

**Town of Newton
Planning Board
February 18, 2015
Minutes**

The Town of Newton Planning Board met in a regular session on Wednesday, February 18, 2015, at 7:00 PM at the Town of Newton Municipal Building, 39 Trinity Street, Newton, NJ. The following members were present: Daniel Flynn, Kevin Elvidge, Thomas Russo, Kent Hardmeyer, Joseph Ricciardo, Helen Le Frois and Gary Marion. Neil Flaherty and Gregory Le Frois were excused. Also present were: Board Attorney, David H. Soloway, Board Planner, Jessica Caldwell and Board Secretary, Kathy Citterbart.

SALUTE TO THE FLAG: was recited.

ADMINISTRATION OF OATHS:

ROLL CALL: was taken.

THE SUNSHINE STATEMENT: was read.

Meeting was called to order by Vice Chairman Marion, who stated:

"Adequate notice of this meeting of the Town of Newton Land Use Board has been provided in accordance with the Open Public Meetings Act (Chapter 231, P.L. 1975)".

CONSIDERATION OF MINUTES

January 21, 2015

A motion was made by Mr. Ricciardo and seconded by Mrs. Le Frois to approve the minutes from the January 21, 2015 meeting. Roll Call: Mr. Flynn – yes; Mr. Elvidge – yes; Mr. Hardmeyer – yes; Mrs. Le Frois – yes; Mr. Marion – yes. The motion was carried.

HISTORIC RESOLUTIONS

None

RESOLUTIONS

None

OLD 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".

Ms. Caldwell stated: The Board requested they do a red line copy of the plan so everyone could see the changes in the plan as proposed.

Some of the changes were:

Page 24, under section 4.2 Permitted Uses, this section changed the required mix of uses being 50 percent of the frontage being mixed use, having the hotel use, the public plaza and the three uses of the mixed use, hotel and parking garage are all "recommended" rather than "required".

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Page 27, the wording changed to "strongly recommended".

Page 28, under Section 4.4 "strongly encouraged" rather than "required".

Page 33, it was "required" to have the parking garage, now is it "strongly recommended".

Page 35, that same change is made for the multi-level structured parking.

Page 39, changes were made under Mix of Uses and also added in, "If the area is developed in phases, each site should include at least three principal permitted uses or show the construction of the additional uses is not hindered by the proposed development".

Page 60, there were a few changes to the Legal Section based on review with the redevelopment attorney. Clarifying the language under 8.2, the zoning provisions, just noting that the "zoning ordinance shall control for anything that is not specifically stated herein".

Section 8.3 addresses amendments to the plan and how that process will take place. There was a court case on that so the redevelopment attorney wanted to clarify how that process is done if someone wants to make an amendment to the plan.

The other changes that were recommended from the Board Attorney are incorporated.

Vice Chairman Marion stated: Based on the changes made, this opens it up to more developers who might have an interest verses what we were looking at last month, because I think the parking garage was a major sticking point financially.

Ms. Caldwell stated: There are a couple of different ways the property could develop. One is if you have the parking garage you can have a lot higher intensity of uses on the site because it would be supported by the parking. Second, if you only used surface parking it would be a lower intensity of developments so taking that out allows for a lower intensity of development on the site as well as allowing for a lesser variety of uses, for instance multi-family could be put there, or just mixed use. It could be a simpler plan that might appeal to a greater variety of developers. There were some questions because it was a Redevelopment Plan and could we strongly recommend something if we can't really push someone to do it. It is still similar to our regular ordinances. If someone comes in with a substantially conforming site plan there is not a lot you can do there if they are not interested in doing any of the recommended items.

Mr. Hardmeyer asked: What if somebody is only interested in developing the lot owned by the McGuire's? Would that be permitted? Would they have to come back to the Board?

Ms. Caldwell stated: Yes. They would come in for site plan approval for those lots. We did structure the plan so that the different lots could be developed because the two lots on the end are also owned by a different entity so we made it so that they could develop on their own as well.

Vice Chairman Marion asked: Does it also takes into account the back parking behind McGuire?

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Ms. Caldwell stated: The Town parking lot is part of the plan and could be incorporated. Any redeveloper would have to come to an agreement with the Parking Authority, which is a separate entity of the Town.

Mr. Hardmeyer asked: Is there any chance the Parking Authority would be interested in the parking garage.

Mr. Russo stated: No. We do not have that financial capacity to operate or develop something at this stage of the game.

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

1st Public

Wayne McCabe, President of the Sussex County Historical Society, 82 Main Street, Newton. I am here this evening representing the Board of Trustees of the Society.

As you are aware the Sussex County Historical Society is headquartered at 82 Main Street in the Hill Memorial Building (at the intersection of Main and Church Street). The building was built in 1917 and is the oldest museum building in the State of NJ that was erected specifically to serve as a museum. The building lies within the Town's designated Historic District and is also individually listed on both the NJ and National Registers of Historic Places. The area of subject of Ms. Caldwell's report is located directly across the street from our facility. We believe there will be a direct and considerable impact on our building and the entire neighborhood adjacent to it and surrounding it. Our Board of Trustees feels we have "standing" in making the following comments and observations regarding the report. Our Board of Trustees is not opposed to the overarching concept of placing the McGuire property and placing it to economic utility that will benefit the community and downtown business community. We would like to walk you through our concerns with it. This is from the December 14, 2014 document.

Page 11, The overall goals that Newton has as a regional center for Sussex County has to fill the needs of a growing County within the constraints of the town's existing resources. I would note that the County is not only growing, but rather has been decreasing in population according to the 2010 US Census.

Page 12, under Neighborhood Aesthetics and Preservation Goals – the Plan calls for the prevention of deterioration of individual structures, including historic resources through the adoption of reasonable rules and regulations controlling maintenance standards. It further calls for maintaining and developing an appropriate and harmonious physical and visual setting for historic landmarks and architecturally significant buildings, structures, sites, objects, and districts within Newton. It further states "encourages architectural design that complements historic buildings in the Town". The Trustees feel these goals are absolutely on target and kept in mind throughout the development of the plan.

Page 18, under definitions – Buffer - we feel the definition does not go far enough – but should include helping to visually separate the new land use from the adjoining existing historic structures, buildings or sight, our particular concern is with the Historic Cemetery.

Page 19, under definitions - Frontage Build-Out - there is a word missing or "of the" should be removed in the definition.

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Under Landmarks - this definition is poorly crafted in terms of reflecting the definition of landmarks that is found in our existing historic preservation ordinance and which also is defined by the Secretary of the Interior.

Page 21, under definitions – Streetscapes – references Merriam Gateway Redevelopment Plan - it should be the McGuire Redevelopment Plan. Also, this definition cross-references to "Building Frontage and Landscaping and Planting Edge". These two terms are not defined in the document and should be.

Pages 25 and 26, Emergency services needs a definition. There is nothing in there that tells us what it is.

Under commercial uses are included department stores, farmer's market, package goods stores, liquor stores, taverns and bars. The entire list should be reviewed in detail to make sure what is listed is actually what we want to see encouraged in this area. In terms of bars, we feel it would be more appropriate to include it with the use of the hotel as verses a separate standing bar.

Page 27, Item 2, this is where you could insert the word "bar" because it is an appropriate use within that facility.

Page 29, the drawing indicates that it is very close to the proximity of the road to the corners of the stone wall surrounding the historic cemetery and the north wall of the cemetery. If this design were to come to pass a negative visual impact on the cemetery would be beyond description and also the potential for damage to the cemetery wall is considerable.

Page 30, Newton Cemetery - The first paragraph incorrectly notes that the stone wall is in a state of disrepair. That is not accurate, only some sections of the wall are in a state of disrepair. The majority of the wall was restored about 10 years ago. The area of the dilapidation of the stone wall is adjacent to the Catholic portion of the cemetery in the back. It also states that "trees and landscaping" should also be provided, where space is available. To say that space is available is effectively acknowledging that space will be at a premium and may not be available for any planting of a sufficient buffer. You indicated it is recommended that a side-yard setback of ten feet be required. Little, if any, planting can be effectively accomplished in such as area equal to the width of a bowling alley. In terms of buffering, we need to look at a wider strip so you could put in some type of staggered planting of some sort of spruce or evergreen that will be a dense growth and provide a good sound screening between the two uses. Also under this section, the deeded access easement to the cemetery is proposed to be moved. The easement runs between the old Academy Building and the vacant private dwelling, extending from Main Street directly to the main entrance gates of the cemetery. This easement has been in effect for over 200 years. To simply say that it should be moved "subject to approval of relevant owners or entities" is glossing over the significance of the easement and the reason it was originally created. Given the number of churches and/or individuals and organizations involved in the cemetery, trying to gain consensus about relocating this easement while still providing the needed access is no small undertaking. I should note that the Historical Society is involved in this matter as the Society is responsible for the ongoing maintenance of the cemetery itself.

Page 34, Shared parking - what is not explained here is once the existing parking lot accessed from Adams Street is redeveloped for housing units, as shown on Page 29 of the map, what

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happens to the cars that use the lot presently? There is nothing in the calculations that talks about that. This will be critical for The Spring Street Bar and Grill as well as the other merchants on the street.

Page 34, Surface parking, item 2 states that the fence be 3 feet high. The stone fence that is there now is 3.5 feet high. So the plantings would only come up to the fence. They should be larger when they are being put in. We are dealing with a narrow area and we need screening for that.

One of most significant concerns of ours is the traffic access site that is shown on the plan. It is shown as an off-set from the intersection of Church and Main Street. As you know, currently the crossing at that intersection is dangerous. We are introducing a new factor of ingress and egress on the opposite side from the Historic Society and not having a cross intersection is going to pose problems for pedestrians. It is our feeling that if it is bad now it will only get worse and adding to the traffic becomes a bigger problem.

Page 35, Structured Parking - item 1 addresses the parking structures using the architectural vocabulary of the surrounding facades where visible from the adjacent rights - of - way. If the structured parking does not become part of this, then this part goes away, but we would say that originally the text said that with a parking deck or any other structure that does not have frontage on a right-a-way there does not have to be the consideration of architectural treatment nor set-backs, so basically you could be looking at a building that is 8 stories tall or 100 feet tall by the proposal, you will be looking at a monolith adjacent to the historic cemetery. That is one of our concerns.

Page 38, under section 6.2 Bulk Standards, the sub-section of Frontage Build-Out, Main Street is set at 50 percent. It doesn't say whether that is minimum or maximum and that should be clarified. The side yard setback noted as 10' minimum is nowhere near enough area for being adjacent to the cemetery to provide for the correct amount of plantings for buffering.

Page 38, further under Height - it sets the maximum height of buildings fronting on Main Street for 8 stories or 100 feet. It also notes that buildings constructed within 15 feet of Main Street shall be stepped back above the 4th floor. This is totally contradictory of the stated goals that I addressed earlier. This does not reflect the goal of providing an appropriate and harmonious physical and visual setting for historic landmarks and architecturally significant buildings, structures, sites, objects and districts within Newton. Nor does it reflect the goal of encouraging architectural design that compliments the historic buildings in the Town.

I also checked with our Fire Department and our ladder truck cannot reach 100 feet. It has a 100 foot ladder on it but given the angle you have to put the ladder up it won't reach 100 feet. This is a point of interest for a design consideration.

The issue of buildings internal to the area not fronting on any public street, I noticed there are no step-back requirements, we would like that to be reconsidered.

Page 39, Subsection 6.3, Architectural Style Guidelines, item 1 addresses façade materials: We feel that it should state, "No glass walls should be permitted" and that the pattern of openings or windows should reflect the type of pattern that we have on the street so that you not getting something that is radically different and it should be somewhat reflective of those designs. Item 2, speaks about accents such as projecting, bow, bay and boxed windows and that they should

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be metal. There are very few buildings in the district that have bay windows; there are no bow or boxed out windows. The buildings on Main Street adjacent to the site have no such windows. This would be introducing a significant new architectural feature that is not found in the Town. The use of metal, aluminum, coated steel, copper, zinc or painted wrought iron would be inappropriate also for the use on the buildings for these windows. Introducing a new design feature of modern architecture traditionally found in more urban developed areas is not reflective of what we have in Town.

Page 41, Item 8 addresses green engineered roofs with parapets and plantings. If you are putting planters up there, will they be seen from the street or will it be something hidden from a parapet wall? This is not a big issue but it was a question that came up from our Board.

Page 41, Item 10, addresses Architectural Scale. With the exception of the former Sussex and Merchants National Bank, all buildings within the historic district are either 2 or 3 stories. All of the adjacent properties to the site in question are 2 or 3 stories. In the case of the post office and all of the buildings on the McGuire property they are one story. Eight stories and 100 feet is completely out of scale with our downtown.

Page 42, We believe that if photographs or graphics of buildings are included in the report as design concepts that are acceptable - then we should be sure that what is being shown in what would be appropriate and compatible to the existing buildings within the neighborhood and historic district. The image showing a projected and elevated clock tower with a deep projecting roofline is totally out of keeping with Newton's downtown area.

Page 62, Sub-section 8.8 Relationship to the Town's Master Plan, in the middle of the second paragraph – the report states: "When weighing the historic nature of the buildings against the dilapidation, vacancy and underutilization of a large area in the Town's downtown, the need to redevelop this area outweighs the benefits of preserving the historic structures". We take true exception to that statement. This is the sort of mindset that pervaded the thinking in America in the early 1960's – it was called Urban Renewal. Newton was the subject of this tear-down mentality that also found its way into cities and towns across this country. Because of this, our county and our town lost a large number of buildings and structures that comprised the heart of a community. In many instances, these areas did not see redevelopment for years, and in some areas, none at all. The Town of Newton, having witnessed what happened to it in the 1960's determined that this would not happen again. This decision was made by our Town Council when the Board of Chosen Freeholders was actively pursuing the demolition of a number of buildings on High Street so that the new courthouse could be seen from the street. The Council stepped up to the plate and established the Historic Preservation Commission – with the intent of preventing the demolition of structures within the downtown area.

2nd Public

Sean McGuire, 41 Main Street, Newton, the one thing we thought important to note is it mentioned in there that we vacated the premises in 2013 but while we mostly vacated it, we were still operating a body shop there. When the Fire Museum eventually moves out of there, we will display some vehicles in the showroom. We want to make sure it was put on the record that we did not vacate it completely. On page 52, under 7.3 the "shall" needs to be changed to "should". In general, we are pleased with the flexibility of which we think is so important.

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With no further public stepping forward, Vice Chairman Marion closed this portion.

Ms. Caldwell stated: I think in other areas we had changed it to "should", so if the Board wants to keep it at "should", we can recommend it to the Council.

Vice Chairman Marion asked: Will there still be access to the cemetery?

Ms. Caldwell stated: There has to be some kind of access to the cemetery. The easement is the question.

Mr. McCabe stated: The Cemetery is not owned by one person. There are 4 churches involved. The easement was created 200 years ago. The Historical Society has the obligation for maintenance of the cemetery.

Ms. Caldwell stated: The easement is between Lot 6 and 7 and it is not shown on the tax maps.

Discussion ensued on the easement.

Mr. Russo stated: I really think Ms. Caldwell incorporated a lot of your comments that you all had at the last meeting and the goal is to provide a conceptual frame work so that Sean and his family with their reator have maximum capability to attract a developer to sell the property to and bring a ratable to the community. Sean and his family have been good stewards of that property for many years and have done a lot for the community so the more we can be flexible with the plan in how we craft it really gives them an opportunity to attract somebody. I think this plan really accomplishes this. I think the work that Ms. Caldwell has done, as well as the other professionals, is a solid plan that the Town can be proud of and hopefully we can move forward on it.

Vice Chairman Marion thanked Jessica for taking the Boards suggestions and incorporating them. In my opinion, it does make it a lot more attractive and it gives us more lead way.

Ms. Caldwell stated: We do have a resolution. Our intent was to attach the red line copy to it.

Mr. Soloway stated: The resolution as drafted does two things. First, it makes the finding that the redevelopment is consistent with the Master Plan and second, it recommends to the Council that it adopt the plan with the revisions that came out of this process. Ms. Caldwell indicated the intent was to make it the easiest way to attach the red line copy.

Ms. Caldwell stated: I have two changes. Page 38 the frontage build-out will be 50 percent minimum and page 52 will read up to 15,000 square foot space should be created in a centrally located area within the site.

Mrs. Le Frois made the motion to approve Resolution #261-2014 attaching the red line in addition to the changes Ms. Caldwell has outlined. Mr. Ricciardo seconded the motion.

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

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NEW BUSINESS

Resolution #26-2015: "Resolution of the Town of Newton, in the County of Sussex, New Jersey Directing the Town Planning Board to Review Proposed Amendments to the Merriam Gateway Redevelopment Plan Pursuant to the Local Redevelopment and Housing Law".

Ms. Caldwell stated: This is the proposed Amendment to the Merriam Gateway Redevelopment Plan. What we want to do is add in some more flexibility into that Redevelopment Plan. The original plan only permitted mixed-use commercial and that was the only type of commercial that could be developed within that area and we have had requests for the ability to create some single use commercial structures. Also adding in that single use commercial idea that you could have commercial retail services, business office, professional uses or light industrial uses all within a single use type building.

Mr. Ricciardo asked: What is the definition of light industrial. Is it assembling of pieces brought in or do you manufacture stuff there?

Ms. Caldwell stated: To the extent that it doesn't create exterior impacts.

Mr. Soloway read the definition of light industrial from the ordinance.

Ms. Caldwell stated: We are amending on Page 5, Section 4.1 Permitted Uses, to add the ability to have a single use commercial structure in addition to the mixed used commercial structure.

Mr. Hardmeyer asked: Does this include the old Able Oil site?

Ms. Caldwell stated: No. It does not.

Mr. Hardmeyer asked: Why wouldn't we want that.

Ms. Caldwell stated: We debated about it when we did the plan, but it did not get put into this plan for a number of reasons. This is just an amendment to a prior plan that was done. We are not reconfiguring it. We also added accessory uses, parking, and accessory storage of products for maintenance of the property, sidewalk cafes, and drive-thru facilities such as a drive-thru restaurant or bank.

On page 6, Bulk Standards, we added in the single use as another structure type and setbacks. On the final page, we gave a possibility for a single use to have a minimum of one-floor structure then have a two-story façade where the exterior of the structure has the height and look of a two-story structure but the interior use is a single-story use. Under the green building standards we made revisions to that similar to other plans to include on-site water recycling optional.

Mrs. Le Frois questioned if it has a two-story façade why wouldn't we allow a two-story use. Is that non-conforming?

Ms. Caldwell answered that we allow it. We just don't require that it be a two-story structure.

Mrs. Le Frois asked: So what it is saying is that it has to be a two-story façade but it can be a one-story or two-story structure use inside?

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Ms. Caldwell stated: It would be up to five stories but the minimum can be a one-floor. Right now you have to have the two-story structure.

Mr. Soloway said that currently in the plan there had to be something going on each floor. This changed and you don't have to have something on each floor, it just has to look like a two-story building.

Mr. Soloway also recommended to Ms. Caldwell to specify when we say, "exhibit at least a two-story façade", it should be made clear it is on all four sides.

Ms. Caldwell stated: That was a good point. The idea is that the whole structure would look like a two-story structure.

Vice Chairman Marion opened this portion of the meeting up to the public. With no one stepping forward, he closed that portion.

Mr. Soloway stated: There are two forms of resolution. The first, finds it consistent with the Master Plan and it approves it exactly as it is presented and the second, finds it is consistent with the Master Plan and approves with any of the changes you might have.

Mr. Ricciardo made a motion to approved Resolution #26-2015 with changes. Mr. Russo seconded the motion.

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

CORRESPONDENCE

None

EXECUTIVE SESSION

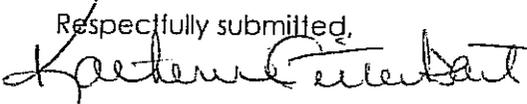
NONE

PUBLIC PORTION

NONE

ADJOURNMENT

Ms. Le Frois made a motion to adjourn the meeting. Mr. Hardmeyer seconded the motion. The meeting was adjourned at 8:13 PM with a unanimous "aye" vote. The next regularly scheduled meeting will be held on March 18, 2015 at 7:00 PM in the Council Chambers of the Municipal Building.

Respectfully submitted,

Katherine Citterbart
Planning Board Secretary