suggest that you submit all new architectural plans as part of your application for final. The other conditions would be the parking lot on Lot 2 it would be two-way from Lower Spring Street, one way exiting from Lot 18. On Sheet 2 of the architectural plans, to correct the directional references in the elevations which were admittedly inaccurate. The dumpster area will be located on the Southerly side of Lot 3.03 and will serve all three lots and would have to be the subject of some kind of easement agreement to be approved by the Board Attorney and Town Engineer. The property owner to advise the tenants of the existence of the parade easement and the consequent of the occasional requirement that they have to not park on or remove their cars from Lot 2 which that requirement further to be mentioned in the recorded deed, they will install a sidewalk along the Diller Avenue frontage with a landscaped area between it and the buildings. The sidewalk will run from the Southerly end of the property line to the area of where it meets the existing sidewalk at the three-way intersection. The applicant to locate the force mains and relocate lighting fixtures and any other improvements to work around them to the satisfaction of the Town Engineer. There will be benches in the landscaped area. The parking lot will provide for 119 spaces. Sixty for the office buildings, 16 as overflow for the DMV, 25 for the future use for proposed Lot 3.03, 18 for the Moose Lodge property. No requirement that the spaces be separately marked as a result of particular users. In the intervening period between the approval and any site plan approval for Lot 3.03 that lot will be maintained as a grassy area and periodically mowed except the area where the dumpster is installed and where the sidewalk is installed. They will put in a bike path based on the location on the latest plan; they will put in signage to direct vehicles from the roads to the parking area so people driving to the new office building or the clinic will see a sign that says you park in the back. The parking lot will be private not open to the public. The applicant is encouraged to try and enter into an arrangement with other property owners to allow them to park there but not required to. The applicant will install street lights to the satisfaction of the Town Engineer using the Town approved design along Diller and the Town will maintain any lights for the parking lot would be privately maintained by the applicant. There will an identification sign at the entrance to Lot 2. General compliance with every recommendation with Mr. Simmons report that is not inconsistent with anything else in the resolution and the same with Ms. Caldwell's report. The applicant will be required to raze and remove all of the buildings shown for demolition on the plans before the deeds perfecting the subdivision are final and before any building permit is issued. The HVAC for the office building to be on the roof and in a manner of where it is screened from public view by the Mansard roof to the satisfaction of the Town Engineer and the final design on the Moose Lodge HVAC to be submitted and approved at final. The building on Lot 3.02 to be connected to the sewer system, the resolution would make clear that no site plan approval is being granted as to Lot 3.03 and no variances are being granted as to Lot 3.03.

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Mr. Simmons stated: The water and sewer utility taps to get beyond the curbs for Lots 3.02 and 3.03 to be constructed at this time to get out of the way of the paving project.

Mr. Marion asked about the natural gas lines.

Mr. Simmons stated: I don't know if the applicant has to make any taps for those buildings for heat or not.

Mr. Soloway stated: This may be moot. It may be done before the resolution is done. They are scheduled to be done in August.

Mr. Simmons stated: They just need to make the payments as I understand.

Mr. Soloway stated: Is there any form of a developers agreement?

Mr. Simmons stated: I think we discussed at the TRC that there was going to be additional legal agreements regarding the parade and the easements with the Town.

Mr. Russo stated: I don't think there needs to be any with the Town.

Mr. Soloway stated: I agree with Mr. Russo. The easement says what it says and if Mr. Russo sends the letter than the applicant has to deal with it. Nothing as part of this approval is going to alter the rights enjoyed by the Town under that easement. There is lot of easements and I don't know how many separate agreements but there is a lot to deal with here.

Mr. Russo accepted the motion crafted by Mr. Soloway. Mr. Marion seconded the motion.

AYE: Mr. Flaherty, Mr. Marion, Mr. Tharp, Mr. Elvidge, Mr. Flynn, Mr. Russo, Ms. Logan, Mr. Hardmeyer, Chairman Le Frois

EXECUTIVE SESSION

NONE

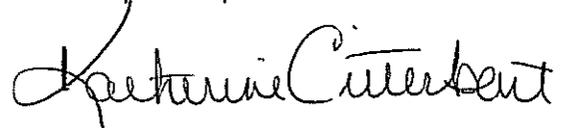
PUBLIC PORTION

NONE

ADJOURNMENT

Mr. Flaherty made a motion to adjourn the meeting. Mr. Marion seconded the motion. The meeting was adjourned at 10:00 PM with a unanimous "aye" vote. The next regularly scheduled meeting will be held on September 17, 2014 at 7:00 PM in the Council Chambers of the Municipal Building.

Respectfully submitted,



Katherine Citterbart
Planning Board Secretary