

MINUTES OF THE TOWN OF NEWTON PLANNING BOARD MEETING REORGANIZATION MEETING HELD JANUARY 21, 2015.

CALL THE MEETING TO ORDER: David H. Soloway, Esq. called the meeting to order at 7:03 pm and read the following Statement of Compliance:

STATEMENT OF COMPLIANCE: Pursuant to the Open Public Meetings Act, Chapter 231, P.L. 1975, adequate notice as defined in section 3D of Chapter 21 P.L. 1975, has been made to the New Jersey Herald, and notice is also posted on the bulletin board at the Town of Newton Municipal Building.

FLAG SALUTE: was recited

ROLL CALL:

Mr. Flaherty
Mr. Marion
Mr. Flynn
Mr. Elvidge
Mr. Russo- Excused
Mr. Hardmeyer
Mr. Ricciardo
Mrs. Le Frois
Mr. Le Frois- Excused

OTHERS PRESENT: David Soloway, Esq., of Vogel, Chait, Collins & Schneider, Jessica Caldwell, Board Planner of J. Caldwell & Associates, Cory Stoner, Board Engineer of Harold Pellow & Associates

ELECTION AND APPOINTMENTS:

Oath of Allegiance: David Soloway, Esq., administered the Oath of Allegiance to the following Board members: Gary Marion, Kent Hardmeyer, Joseph Ricciardo, and Helen Le Frois.

Election of Chairman: A motion to nominate and appoint Greg Le Frois to the position of Chairman was made by Gary Marion and seconded by Kevin Elvidge. There was no discussion. Roll Call: Mr. Flaherty – yes; Mr. Flynn – yes; Mr. Elvidge – yes; Mr. Hardmeyer – yes; Mr. Ricciardo – yes; Mrs. Le Frois – yes; Mr. Marion – yes. The motion carried.

Election of Vice Chairman: A motion to nominate and appoint Gary Marion to the position of Vice Chairman was made by Dan Flynn and seconded by Joe Ricciardo. There was no discussion. Roll Call: Mr. Flaherty – yes; Mr. Flynn – yes; Mr. Elvidge – yes; Mr. Hardmeyer – yes; Mr. Ricciardo – yes; Mrs. Le Frois – yes; Mr. Marion - yes. The motion carried.

Election of Secretary: A motion to nominate and appoint Kathy Citterbart to the position of Board Secretary was made by Helen Le Frois and seconded by Dan Flynn. There was no discussion. Roll Call: Mr. Flaherty – yes; Mr. Flynn - yes; Mr. Elvidge - yes; Mr. Hardmeyer - yes; Mr. Ricciardo- yes; Mrs. Le Frois – yes; Mr. Marion - yes. The motion carried.

Appointment of Board Attorney: A motion to appoint David Soloway, Esq., of Vogel, Chait, Collins & Schneider to the position of Board Attorney was made by Neil Flaherty and seconded by Helen Le Frois. There was no discussion. Roll Call: Mr. Flaherty – yes; Mr. Flynn – yes; Mr. Elvidge yes; Mr. Hardmeyer – yes; Mr. Ricciardo – yes; Mrs. Le Frois – yes; Mr. Marion -yes. The motion was carried.

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Appointment of Conflict Attorney: A motion to appoint M. Richard Valenti, Esq., of the firm Morris, Downing & Sherrard to the position of Conflict Attorney was made by Mr. Ricciardo and seconded by Mr. Hardmeyer. There was no discussion. Roll Call: Mr. Flaherty – yes; Mr. Marion – yes; Mr. Flynn – yes; Mr. Elvidge – yes; Mr. Hardmeyer – yes; Mr. Ricciardo – yes; Mrs. Le Frois – yes. The motion carried.

Appointment of Board Engineer: A motion to appoint David Simmons of the firm Harold Pellow & Associates to the position of Board Engineer was made by Mr. Flaherty and seconded by Mr. Ricciardo. There was no discussion. Roll Call: Mr. Flaherty – yes; Mr. Marion – yes; Mr. Flynn – yes; Mr. Elvidge – yes; Mr. Hardmeyer – yes; Mr. Ricciardo – yes; Mrs. Le Frois – yes. The motion carried.

Appointment of Conflict Engineer: A motion to appoint Paul Ferriero of the firm Paul Ferriero Engineering to the position of Conflict Engineer was made by Mr. Hardmeyer and seconded by Mr. Flaherty. There was no discussion. Roll Call: Mr. Flaherty – yes; Mr. Marion – yes; Mr. Flynn – yes; Mr. Elvidge – yes; Mr. Hardmeyer – yes; Mr. Ricciardo – yes; Mrs. Le Frois – yes. The motion carried.

Appointment of Planning Board Planner: A motion to appoint Jessica Caldwell of J. Caldwell Associates to the position of Board Planner was made by Mrs. Le Frois and seconded by Mr. Ricciardo. There was no discussion. Roll Call: Mr. Flaherty – yes; Mr. Flynn – yes; Mr. Elvidge – yes; Mr. Hardmeyer – yes; Mr. Ricciardo – yes; Mrs. Le Frois – yes; Mr. Marion – yes. The motion carried.

Newspapers of Record for 2015: A motion to appoint the New Jersey Herald and the Sunday Herald as the official Newspapers of Record was made by Mrs. Le Frois and seconded by Mr. Ricciardo. There was no discussion. Roll Call: Mr. Flaherty – yes; Mr. Flynn – yes; Mr. Elvidge – yes; Mr. Hardmeyer – yes; Mr. Ricciardo – yes; Mrs. Le Frois – yes; Mr. Marion – yes. The motion was carried.

2015 Technical Review Committee Appointments: A motion to appoint, Mr. Le Frois, Board Chairman, Ms. Caldwell, Mr. Simmons, Mr. Russo, Mr. Hardmeyer as Alternate as the TRC committee members was made by Mr. Ricciardo and seconded by Mr. Flaherty. There was no discussion. Roll Call: Mr. Flaherty – yes; Mr. Flynn – yes; Mr. Elvidge – yes; Mr. Hardmeyer – abstained; Mr. Ricciardo – yes; Mrs. Le Frois – yes; Mr. Marion – yes. The motion was carried.

In compliance with the Open Public Meetings Act, the following is a list of the monthly meetings of the Town of Newton Planning Board. The Board will meet at 7:00 PM on the third Wednesday of every month. The meetings will be held at the Town of Newton Municipal Building, 39 Trinity Street, Newton, NJ 07860.

January 21, 2015
February 18, 2015
March 18, 2015
April 15, 2015
May 20, 2015
June 17, 2015
July 15, 2015
August 19, 2015
September 23, 2015*
October 21, 2015
November 18, 2015
December 16 2015

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January 20, 2106

*Falls after a Legal Holiday or following a Town Council meeting.

A motion was made by Mr. Elvidge and seconded by Mrs. Le Frois to approve the meeting dates for 2015-2016. There was no discussion. Roll Call: Mr. Flaherty – yes; Mr. Flynn – yes; Mr. Elvidge – yes; Mr. Hardmeyer – yes; Mr. Ricciardo – yes; Mrs. Le Frois – yes; Mr. Marion -yes. The dates will be posted on the bulletin board for the general public. The motion was carried.

CONSIDERATION OF MINUTES

December 17, 2014

A motion was made by Mr. Flaherty and seconded by Mrs. Le Frois to approve the minutes from the December 17, 2014 meeting. There was no discussion. Roll Call: Mr. Flaherty – yes; Mr. Hardmeyer – yes; Mrs. Le Frois – yes; Mr. Marion – yes. The motion was carried.

HISTORIC RESOLUTIONS

None

RESOLUTIONS

2014 Zoning Summary

Mr. Soloway stated: The statute requires Boards of Adjustment to make an annual report to the Governing Body of variance applications that would report what variances were granted. This is a joint Board and when you have a joint Board the statute is interpreted where the report you would make would be of variance applications that would have been within the jurisdictions of the Board of Adjustment if still existed. There were none last year. Every variance that this Board granted last year was a "c" variance that was coupled with a subdivision or a site plan application and would have been before the Planning Board if the two Boards had not been merged into one. That is why the Zoning Summary shows nothing. For those that might ask that the Newton Town Centre was in 2013 that would have been on the list and it was on last's years report but it is not part of the 2014 report. The report to the Governing Body would be there will be no variance approvals that require reports in accordance with the statute. The report of the Board is also permitted to inform the Council of any changes to the zoning ordinances that the Board might see fit to recommend. If any Board member wants to discuss it you should discuss it now. The letter I wrote to the Board just indicated I am not aware of anything that the Board indicated by way of a recommendation that should be changed. I did note that possible ordinance changes relating to permanent generators for residential purposes, vapor stores and commercial signage are under consideration and had been discussed.

A motion to transmit Mr. Soloway's letter as the resolution to the Council was made by Mrs. Le Frois and seconded by Mr. Flaherty. There was no discussion. Roll Call: Mr. Flaherty – yes; Mr. Flynn – yes; Mr. Elvidge – yes; Mr. Hardmeyer – yes; Mr. Ricciardo – yes; Mrs. Le Frois – yes; Mr. Marion – yes. The motion carried.

Newton Town Centre Urban Renewal, LP (#FSP-07-2014)

Block: 8.05, Lots: 4, 7, 8 & 9

5 Union Street, 50 Trinity Street & 58 Trinity Street.

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Granting final site plan and related parking and landscaping variance relief.

A motion was made to adopt the resolution by Mr. Flaherty and seconded by Mr. Hardmeyer. There was no discussion. Roll Call: Mr. Flaherty – yes; Mr. Hardmeyer – yes; Mr. Marion – yes. The motion carried.

OLD BUSINESS

None

NEW BUSINESS

Resolution #261-2014: "Resolution of the Town of Newton, in the County of Sussex, New Jersey Directing the Town Planning Board to review and comment on the proposed McGuire Redevelopment Plan Pursuant to the Local Redevelopment and Housing Law" (Distributed prior to this material)

Ms. Caldwell stated: Before you is the Redevelopment Plan entitled McGuire Redevelopment Plan Block 8.08, Lot 6, 7, 8, 9, 10, 11, 29, 30, & 31 dated December 22, 2014, it is on referral from the Town Council for review and comment by the Planning Board.

Ms. Caldwell provided a summary of the plan to the Board.

She stated: Page 2, On October 28, 2013 the Town Council adopted a resolution deeming this area as an area of redevelopment and there was also notice that designation was sent to property owners on November 5, 2013.

Page 3, is an ariel photo with a tax lot and blocks. There are 8 lots within the area. It covers approximately 4.17 acres. It is south of the Newton Green. It has frontage on Main Street which is also Rt. 206, a small piece of frontage from a private alleyway on Spring Street and then frontage along Adams Street. The property contains the US Post Office as well as the McGuire Chevrolet Dealer, two vacant commercial buildings on Lots 6 and 7 on the southerly end as well as the Municipal Parking Lot which front on Adams Street.

Page 5, you will see that the area is also within the Town's historic districts. The blue on the map on Page 5 shows the National & State Historic Designations for the Town Plot area which is the designation of an area but not specific buildings on the National & State Historic District Register as well as the yellow portions of the area, the most southern property along Main Street and then the parking area and some of the rear portion of the McGuire Property are in the local historic district and is subject to the Historic Ordinance.

Page 7, I address the statutory requirements of the plan that comes from the Redevelopment Law. We address the local objectives and goals related to land uses. We also propose land uses and building requirements for the area. This includes a plan for temporary relocation of any businesses within the area if redeveloped as well as the plan for replacement of affordable housing at which time we have none. We identify any property that may be acquired in accordance with this plan as well as identify any relationship to the Master Plans of contiguous municipalities, The Sussex County Strategic Growth Plan and the State Development and Redevelopment Plan. This plan becomes the zoning for the area once adopted and included in it are provisions for enforcement of codes and ordinances, controls and requirements related to affordable housing, procedures and standards for amending the plan in the future, as well as a

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form-based code for the area with building, architectural, parking and circulation regulations for the plan.

Page 11, we incorporate Master Plan Goals. The general overall goal is to enhance the strengthen Newton's position as a Regional Center in Sussex County in such a way that it will fulfill the social, commercial, medical and service needs of growing County within the constraints of the Town's existing resources. The other goals listed there relate to goals from the MLUL that are essentially the purposes of zoning.

Page 14, is the existing zoning for the area with a map. The properties fronting along Rt. 206 are within the T-6 Town core which is the densest zone for the Town. To the back of the property where the parking areas are is T-5 and adjacent to the area, it is important to know there is a cemetery there which zoned T-1, which is a natural area not slated for development and not part of the redevelopment plan but we do note it because of the interaction with that property. There are some environmental conditions on this site. There have been some environmental studies and contamination on the property and it is noted that whatever is there needs to be cleaned up as part of the redevelopment. We also note that there is adequate sewer and water supply as well as circulation access being on some of the main streets of the Town.

Mr. Ricciardo stated: I see when it comes to sewer we give the quantity of the sewer that goes through the water treatment plant and it looks adequate but I don't see the amount of water that is used today out of our allotment and what is a personal allotment distribution today?

Ms. Caldwell stated: It has improved tremendously after they found the leak under Morris Lake so we do have adequate water supply at this time. But I do not know the numbers at this time.

Mr. Ricciardo stated: Do we have enough for this development, the development on Hicks Avenue and any other redevelopment zone like the Shoprite zone and Armory zone?

Ms. Caldwell stated: We are pretty close to existing zoning within the water allocation that we have now and any additional development that is added we would need additional allocation for. I know they are in the process of matching the water allocation at 1.5 million. There is an application into DEP right now to match the water and sewer allocations.

Mr. Ricciardo asked: What happens if the community does not get the increased allocation and we have all these redevelopments that we are proposing? How do we subsidize the loss of water?

Ms. Caldwell stated: As far as I know we have adequate water supply with a build out of the Town with the current zoning. That is full build out. Some of the properties may not develop but looking into the future, we are applying for more water.

Mr. Flynn stated: I think there are 400 gallons.

Mr. Ricciardo stated: I am trying to prevent having redevelopment areas on the books and not having the proper amount of water to supply them and at my last Planning Board meeting, I recommended that we make the Storm Water Recovery and Conservation a requirement not a voluntary act and the Governing Body rejected that and made it a voluntary requirement for any redevelopment zone. My concern is if we don't conserve the water we are going to get to the point where the increase is not approved by the DEP; we will then be stymied for any redevelopment or development within the community unless we go back to some type of conversation program. I understand for this project that is an adequate water supply but a

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storm water management recovery of storm water and some type of recycling system that can be used as irrigation or gray water system of some kind should be considered for every redevelopment program.

Ms. Caldwell stated: We do have some green building requirement. They are not required to do all of them. They can select but many of them have to do water conservation.

Going back the plan, we have a definitions section that I will go back to later.

Page 24, we have a list of permitted uses. We have some overall restrictions with respect to how a development would be proposed on this site. One is:

At least 50 percent of the building frontage on Main Street must be mixed-use. There is an exception for a hotel use as well as on Lots 6 and 7, which are the most south. We made provisions for them to be rehabilitated as a single use office either commercial or resident. The idea is a good bulk of the frontage along Main Street would have retail and/or office mixed use on that frontage. One of the impetuses for the plan was to create more commercial for the downtown to make it more of a draw so this is the place it would go along Main Street.

Mr. Ricciardo stated: As I look at the plan and I see the overall redevelopment requirements that they must require mix use, hotel and parking garages. I can definitely understand the parking garage because there is very little on-ground parking in this area. The hotel sits on the present Post Office location that would require the Post Office to be relocated. Has anyone contacted the US Postal Service to see if they would even consider relocating that parking lot before we did a plan to put the hotel on top of it or if they are not going to reconsider it what kind of facility would they require and what kind of cost estimate would they give you so that could be incorporated into the plan and the developer knows going in what it will cost to move the Post Office and they have a lot of trucks and they require service parking and there is none allocated.

Ms. Caldwell stated: We did reach out to them and did hear back from them. Under certain circumstances they would consider moving but obviously it has to be a financial benefit to them. It is possible. The illustrative plan that will go through can be done differently. It shows one way that it can be developed so the hotel does not have to be in that exact location it could be somewhere else. If the Post Office decided to not be part of this plan, the plan is still written so that it could move forward. The idea is that it is beneficial to the Post Office because they do need more parking. There are some provisions to allow for the Post Office to utilize surface parking for their trucks. The bulk of the parking we do want to see a parking garage otherwise you will not be able to utilize the site to its fullest capacity.

Mrs. Le Frois asked: Are the conversations with the Post Office the reason why we have No 3, under the Statutory Requirements providing for temporary and permanent relocation of any displaced businesses?

Ms. Caldwell stated: There was a discussion about trying to phase the development in a way that an area could be constructed for them and they could move. The rest of the properties are vacant except for the parking lot. Conceivably something could be built for them on the southerly end of the site. They could move and then other parts of the site can be constructed. That will be ideal. We hope they will be part of the plan. They are part of the Federal Government so we have no way of making them be part of the plan.

Mr. Flaherty asked: Is that why the acquisition plan does not include Lot 11?

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Ms. Caldwell stated: Correct, because we have no jurisdiction.

Mr. Ricciardo asked: It seems like the hotel is the mandatory element to this plan. What kind of demographics has been completed by any interested vendor to say there is a need for an additional hotel within our community?

Ms. Caldwell stated: What we have seen in terms of working within the Town and the planning, we heard there is a need and that the existing hotel is often booked. Sussex County has been doing an Economic Development Plan. They found a need for more hotel rooms within the County and in particular in this area of the County there is a definite lack. The big part of this plan is bringing more people to the downtown. We have a residential component but the hotel component also brings people into the town. People that don't have kitchens, people who go to restaurants, people who are visiting and go to shops and spend money in the Town so we see that as a positive aspect and also really one of only ways that we are going to be able to develop another hotel in the Town. We think it is an important aspect. At this time it is a required element. We are looking for a mixed use, hotel and parking garage.

Mr. Ricciardo stated: There is a requirement that this must be built within the plan and there are no demographics to show that it is really needed and there are no economic studies done to say that it can function and be sustainable and viable to the community. Nothing like that has been done yet by any developer. This plan resembles the plan you and I saw from the woman developer from Montville who came in with an identical plan with all of the same elements, who come up here, spent a month here and then backed out. When I was on Council I called her and asked her why she was backing out, she said it was economically unfeasible for her to lose the amount of money she was going to lose for the first ten years before she started to recover any of her investment or be able to carry the project without going into her own pocket. I know you were given this information as to what the Governing Body thought was required here to make this a viable solution and you did a fine job with the plan based on what you were informed with.

Mr. Elvidge stated: We did talk about this earlier tonight. On page 28 it mentions what is required for this site. There is a lot of interest in that site. We have Sean McGuire here tonight and I am sure he wants to sell the property. Undoubtedly our desire from the Town is to use it at site and to promote it as a hotel and parking garage.

Mr. Elvidge asked Ms. Caldwell: If this was approved right now and we had a difficulty with making the hotel/garage work what is the process to amending this for an alternative use? I believe the plan itself is pretty much intact except for that one line item.

Ms. Caldwell stated: There are a couple of different things you can do. You can make it "strongly recommended" but not have it be required proposed to the Council, or you could recommend it and the Council could approve as is or after studies are done and we find it is not viable and economically feasible you can come back and amend the plan and make it strongly recommended at that time.

Mr. Soloway stated: The process would be the same as if you were amending a zoning ordinance. It starts with the Council, the Council formulates it as an amendment, sends it to the Planning Board for review, it is about a three month process.

Ms. Le Frois stated: The time frame is my concern. Do we limit ourselves to possible developers because there is someone that might have a different plan that might not include a hotel, but secondly, if we put it as is and nothing comes to fruition and we have to go back to the drawing

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board to make the amendment, there will be additional cost, fees and time while a potential developer is put on hold.

Ms. Caldwell stated: It is a about a 2 to 3 month process.

Mr. Ricciardo stated: We are talking about a redevelopment area that will be private investors. When we are making things mandatory we are setting standards high and we don't know because we have done no studies to see. It is a very viable sight for redevelopment and I don't think there is anyone in the community that doesn't want to see it redeveloped. I have been a champion for redevelopment since I moved here 30 years ago. I think it should be changed to "recommend" rather than "must include" because you are limiting the potential developers. I think Ms. Le Frois is right. It will limit the developers you get. What we don't want is a Abelour situation where the zoning and the use has to change because it is not a viable thing to be done economically.

Mr. Flynn asked: Is there an economic study being done on this property?

Ms. Caldwell stated: We have met with a few developers. The most recent ones we met with do hotels and sometimes the concern is that parking garages and hotels can be specialized. Some will do just parking garages or just hotels. There are not as many that might do residential mixed use also doing hotels, so it may require an extra step of bringing in a couple different developers to do the entire site. However, we have spoken to one developer who does do both garages and hotels mixed use and they were not put off by the idea. But obviously they would do their due diligence and do a market study before they went forward.

Ms. Le Frois stated: I would want the plan to be inclusive rather than exclusive. The last thing we want to be accused of is forming a plan directed at any one particular developer. Our role is to look at the area that has been deemed for redevelopment and set up a plan that has a few possibly choices rather than pigeon hole it for one certain project.

Ms. Caldwell stated: We are not tailoring this to any specific person or developer. The idea is that if we are ever going to building a hotel, this is where it is going to be. The mixed use was something that was promoted from The Strategic Vision Plan so that is something we know that we definitely need. We definitely want the residential. The development can't be built to its fullest potential without a parking garage. I think we could get someone to go build apartments there with surface parking there tomorrow but I think that is selling the Town short at this point. I think we should really try to maximize this site. It is four acres in the middle of downtown. It could be a game changer. It could really set off the downtown in a positive way. I feel you should try to get the best deal you can there.

Mr. Ricciardo stated: You will have do a traffic study to back up your redevelopment plan.

Ms. Caldwell stated: This plan is essentially like zoning. Everyone still has do a site plan, do their studies, fine tune everything. This is just to give everyone a conceptual, visual of what it could look like how it could be laid out.

Discussion ensued.

Ms. Caldwell reviewed the parking and circulation plans. We recommend a pedestrian connection between Adams Street and Main Street. We have the same parking requirements that are required for T-6. We have tried to minimize them. We also have shared parking factors if you are sharing parking we can reduce the parking. We want adequate parking for this site

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but because of the cost of the parking garage we do not want to over build the parking for this site.

Mr. Riccardio stated: We are talking about a redevelopment plan that would require parking for apartments, parking for commercial office areas, parking for retail and parking for a hotel and the post office. We are talking about a substantial amount of parking. In the retail, you are going to have cars coming and going, the hotel you will have them parked all night or all day, the commercial office, the cars will be parked there all day. You are estimating 400, I don't know if that is enough. You want to create a designation point and this is what this entire redevelopment scenario is all about, you first have to have something that is going to draw them to this site. Is it retail, is it the hotel, the offices, the apartment and no matter what you do prior to any of those since this parking garage is in the back and you only want to build it once, you should build that first.

Ms. Caldwell stated: There are provisions for phasing. Obviously parking requirements are based on what is built. I made sure what is in the concept plan that we could build enough parking spaces. Based on the number of stories, estimating number of rooms, estimating number of requirements and then estimating the size of the garage and the number of stories we could build parking on the site that would accommodate what is shown on this plan. The entire project can be built in stages. If we have to build the parking garage first to accommodate the other uses then we can do that first or we can build it concurrently with other uses.

Mr. Ricciardo stated: I would like to know what is going to be built first? If you are going to do it in phases and you are going to do the residential and the mixed-use structure there probably is no need for a parking garage because there is enough surface area there that is not developed. But if a developer comes in and buys the entire package, he will want to do it in phases, but before he does that he will have to make sure his parking garage is in place because he is going to lose his surface parking. I just don't want to say that this is what you must build. I really think there should be more flexibility within the plan. And if you are going to not change the word "must" to "recommend" then you better do some demographics and financial studies to prove this will work when you say you "must" build it. By saying we "strongly recommend" it becomes their responsibilities to do all of those studies.

Mr. Soloway stated: If something comes before the Board, the Board is not going to not approve a segment without making sure there is adequate parking to support what is being approved.

Mr. Hardmeyer asked: Are you thinking that an individual or a group will buy the entire area and develop it as one package?

Ms. Caldwell stated: We have provisions for that but we also have provisions for individual site plans. It depends on the developer that comes forward whether they do hotels or do they subcontract to somebody or lease space to someone that does. The Hilton for example they would lease the space to that group and they would do the hotel portion but somebody else might be doing the parking garage portion and maybe the hotel and the other uses on the site pay to use those spaces.

Mr. Elvidge stated: Before it was just an idea as a redevelopment plan that was probably about 4 or 5 months ago there were some interested parties and they couldn't handle the whole project with the hotel, retail etc. Anxious to be involved in something like that but the hotel part and garage was not of interest to them because it was not their specialty. Jessica, Tom and I have had that discussion and it was at that point that we were knew we going to have multiple

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developers on the site and within the last month there are some people outside of the area that have had an interest in doing the whole site which is not foreign to them to do it with mixed use. I know you are expressing concerns and they are valid but I know Jessica has gone through this and knows what the site can hold. The mystery is we don't know until someone expresses a sincere interest.

Mr. Ricciardo stated: I am sure Jessica did exactly what she was told to do and what she was obligated to do as she always does. She set up the plan with the information she was given as to what the Governing Body wanted on the site as she always does, and will come up with the best plan. I am not saying the plan is wrong; my concern is I think it is probably the most advantageous redevelopment in the Town. There are a lot of unknowns here and what I think the Governing Body should be doing is to make this as developer friendly as possible so that it does come to fruition and not put any restrictions on it that inhibit a number of developers who may want to come in and do it. It needs to be developer friendly. We were developer friendly with Thor Labs when they came in, we floated bonds, we let them do it in phases and I think that is the approach we need to take here.

Ms. Caldwell addressed the Bulk Standards which are on page 38 of her report. Buildings Fronting on Main St./ US Route 206: 8 stories/100 feet, Buildings constructed within 15 feet of Main Street/US Route 206 shall utilize step backs above the 4th floor. Setbacks may be utilized above ground, 2nd or 3rd floors. Buildings fronting on Adams St: 4 Stories/50 feet, Buildings abutting Adams Street will have a maximum height of 50 feet or 4 stories. Buildings Internal to the Area (not fronting on any public street): 8 stories/100 feet (setbacks not required). There is the ability to create height and that is a maximum. It doesn't mean that is what someone is going to build to but we want to allow for that type of height to be achieved.

Mr. Soloway referred to page 39 under Mix of Uses: It stated: Any proposed site plan must include at least three principal permitted use categories. I don't know if that is consistent with multiple developers. This indicates one developer if not doing everything, a big chunk of this.

Ms. Caldwell stated: The next sentence does give an exception for rehabilitation of pre-existing structures or redevelopment of single lots of one area or less are not subject to that. There is the possibility that if you have a smaller lot or if it is broken down into smaller lots. The overall idea is there is a mix of uses. That is to prevent the site from just being residential apartments with surface parking and that is it.

Ms. Le Frois stated: If we are thinking of changing the "must" earlier in the plan we should be considering changing the "must" here as well.

Ms. Caldwell stated: There would be a couple of places it would have to be changed.

Mr. Soloway stated: It is a tough call. In an ideal world you would have this one knight come in with a huge plan to do everything and the mixed use but based on the discussions we are having it doesn't seem like that is what we are going to get and you may have to get different developers to do different things. I just am not sure if that sentence is consistent with everything else. It will depend on what you get.

Ms. Le Frois asked: So the way it is written now if there is one developer, one site plan, that site plan has to include the three categories but if there are three developers, three site plans than each site plan must incorporate all three elements?

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Ms. Caldwell stated: No. That was not the intention. Ms. Le Frois stated: That could be the interpretation.

Ms. Le Frois stated: So what this plan is saying is any proposed site plan must include at least three principal committed use categories. That is assuming there is one site plan, but if there are multiple developers and multiple site plans than each site plan must include the three permitted use categories.

Ms. Caldwell stated: While there could be multiple developers, if the site has a garage, hotel and another development site plans will have to go together and have some type of master site plan unless there is a subdivision on the lot and infrastructure built.

Mr. Soloway stated: When you say site plan, I think of site plan application. If this gets separated into different applications my guess is you are only going to have one site plan application that proposes three principal permitted uses.

Mr. Elvidge stated: I did not read it that way. I read it as you could have multiple developers but they will have to work in coordination on single site plan.

Mr. Ricciardo stated: What if we say any proposed site plan must include at least one of the three principle elements.

Mr. Elvidge stated: No. I would not agree with that. I think the strength of the site and the viability of it happening has to include multiple uses.

Mr. Soloway stated: It has to include at least three principle permitted uses but once you have a site plan approval that has that, than you don't need that sentence any more.

Ms. Le Frois asked: Why can't it read, "the uses shall be mixed in the redevelopment area"? The redevelopment area must include at least three principle elements and take out the words "proposed site plan". It is the entire redevelopment area that we want to include those mixed categories. Or it can read "the uses shall be mixed in the redevelopment area", and the redevelopment area is strongly encouraged to include the three principle elements.

Mr. Stoner stated: If you have two developers who want to do one thing and the three another, there is a point that they may not comply with the redevelopment plan and they will have to come back in. You will have to come up with a goal that you want.

Ms. Le Frois stated: My goal is to be developer friendly so we are getting someone to the table if someone wants to invest in the development.

Mr. Ricciardo stated: If we don't make it viable and we don't make it relatively easy, McGuire's will own it forever. We think it is a prime location for redevelopment of some sort. We know what we would like to see but saying, "you have to do what we want you to do" is not being developer friendly and it may have developers to walk away.

Mr. Stoner asked: So you are saying you don't like the work "must"?

Mr. Soloway stated: I don't have a problem with "must" it is just saying every site plan "must" that is my problem. The way it is set up is if the parking garage is one of the principle permitted use, you will wind up with three even if you don't get the hotel.

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Discussion ensued.

Mr. Ricciardo stated: I want to see it developed and I don't want to make it totally hard or economically impossible to develop at this point in time. I think we recommend to the Governing Body that they reword it to eliminate the word "must".

Mr. Marion stated: I agree.

Ms. Caldwell referred to page 45-47. Signage Requirements. It is similar to what we currently have in the downtown.

Ms. Caldwell stated: Page 48, is the Green Building Standards. There are nine different standards. We require that a developer incorporate at least four. The 10th standard allows them to incorporate any credit category or LEED Ratings. Anything that would qualify them towards LEED certification would also count as one of these four criteria. The use of water efficient fixtures, re-using greywater and/or processed water, Energy Star rated appliances, and Energy Star efficient light fixtures, etc.

Ms. Caldwell referred to the Landscape section. She stated: In general what we are looking for are street trees, trees and plantings within the Plaza area and it is a downtown development so we are not looking for an over amount of landscaping. We do recommend planter boxes along Main Street and some along Adams Street and buffering of any surface parking. We also have hardscape requirements which would be any kind of development within the Plaza area that utilizes mixtures of brick pavement or cobblestone and pavers for interest. We are also asking for public art or fountains and pedestrian and bicycle amenities within the Plaza to add interest for people to congregate and relax.

Ms. Caldwell referred to the lighting requirements for the streetscape. It is similar to what we require in the Town. Page 56 shows pictures of what the plaza can look like.

Ms. Caldwell referred to Stormwater Management requirements which we generally rely on the Town's Stormwater Management Ordinance and general utility requirements. We also have a suggested list for trees, shrubs and grasses.

The last section is the Legal Provisions. We refer anyone utilizing the ordinance to zoning provisions that are not covered within the Plan. We also have provisions for amendments to the plan which follows the standards that we utilize and have utilized in the past. We set up the standards for deviations which are similar to what we have always done where you can get bulk type variances and variances that would be a "c" variance. You can get those from the Planning Board. Anything that rises to the level of the use type variance or a "d" variance exceeding maximum density or height by more than 10 feet or 10 percent would not be permitted and that is when anyone proposing to do that would have to seek an amendment to the redevelopment plan.

Ms. Caldwell stated: We have a Plan Consistency Review related to the Master Plan, State Plan, Zoning Ordinance and consistency with adjacent municipalities. We have some implementation standards that reflect the redevelopment agreement that is required and our Planning Board review process, which is essentially the same as any other site plan however there is a preliminary design review meeting with the Town Manager and the professionals initially and then it goes into the Technical Review Committee which we do for all site plans.

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Ms. Caldwell stated: 8.18 is the Phasing Plan which does note public improvements and anything within the circulation plan which relates to parking. Those improvements have to be completed within a certain percentage of the development being completed. That is where you could phase in something like a parking garage. If you were building 25 percent of the site you could temporarily utilize surface parking and then show when you get to 50 percent of site, you need to have 50 percent of the parking. That can be worked out. We have some provisions regarding affordable housing. We don't have any housing that needs to be relocated at this time and we are not proposing any affordable housing set aside within this development.

Mr. Ricciardo stated: It will depend on the developer.

Ms. Caldwell stated: That Mr. Soloway and I discussed it over the phone. There was a resolution that was drafted with provision for changes which we can add what was discussed for tonight. She referred to Exhibit B of the Draft Plan with proposed changes.

Mr. Flaherty asked: Will you be revising number 15 to state "should include"? So am I interpreting that correctly that it says it could have one principle use as long as the rest of the site being developed is not hindered by that single use? I could do a commercial development and it would not hinder the development of the hotel or residential? The "must" will be changed to "should".

Ms. Caldwell stated: That is correct.

Mr. Marion asked: What about snow removal?

Ms. Caldwell stated: The garage won't have that problem but the other spaces are private parking so they will have to hire someone.

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

1st Public

Richard Miller, resident of Green Township. My profession is a redeveloper in the Town of Harrison. I can tell you building a parking garage in Newton makes no economic sense. You need \$175 a month to make a garage work. To do the garage in Harrison at the Path Station we needed to get the County guarantee in bonds of 46 million dollars. You are creating a monster here. You will be getting more retail but you have all these vacancies, you are not addressing that. I would love for Newton to be great. It has a great Town Green; you have the theatre on one end. You need to figure out a way to tie these two together. The problem in Harrison is I have 7 to 8 thousand people going to the Path Station and I am subsidizing my retail that is brand new. I built a hotel there, I understand it. Have you had a Star Report done, do you have a competitive set, who is going to make the investment? At the end of the day you are creating a plan that cannot be implemented and I am speaking from a person that has been doing this for 15 years in Harrison. I understand the process you are going through, I understand the economics that you are talking about and I would love for there to be a way to do something to make a buck here from Green Township to Newton. I would love to do this. I am the perfect guy to do this here. But it is not feasibly possible. I have not found anything in your plan that makes any sense from a planning point of view, an implementation from a developer's point of view and at the end of the day the people who are going to make money are the people sitting here. At the end of the day, I promise you I am 59 years old when I am 70 if this plan is implemented I guarantee you right now it will be empty according to this plan.

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Mr. Marion asked: What would you envision that spot?

Mr. Miller stated: One of the problems you have is circulation. The theatre is a great idea. You have Andre's which is Dre's. If you go up to Warwick, they have turned the old buildings into places to go to. Another problem is the people living upstairs. I recognize that. I have been in Hoboken. I have been redeveloper in Hoboken, a redeveloper in Harrison. I have dealt in terms of development, with McManimon and Scotland close to a billion dollars of worth right now. When Shelby's left, it is sad that it went to County offices. It could have been a great place for a restaurant or a brew pub somehow turning that Green into something over the weekend like music. You start getting people to come. The county has no place for young people to go. That is what the success of Hoboken was and Jersey City they have young people. Have some entertainment there and the kids will come; they will start hanging out. That is the security for Spring Street, is to have some eyes on Street. In Harrison, they originally had a plan to put more parking under the buildings. I said you don't want to more parking under buildings. You want to have structured parking because the retail acts as eyes, the patrons keep an eye out, the robberies go down. Something I thought of on the way here was maybe take the driveway by the Post Office and make is a circular pass through to get to the Theatre and now you have retail on both streets instead of it all being on Spring Street. The parking garage you are proposing is \$175 a month and you are getting 25 cents an hour now. It will not work.

Mr. Hardmeyer asked: What would a 400 unit parking garage cost?

Mr. Miller stated: Five years ago in the depth of the recession I paid \$46 million for 1400 sq. feet or 40 spots. The hard cost was \$16,667 a spot. It was a free-pass garage. It was acceptable for the Town and County and then you have the soft cost which is the engineering, insurance. At the end of the day you will be about \$21,000 to \$22,000 a spot. So if you put \$9 million into your thought process that is what you are going to need. Then you need to float the Bonds. You have no better firm than McManimon and Scotland to figure it out but you will be paying 5.5% on 10 million that is \$550,000 a year on the insurance.

Mr. Ricciardo asked: If you were a developer for this project, what would be the first thing you would develop on this site that would draw people to it so that you can have the possibility of further development on it?

Mr. Miller stated: I would try to find some way for a liquor license there to attract people. The beer garden in Hoboken was very successful. It is a draw for young kids. You see the difference in the Town when they have a good draw at the Newton Theatre. There is a different atmosphere when they have a good crowd. You see people walking and that is what you want. What you have now is no walking. You have it written in the plan that it is pedestrian friendly, I don't see it. It is not friendly. There is no reason to stay on the street. You go to your car and you leave.

2nd Public

Sean Monahan, Esq., of Schwenk, Price and King, I represent McGuire. You have heard the word flexibility many, many times. When I first met with my clients that was the word they used. Flexibility in the plan is the key to make it developer friendly. We feel very strongly about that. The other concerns we have are the requirements for the hotel and parking garage. Mr. Miller said it better than I could, a parking garage is very expensive and a hotel is very specialized use. It really cuts down in a number of people who would be interested in taking part of the redevelopment. The discussion on the taking the word "must" out and replacing with "should", even "should" might be a little strong as well. We believe to maximize the potential for success

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of this plan it has to be developer friendly. Flexibility is the key to that. You need to give the developer who is coming in the opportunity to build something that will be economically feasible.

3rd Public

Owner of the Holiday Express, Newton. I have a question about the demographics. You really do not have any studies. I think the competition of another hotel is healthy. And as far as working with the SID if that goes through, you are trying to bring people into the Town and we are trying to keep people here. If we get another hotel and retail that will do the same thing so aren't we doing the same thing in two different ways? Maybe we need to give incentives for long time staying.

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

Vice-Chairman Marion asked Ms. Caldwell: If someone wanted to come in and just buy the dealership and do something similar to a beer garden, is that something that is permitted with this redevelopment plan?

Ms. Caldwell stated: I don't think so because the building becomes pre-existing nonconforming. You cannot have expansion of a pre-existing nonconforming use. In terms of having a beer garden there are no available liquor licenses in the Town. The reason we were looking for the larger hotels is the ability to get a liquor license because as much as we have tried there is no other way. It is difficult to do some of the things that were discussed. I actually don't think the plan is that different from what some of the recommendations were. The idea of residential is providing eyes on the street, the idea of having the commercial is creating a "there" to draw people in. I think all of the aspects that were discussed are why the plan is laid out as it is and the conceptual plans are exactly conceptual there is no reason why another circulation plan couldn't be done or some other ideas could not be forwarded.

Ms. Le Frois asked: Does anyone know the status of the pending legislation to provide relief to municipalities that are County Seat as it relates to Liquor Licenses?

The Board has heard nothing.

Mr. Flynn stated: The Liquor License plagues every Town in the State. It has to be done at the State level and there is no discussion on it.

Mr. Elvidge stated: From the Town's standpoint most of the success that we have had in terms of any place being developed versus vacancies is anything that has had some sizable amount of property the investment has been put into the Town through people outside of the Town that have been developers. The vacancy problem is something the Town cannot control. From a Council standpoint I don't fill vacancies. We try to do the best we can with tax abatements and the programs that go along with it but I think that is a market thing. I don't doubt Mr. Miller. Some of his comments are definitely valid. I don't know what that site will hold. I can't ignore the fact that there has been some sincere interest in it. Will it end up being an exact configuration of what Ms. Caldwell has in the plan, I don't know. I sense it will be something smaller. We will find out if that is a viable project or not. As Ms. Caldwell stated, the circulation can be changed but there are some good comments in there.

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Mr. Ricciardo stated: I think we are at a very good starting point. If we recommend to the Town Council and they send it back to us with the changes or we start entertaining developers, I think it is a good starting point and as long as we realize demanding something is not going to make this an easy process and working with a developer that comes in whether you want him to develop the existing facility as it is or if he wants to go through the whole redevelopment plan. It is something the Governing Body and the Planning Board have to consider.

Vice Chairman Marion stated: I don't think we should restrict it that it has to be this, this or this. Let the developer come in with his/her vision and look at it. If it is something that fits and the Town is interested in it great but I definitely agree with taking the "must" out. We are talking millions for a parking garage. Do we need it based on what a developer envisions? Time will tell. At least it is a basis to start from.

Mr. Soloway stated: The Board is recommending to the Town Council that the draft plan be adopted along with the Planning Board's revisions. It also contains the finding that the plan is consistent with the Town's Master Plan. The Board Secretary is directed to submit a copy of the resolution to the Mayor and Council.

Mr. Flynn asked: Are we adopting this tonight? Or are we going to discuss this further on the Planning Board level?

Mr. Soloway stated: There is no particular timeframe. You are supposed to act within 45 days. If you exceed that the Council in effect can act without you but you have Council members here.

Mr. Flynn stated: This plan would benefit with further deliberation by the Planning Board in my opinion.

Discussion ensued on how the 45 days works.

Mr. Flynn stated: Usually these amendments to redevelopment plans come to the Planning Board with something in mind that there is going to be a future development and it is hinged on the approval at that point in time so it can move forward. I don't see that in this case. This would benefit from another month for Jessica to make the sufficient amount of changes that have been suggested.

Mr. Soloway stated: The danger of not doing anything within the 45 days is that the Council can then act without reference to your recommendations.

Mr. Flaherty stated: We could send it to the Council and they can give it back to us.

Mr. Flynn stated: Does it need to go back and forth? There are a lot of changes that could be made and I am sure everyone's opinion has not been thought over thoroughly and it could benefit from more discussion on this Board level.

Mr. Ricciardo asked: Can we propose another resolution?

Mr. Soloway stated: Yes. The only thing you are required to do is make a finding relating to Master Plan consistency and in terms of substantive matters you can recommend whatever majority of the Board decides is suitable and accepts.

Mr. Elvidge stated: I don't see the Council acting on this without a Planning Board recommendation. It is not what I would do. Mr. Ricciardo made a motion that the Planning

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Board send it back to the Council stating that the Planning Board thinks there is additional review by this body and the Governing Body is required after they review the comments the Planning Board made, send it back to us for further review.

Ms. Le Frois stated: Does it have to go back and forth?

Mr. Soloway stated: No. It does not need to ping pong back and forth but just so you are clear the Council can after the 45 days are up just act without reference to anything you have determined because you will not have determined anything.

Ms. Le Frois asked: Can we ask that the Council not act because we are still making further review and consideration?

Mr. Flynn stated: As a Council member sitting here I am saying exactly what you said but we are not going to act on it without the recommendation of the Planning Board so it can sit at the Planning Board for further discussion.

Mr. Elvidge stated: The route Mr. Ricciardo wants to take is the route I would take.

Mr. Soloway stated: Why don't you adopt this resolution, if you are comfortable with it so far, add a paragraph to it that it is a complicated subject and the Planning Board would like more time to review it because it may have additional recommendations and ask the Council to refer it back to you.

Ms. Le Frois stated: The longer we tie this up are we tying the hands of the current owner for them to proceed with any possible interested buyers? I am hearing from Council members that we don't have people knocking on our doors, however the longer this is pushed, are we in fact prolonging the process?

Mr. Flynn stated: Out of all the significant discussion tonight I am surprised this is holding it up right here. We are saying it needs further discussion on the Planning Board level I don't feel it is holding up any perspective developer at the current time.

Sean Monahan stated: We agree that additional review would be beneficial for all parties. We want to get it done correct not quickly.

Vice Chairman Marion stated: If everyone is in agreement, we are going to ask the Town Council another month to review it, it will go beyond the 45 days which they can act on if they desire but we are asking for additional time to review it.

Mr. Soloway stated: Now is the time to let Ms. Caldwell know your comments on what more information you would like.

Mr. Ricciardo stated: I would like the Governing Body to do some more demographics on the need for the hotel. I think demographics for retail and hotels are extremely important. If we are going to put in the Master Plan we need to be able to sell it to somebody.

Ms. Le Frois stated: On the flip side I don't think we want to see another residential development.

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Vice Chairman Marion stated: I would like to see what else could be possibly feasible for that site other than a hotel, retail, and residential. Spring Street is half empty so does retail make sense?

Ms. Caldwell stated: The Strategic Vision Plan had an Economic Studies attached to it which did support additional retail in the area so at least that was supported. Residential Rental apartments are #1 type of residential units going in the State now. The residential and commercial aspect, I don't think there are issues with that. The hotel, yes, but I think those are the next steps. You would do that type of study next. If it is not a required element of the plan, I don't think it is required to be done before you adopt the plan. The zoning is permitted use. It gives you the maximum of what is allowed. It does not give you a minimum. If you take out the requirement for the parking garage, you take out the requirement for the mixed of uses then someone could build it all residential based on the current zoning for that area. I see the desire to get more understanding but I really think that is the next step in why you work with developers to get that information. You need to very specific. We can do all kinds of market studies and have a developer come in and want slightly different. You will still need to do another market study for that. I don't think it is a good investment for the Town to do a market study. We have done some market studies which culminated in the development of this plan. The County did an Economic Study that did show the need for a hotel, it wasn't specific to this site or specific to Newton but it did show a need for the hotel in the area.

Mr. Ricciardo asked: Can we get the demographics from the County's study to verify it.

Mr. Flynn stated: I am sure it can be obtained easily.

Mr. Ricciardo stated: That is the type of information, if we know if it is available and we want a plan adopted, it should be made available to the Planning Board when they present any kind of plan.

Vice Chairman Marion stated: I don't want this to be similar to Ross's Corner. It has been sitting there for a long time.

Mr. Soloway stated: If you are taking out the "must" language, you are no longer mandating a hotel for example. I don't know if this Board needs the studies to determine if that site is economically feasible. The Council may or may not need studies but there wouldn't be a requirement.

Mr. Flynn stated: I don't think a study should be done for the economic feasibility of hotel should be done for this plan. What I am suggesting is there was a substantial amount of changes that were suggested tonight and it should be looked over again after the product is cleaned up and the suggestions made and it should be looked over again by this Board.

Ms. Caldwell stated: She will do a red line copy and send it out to everyone via email.

Vice Chairman Marion stated: So we are not going to act on this resolution. We are going to ask the Town Council for another month to study it and then come back next month with any other questions, either adopting or not adopting this resolution or coming up with another one.

Mr. Soloway stated: There is not much point in asking the Town Council for another month because if they say no it is a moot point.

Vice Chairman Marion stated: So you just let it sit in limbo?

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Ms. Caldwell stated: Just wait another month and keep working our revisions and assume the Council will give us the time to do that.

Mr. Soloway stated: I think the suggestion is as Mr. Flynn suggested, clean it up in a way that everyone can follow the changes. You will have the document in front of you and you can follow, understand and you can vote on that at the next meeting and presumably adopt a resolution similar to the one that is before you tonight. We will carry it to next month.

Mr. Ricciardo seconded the motion.

AYE: Mr. Flaherty, Mr. Flynn, Mr. Elvidge, Mr. Hardmeyer, Mr. Russo, Mrs. Le Frois, Vice-Chairman Marion

CORRESPONDENCE

Correspondence was given to Board members in their packets.

EXECUTIVE SESSION

NONE

PUBLIC PORTION

NONE

ADJOURNMENT

Ms. Le Frois made a motion to adjourn the meeting. Mr. Ricciardo seconded the motion. The meeting was adjourned at 9:23 PM with a unanimous "aye" vote. The next regularly scheduled meeting will be held on February 18, 2015 at 7:00 PM in the Council Chambers of the Municipal Building.

Respectfully submitted,



Katherine Citterbart
Planning Board Secretary