

**Newton Planning Board  
September 17, 2014 Regular Meeting  
7:00 PM**

The regular meeting of the Newton Planning Board took place on the above date. Acting Chairman Mr. Flaherty 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. Tharp, Mr. Elvidge, Mr. Flynn, Mr. Russo, Mr. Steinberg, Ms. Logan (arrived at 7:08), Acting Chairman Mr. Flaherty

**ABSENT:** Ms. Gill

**EXCUSED:** Mr. Le Frois, Mr. Marion, Mr. Hardmeyer

**PROFESSIONALS PRESENT:** David Soloway, Esq. of Vogel, Chait, Collins & Schneider, Jessica Caldwell, PP, of J. Caldwell & Associates

**BOARD SECRETARY:** Katherine Citterbart

**CONSIDERATION OF MINUTES**

**August 7, 2014 Special Meeting**

Mr. Flynn made a motion to approve the minutes. Mr. Elvidge seconded the motion.

**AYE:** Mr. Tharp, Mr. Elvidge, Mr. Flynn, Mr. Russo, Acting Chairman Flaherty

**August 20, 2014 Regular Meeting**

Mr. Elvidge made a motion to approve the minutes with one correction on page 4. Mr. Steinberg seconded the motion.

**AYE:** Mr. Tharp, Mr. Elvidge, Mr. Steinberg, Acting Chairman Flaherty

**HISTORIC RESOLUTIONS**

None

**RESOLUTIONS**

**Julie Richard, LLC (#FMRSV-03-2014)  
Block 18.02, Lots 2, 3, & 18  
4 Diller Avenue**

Granting minor subdivision and preliminary site plan approval to permit the renovation of an existing building and construction of a commercial building together with site improvements to be made to a parking area on Lot 2 as well as site improvements on Lot 3.

Mr. Soloway stated: I made two little tweaks, one on condition no. 11, the last sentence now reads, Except as provided by Conditions 5 and 16 of this Resolution, no site work other than

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improvements to the parking lot on Lot 2 shall be performed prior to perfection of the subdivision without the approval of the Town Engineer. The other condition is I added Condition 23 which says, "If required by the Town Council, the Applicant shall enter into a Developer's Agreement with the Town of Newton."

**Mr. Russo made a motion to approve the resolution with the changes. Ms. Logan seconded the motion.**

**AYE:** Mr. Tharp, Mr. Elvidge, Mr. Flynn, Mr. Russo, Ms. Logan, Acting Chair Flaherty

**Weis Markets (#PBSP-06-2014)  
Block 9.03, Lot 16, SD-3 Zone  
119 Water Street**

Granting minor site plan for the designation of six (6) drive-through parking spaces.

**Mr. Elvidge made a motion to approve the resolution. Ms. Logan seconded the motion.**

**AYE:** Mr. Tharp, Mr. Elvidge, Ms. Logan, Mr. Steinberg, Acting Chair Flaherty

**OLD BUSINESS**

None

**NEW BUSINESS**

None

**DISCUSSION:**

**"Reexamination of the Town of Newton Master Plan Pursuant to N.J.S.A. 40-55D-89 specifically with respect to Plan Endorsements by the State Planning Commission and with respect to the Planning Act (N.J.S.A. 13:20-1et seq.) and municipal conformance with the State Development and Redevelopment Plan"**

Ms. Caldwell stated: Before you is a draft resolution of the Town of Newton Master Plan Reexamination and a Master Plan update. I would like to discuss with you and if it is acceptable with the Board we will schedule it for a public hearing for adoption. The impetus for the reexamine was an approval by the State Planning Commission last year of our Plan Endorsement and they requested through that process that we reexamine the Master Plan and include some additional items with respect to environmental issues that were of concern to the DEP and also in this process we have a statutory requirement to review our Stormwater Management Plan whenever we do a Master Plan Reexamination so we included that and then there was one issue that came up with the schools that we also included.

Ms. Caldwell stated: The first page of the 2014 Master Plan Reexamination Report outlines the five questions that the Municipal Land Use Law requires us to answer going through this process in terms of the reexamination. So, I will go through each one of those and discuss which items we are adding into our reexamine and then into the update.

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No.1- Major Land Development Problems & Objectives, this is to look at those objectives relating to land development that were an issue at the time of the last reexamination report. We did a reexamination in 2008 and that is when we adopted our new Master Plan which then was the precursor to our Form-Based Code. Roughly at the same time about 2007 and through 2008 we had submitted to the State our Plan Endorsement. That is a relatively long process given that we just got the endorsement this last year and we were not able to include any of their review comments into the Master Plan at that time. Even though they reviewed our plan in 2008, we were not able to get any feedback from them until last year. So those items that they recommended we are looking at those now. Also new in the Municipal Land Use Law is requiring us to review our Stormwater Management Plan which was adopted in 2005 and also our Stormwater Ordinance which was adopted in 2010.

No. 2- We need to look at the extent of reduction and or increase in those problems & objectives that we are looking at. The NJDEP noticed that our Master Plan was not based on a natural resource inventory which is something they like to see. We compromised with them because through Sussex County's Endorsement Plan they process a very-large natural resource inventory for the entire county which includes Newton and Newton being a small municipality, we felt that it adequately covered the natural resources in the community. We propose to add a reference to that if you are interested in reviewing that. The NJDEP wants to see a map of threatened endangered species within the community so we proposed to look at that.

No. 3- Significant Changes in Assumptions, Policies, Objectives that relate to the Master Plan within the community either through the State, Local, County. One issue that arose was the Newton School Board has identified some properties surrounding the High School that they would like to purchase and while reviewing the Master Plan it did not contemplate school uses outside of our existing school zones. We are proposing to add permitted use of school uses within the T-3, T-4, and T-5 Zones to allow expansion of the schools in the SD-6 District that are bordered by any of those Zones.

The Council on Affordable Housing proposed new rules for Round 3 on April 30, 2014. They are currently set to be adopted on November 17, 2014 and at the time they are adopted I will need to address those.

No. 4- In terms of specific changes to the Master Plan again, adding the DEP required elements also our Planning Board Engineer David Simmons reviewed the Stormwater Management Plan and recommended that a review of subdivision site plan applications during those reviews we look to mitigate any increase in stormwater runoff in 3 areas for the Town. They would be Dam Site No. 2, Sussex County Route 519 West End Avenue and Route 206 at the south end of Newton near Merriam Avenue intersection. He also recommended that we research and verify easements around storm drainage infrastructure as we go through that process.

No. 5- Specific Recommended changes to Development Regulations once the Master Plan is updated the recommendation is to change the permitted uses in the T-3, T-4, and T-5 zones to allow school uses.

No. 6- If there are any changes recommended for incorporation in terms of redevelopment plans. We have had the Merriam Gateway Redevelopment Plan and Amendment, the Hicks Avenue Redevelopment Plan and Amendment; the Armory/Shoprite Redevelopment Area was declared as well as the McGuire Chevrolet Redevelopment Area. Those are recommended to be included in the Master Plan.

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Ms. Caldwell continued: On the next page is the Master Plan Amendment. One page 2, there is a reference for Natural Resources for Sussex County as well a discussion on the Stormwater Management update recommendations. There is the Incorporation of the redevelopment areas and discussion and then on the 3<sup>rd</sup> page there is a map of the Threatened and Endangered Species Habitat within the Town of Newton as well as the Natural Heritage Priority Sites.

Ms. Caldwell concluded her report and asked if there were any questions.

Acting Chair Flaherty asked: The Patterson Avenue Redevelopment Plan and the Amendment to that I don't see that included in there shouldn't that also be included?

Ms. Caldwell stated: They were done prior to our other Master Plan so they are referenced in that Master Plan.

Acting Chair Flaherty stated: The amendment was done in August 2011. That was subsequent to the 2008 review.

Ms. Caldwell stated: Yes, I will add that in.

Mr. Russo asked: Do we have to do any reference with Thorlabs?

Ms. Caldwell stated: Yes. We can note that it was constructed.

Mr. Flynn stated: I think it is a good time to address the easements and do a better job on the inventory of the easements so when someone develops land there are no known easements on it.

Ms. Caldwell stated: In addition to Stormwater Easements we should recommend all Utility Easements as well.

Mr. Flynn asked: Is there an easement by right because the Town owns the pipe that goes from point A to point B. There are situations where sewer lines run through a private property.

Mr. Soloway stated: I can't really answer that. It is a very complicated question. The property owner still owns the land even if there is an easement. So the question is whether a property owner would have the right to compel the Town to alter something. I think it's unlikely that anyone would ask you to do that and I don't think they would be successful if they did.

Mr. Flynn asked: What about if the Town wants to do the flip side of that and the Town wants to run a line on someone's property and there is no easement?

Mr. Soloway stated: I think you will need the property owner's permission to do that in any event if you want to start digging up the yard and if you do not have a recorded easement. If the Town is doing that there is a good reason for it and it is going to benefit the property owner anyway. I would deal with it as it comes. Even if you have an easement you don't own the land. An easement is a right to use the land that somebody else owns for whatever the easement defines. I think it is a great idea to try to identify all of them. I don't know if it has to be in the Master Plan. I know Mr. Simmons tries to deal with this on an application basis as they come in but maybe a wider reference would be a great idea.

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Acting Chair Flaherty asked: What about the inventory of the Stormwater Easements.

Ms. Caldwell stated: I think that would be a recommendation that the Council would have to undertake. I will work with Kathy to coordinate a meeting for a public hearing.

Acting Chair Flaherty opened this portion of the meeting up to the public. With no public coming forward he closed the public portion.

**CORRESPONDENCE**

NONE

**EXECUTIVE SESSION**

NONE

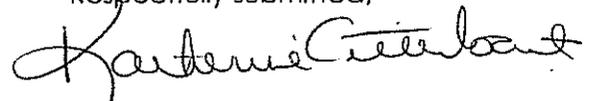
**PUBLIC PORTION**

NONE

**ADJOURNMENT**

Ms. Logan made a motion to adjourn the meeting. Mr. Steinberg seconded the motion. The meeting was adjourned at 7:28 PM with a unanimous "aye" vote. The next regularly scheduled meeting will be held on October 15, 2014 at 7:00 PM in the Council Chambers of the Municipal Building.

Respectfully submitted,



Katherine Citterbart  
Planning Board Secretary