



AGENDA
NEWTON TOWN COUNCIL
SEPTEMBER 27, 2010
7:00 P.M.

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL

III. OPEN PUBLIC MEETINGS ACT STATEMENT

IV. APPROVAL OF MINUTES

SEPTEMBER 15, 2010 REGULAR MEETING

V. OPEN TO THE PUBLIC

AT THIS POINT IN THE MEETING, THE TOWN COUNCIL WELCOMES COMMENTS FROM ANY MEMBER OF THE PUBLIC ON ANY TOPIC. TO HELP FACILITATE AN ORDERLY MEETING AND TO PERMIT THE OPPORTUNITY FOR ANYONE WHO WISHES TO BE HEARD, SPEAKERS ARE ASKED TO LIMIT THEIR COMMENTS TO 5 MINUTES. IF READING FROM A PREPARED STATEMENT, PLEASE PROVIDE A COPY AND EMAIL A COPY TO THE CLERK'S OFFICE AFTER MAKING YOUR COMMENTS SO IT MAY BE PROPERLY REFLECTED IN THE MINUTES.

VI. COUNCIL & MANAGER REPORTS

VII. ORDINANCES

a. 2ND READING AND PUBLIC HEARING

ORDINANCE 2010-15

A FULLY FUNDED WATER SEWER CAPITAL IMPROVEMENT ORDINANCE IN THE AMOUNT OF \$29,200 FOR THE ACQUISITION OF AN EXCAVATOR FOR THE TOWN OF NEWTON

- i. OPEN HEARING TO PUBLIC
- ii. CLOSE HEARING TO PUBLIC
- iii. ACT ON ORDINANCE

ORDINANCE 2010-16

ATTENDANCE POLICY FOR ELECTED OFFICIALS AND APPOINTED BOARD MEMBERS

- i. OPEN HEARING TO PUBLIC
- ii. CLOSE HEARING TO PUBLIC
- iii. ACT ON ORDINANCE

ORDINANCE 2010-17

AN ORDINANCE TO VEST THE POWERS OF THE ZONING BOARD OF ADJUSTMENT INTO THE MUNICIPAL PLANNING BOARD

- i. OPEN HEARING TO PUBLIC
- ii. CLOSE HEARING TO PUBLIC
- iii. ACT ON ORDINANCE

b. INTRODUCTION

ORDINANCE 2010-18

AN ORDINANCE AMENDING CHAPTER 3 OF THE NEWTON REVISED GENERAL ORDINANCES

ORDINANCE 2010-19

A FULLY FUNDED WATER SEWER CAPITAL IMPROVEMENT ORDINANCE IN THE AMOUNT OF \$14,400 FOR THE ACQUISITION OF A HOT BOX FOR THE TOWN OF NEWTON

ORDINANCE 2010-20

A FULLY FUNDED GENERAL CAPITAL IMPROVEMENT ORDINANCE IN THE AMOUNT OF \$14,400 FOR THE ACQUISITION OF A HOT BOX FOR THE TOWN OF NEWTON

ORDINANCE 2010-21

AN ORDINANCE TO AMEND CHAPTER XXI, FEES AND COSTS, OF THE REVISED GENERAL ORDINANCES OF THE TOWN OF NEWTON

ORDINANCE 2010-22

AN ORDINANCE AUTHORIZING SALE BY PUBLIC AUCTION OF MUNICIPAL LANDS NOT NEEDED FOR PUBLIC USE

ORDINANCE 2010-23

AN ORDINANCE AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION FOR THE PREPARATION AND IMPLEMENTATION OF A REASSESSMENT OF ALL REAL PROPERTY WITHIN THE TOWN OF NEWTON (N.J.S.A. 40A: 4-53)

VIII. OLD BUSINESS

IX. CONSENT AGENDA

ALL ITEMS LISTED WITH AN ASTERISK (*) ARE CONSIDERED TO BE ROUTINE AND NON-CONTROVERSIAL BY THE TOWN COUNCIL AND WILL BE APPROVED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS UNLESS A COUNCIL MEMBER SO REQUESTS, IN WHICH CASE THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED IN ITS NORMAL SEQUENCE ON THE AGENDA.

- a. RESOLUTION #161-2010* AUTHORIZE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR ARCHITECTURAL SERVICES FOR THE DESIGN OF A NEW CONCESSION STAND BUILDING AT THE MEMORY PARK POOL
- b. RESOLUTION #162-2010* APPROVE FIREWORKS DISPLAY AT NEWTON MEMORIAL HOSPITAL
- c. RESOLUTION #163-2010* AWARD BID FOR PUBLIC WORKS FACILITY STANDBY GENERATOR
- d. RESOLUTION #164-2010* FINAL ACCEPTANCE OF THE RENOVATIONS TO FIREHOUSE #1 PROJECT
- e. RESOLUTION #165-2010* REFUND OF MONIES FOR TAXES DUE TO A STATE TAX COURT JUDGMENT FOR 189-191 SPRING STREET
- f. RESOLUTION #166-2010* REFUND OF MONIES FOR TAXES DUE TO A STATE TAX COURT JUDGMENT FOR 69 SPARTA AVENUE
- g. RESOLUTION #167-2010* REFUND OF MONIES FOR TAXES DUE TO A STATE TAX COURT JUDGMENT FOR 75 SPARTA AVENUE
- h. RESOLUTION #168-2010* AUTHORIZE CREDITS DUE WATER AND SEWER UTILITY ACCOUNTS
- i. RESOLUTION #169-2010* AWARD CONTRACT FOR MAKE-UP AIR FURNANCE AND EXHAUST FAN REPLACEMENT
- j. RESOLUTION #170-2010* AWARD PURCHASE OF MID-MOUNT AERIAL PLATFORM TRUCK
- k. RESOLUTION #171-2010* WATER SEWER CAPITAL BUDGET AMENDMENT
- l. RESOLUTION #172-2010* CAPITAL BUDGET AMENDMENT
- m. RESOLUTION #173-2010* RESOLUTION OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY DIRECTING THE TOWN PLANNING BOARD TO REVIEW A PROPOSED REDEVELOPMENT PLAN PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW

n. RESOLUTION #174-2010*

APPROVE BILLS AND VOUCHERS FOR PAYMENT

o. APPLICATIONS*

AN APPLICATION FOR AN ON-PREMISE RAFFLE (TRICKY-TRAY) AND ON-PREMISE RAFFLE (50/50) FROM HSA OF ST. JOSEPH SCHOOL, 20 JEFFERSON STREET, NEWTON TO BE HELD ON FRIDAY, OCTOBER 22, 2010 FROM 5:00 P.M. TO 10:00 P.M. AT ST. JOSEPH REGIONAL SCHOOL, 20 JEFFERSON STREET, NEWTON.

AN APPLICATION FOR AN ON-PREMISE RAFFLE (50/50) FROM THE PRIDE FOUNDATION, INC., 44 RYERSON AVENUE, NEWTON TO BE HELD AT 44 RYERSON AVENUE, NEWTON ON: DECEMBER 23, 2010 AT 9:00 P.M., JANUARY 8, 2011 AT 7:00 P.M., JANUARY 13, 2011 AT 9:00 P.M., JANUARY 19, 2011 AT 9:00 P.M., JANUARY 22, 2011 AT 9:00 P.M., FEBRUARY 2, 2011 AT 9:00 P.M., AND FEBRUARY 4, 2011 AT 9:00 P.M.

X. INTERMISSION

XI. DISCUSSION

a. FIRE DAMAGED STRUCTURES

XII. OPEN TO THE PUBLIC

XIII. COUNCIL & MANAGER COMMENTS

XIV. EXECUTIVE SESSION

a. RESOLUTION #175-2010

A RESOLUTION PROVIDING FOR A MEETING NOT OPEN TO THE PUBLIC IN ACCORDANCE WITH THE PROVISIONS OF THE NEW JERSEY OPEN PUBLIC MEETINGS ACT, N.J.S.A. 10:4-12

(1) PERSONNEL

XV. ADJOURNMENT

TOWN OF NEWTON

ORDINANCE #2010-15

A FULLY FUNDED WATER SEWER CAPITAL IMPROVEMENT ORDINANCE IN THE AMOUNT OF \$29,200 FOR ACQUISITION OF AN EXCAVATOR FOR THE TOWN OF NEWTON

BE IT ORDAINED by the Town Council of the Town of Newton, in the County of Sussex, as follows:

Section 1. \$29,200 is hereby appropriated from the Water Sewer Capital – Capital Improvement Fund for the following purpose in the Town of Newton, including all costs necessary therefore or incidental thereto:

Purchase of an Excavator – The Town of Newton Water Sewer Utility Department has need of an excavator to make improvements to water main lines. The improvements are needed to increase the flow to hydrants throughout the Town. **\$29,200.00**

Section 2. The Water Sewer Capital Budget of the Town of Newton is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 3. This ordinance shall take effect as provided by the law.

TAKE NOTICE that the above entitled Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton held on Wednesday, September 15, 2010. It was adopted, after public hearing and final reading thereon, at a regular meeting of said Governing Body conducted on Monday, September 27, 2010, and shall take effect according to law.

Lorraine A. Read, RMC
Municipal Clerk

**TOWN OF NEWTON
ORDINANCE NO. 2010-16**

**ATTENDANCE POLICY
FOR ELECTED OFFICIALS AND APPOINTED BOARD MEMBERS**

WHEREAS, the Town of Newton seeks to maintain and ensure the quality and efficiency of its elected officials and appointed board members; and

WHEREAS, the State of New Jersey has established a “Best Practices” checklist for local governments that recommends the adoption of an “Absence from Meetings Policy” for elected officials and appointed board members; and

WHEREAS, the State of New Jersey has conditioned a municipality’s receipt of State Aid for a municipality upon implementation of the action items on its “Best Practices” checklist;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Newton in the County of Sussex and State of New Jersey as follows:

1. The attached “Attendance Policy for Elected and Appointed Officials” is hereby adopted as new Ordinance Section 2-34 of Chapter 2 (“Administrative Code”) of the Newton Revised General Ordinances; and
2. To the extent that existing Ordinance Section 2-5.1 (“Town Attorney / Appointment”) is in conflict with section II of the “Attendance Policy for Elected and Appointed Officials,” the terms of the “Attendance Policy for Elected and Appointed Officials” shall govern.

NOTICE

TAKE NOTICE that the above-entitled Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton on the 15th day of September 2010. Said Ordinance was adopted after public hearing the regular meeting of the Town Council of the Town of Newton held in the Council Chambers, 39 Trinity Street, Newton, New Jersey, on the 27th day of September, 2010.

Lorraine A. Read, R.M.C.
Municipal Clerk

TOWN OF NEWTON
Attendance Policy
Elected and Appointed Officials

I. Introduction

The following is the Attendance Policy for elected and appointed officials for the Town of Newton.

II. Vacancy due to change to nonresident status or upon resignation; filling; municipal offices open to nonresidents

As per NJSA 40A:9-11, Whenever a county or municipal officer, who is required to be a resident shall cease to be a bona fide resident of the county or municipality, as the case may be, or whenever the resignation of any such officer shall have been accepted by the proper authority, his office shall immediately be deemed to be vacant. The county or municipality, by the proper authority, shall thereupon proceed to fill the vacancy in the manner prescribed by law.

A nonresident of any municipality may hold office as counsel, attorney, engineer, health officer, auditor or comptroller of such municipality and no such office shall be deemed vacated by a change of residence of any such person.

III. Vacancy from any cause other than expiration of term or filing of petition for recall

As per NJSA 40A:9-12, in any county or municipality, whenever a vacancy in office occurs from any cause other than expiration of the term of office or the filing of petition for recall, such vacancy shall be filled in the manner prescribed by law.

IV. Vacancy deemed on resignation, incapacity, death, residence, absence, or removal; filling unexpired term.

As per NJSA 40A:9-12.1:

1. The office of any person appointed to a specified term, with or without compensation, by the governing body or chief executive of any local unit, including persons appointed to any board, committee, commission, authority or other agency of one or more local units, shall be deemed vacant:

- a. Upon its being so declared by judicial determination;
- b. Upon the filing by such officer of his written resignation;

c. Upon the refusal of a person designated for appointment to such office to qualify or serve;

d. Upon the determination of the appointing authority that such officer shall have become physically or mentally incapable of serving;

e. Upon the death of such officer;

f. Upon the determination of the appointing authority that, in violation of a lawful residency requirement, such officer no longer resides within the corporate limits of the local unit or other designated territorial area;

g. In the case of a member of a board, committee, commission, authority or other agency, whenever the member, without being excused by a majority of the authorized members of such body, fails to attend and participate at meetings of such body for a period of 8 consecutive weeks, or for four consecutive regular meetings, whichever shall be of longer duration, at the conclusion of such period, provided that such body shall notify the appointing authority in writing of such determination; provided, further, that such board, committee, commission, authority or other agency may refuse to excuse only with respect to those failures to attend and participate which are not due to legitimate illness; provided, however, that nothing in this subsection shall preclude a municipal appointing authority from adopting by ordinance a policy establishing a lower absentee threshold, provided that the ordinance shall not permit the removal of the member if the member has been absent for less than six consecutive weeks, or three consecutive meetings, whichever shall be of longer duration, without being excused, within the term of office for the position held by the individual;

h. Upon the removal of such officer for cause in accordance with law, or for any other reason prescribed by law.

Whenever any of the above shall occur the appointing authority shall forthwith fill the office for the unexpired term in the manner prescribed by law; provided, however, that in the case of a person failing to qualify or refusing to serve pursuant to subsection c., such office shall not be deemed vacant, if the incumbent officeholder is authorized by law to continue in such office until a successor is appointed and qualifies therefor.

V. Absences

Elected and appointed officials shall make every effort to attend meetings. The following is a list that constitutes excused absence:

personal illness
family emergencies
military absences
family weddings
family graduation exercises
bona fide business and vacation trips constitute good cause
jury duty
death
child birth
Pandemic
Religious festivities or events
Classes for certification or Town related business
Items covered under Family Leave Act (as amended)
Any other item taken on a case-by-case basis that the body can vote upon if
 requested by an absent official at the next official meeting after the absence

**TOWN OF NEWTON
ORDINANCE NO. 2010-17**

AN ORDINANCE TO VEST THE POWERS OF THE ZONING BOARD OF
ADJUSTMENT INTO THE MUNICIPAL PLANNING BOARD

WHEREAS, N.J.S. 40:55D-25c authorizes a municipality to choose to exercise all of the powers of a zoning board of adjustment through its Planning Board; and

WHEREAS, the governing body of the Town of Newton has determined that elimination of the municipal zoning board of adjustment and consolidation of all of its powers pursuant to the Municipal Land Use Law within the municipal Planning Board would result in benefits and efficiencies to the applicants, municipal staff, and community at-large.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Newton as follows:

1. Chapter 2, Section 2-17 of the Newton Revised General Ordinances is hereby rescinded in its entirety.
2. Chapter 18A, entitled "LAND USE PROCEDURES," shall be amended such that the asterisked language related to the Chapter Title shall be deleted.
3. Chapter 18A, Section 18A-2.1 is amended to read as follows:

18A-2.1 Establishment. There shall be in the Town of Newton, pursuant to the Municipal Land Use Law, N.J.S. 40:55D-1 et seq., and specifically N.J.S. 40:55D-25c, a Planning Board of nine members consisting of the following four classes:

Class I. The mayor.

Class II. One of the officials of the Town other than a member of the Town Council, to be appointed by the Mayor.

Class III. A member of the Town Council, to be appointed by it.

Class IV. Six other citizens of the Town, to be appointed by the Town Council. The Class IV members shall hold no other office in Town.

There shall also be four alternate members appointed to the Planning Board in the same manner as Class IV members who shall be designated by the Chair of the Planning Board as "Alternate No. 1" through "Alternate No. 4." Upon the effective date of this Ordinance, to stagger appointment expiration dates, Alternate Nos. 1 and 3 shall be appointed for a term of two years each, and Alternate Nos. 2 and 4 shall be appointed for a term of one year each. Thereafter an alternate member shall be appointed for a term of two years.

Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate members are to vote, Alternate No. 1 shall be chosen first, followed in turn by Alternate No. 2, then Alternate No. 3 and then Alternate No. 4, if necessary.

4. Chapter 18A, Section 18A-2.7, subpart (h), is amended to read as follows:

h. Pursuant to N.J.S. 40:55D-25c the Planning Board shall exercise, to the same extent and subject to the same restrictions, all powers of a zoning board of adjustment as listed and provided under the Municipal Land Use Law. In the event an application requires relief under N.J.S. 40:55D-70d, the Class I and Class III members of the Planning Board shall not participate in the

consideration thereof, and said application shall be considered by no more than seven members/alternates.

5. Chapter 18A, Section 18A-2.8 is amended to read as follows:

18A:2.8 Applications; Procedure for Filing. Applications submitted to the Planning Board shall be on and include such forms as prescribed by the Planning Board. Applications and supporting documents are to be filed with the Planning Board Administrator in conformance with the rules enacted by the Planning Board and the requirements of the Municipal Land Use Law.

6. There shall be a new Chapter 18A, Section 18A-2.9f:

f. The Planning Board shall render its decisions on applications submitted to it not specifically addressed above in compliance with any time frame established by the Municipal Land Use Law.

7. There shall be a new Chapter 18A, Section 18A-2.12:

18A:2.12 Expiration of Variance. Any variance from the terms of this Chapter hereinafter granted by the Planning Board permitting the erection or alteration of any structure or structures, or permitting a specified use of any premises, shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by such variance, or unless such permitted use has actually been commenced within nine months from the date of entry of the judgment or determination of the Board; except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Board to the

Town Council, or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding.

8. Chapter 18A, Section 18A-3 of the Newton Revised General Ordinances is hereby rescinded.

9. Chapter 18A, Section 18A-4 shall be amended to be retitled "Provisions Applicable to Planning Board Proceedings" and to strike reference to "zoning board of adjustment" and any conjunctive words linking "Planning Board" with "zoning board of adjustment," such as "and" or "or" or "both."

10. Chapter 18A, Section 18A-5 shall be amended to replace "zoning board of adjustment" with "Planning Board."

11. Chapters 19 ("Land Subdivision"), 19A ("Site Plan Review"), 20 ("Zoning") and 21 ("Fees") are amended to strike reference to "zoning board of adjustment" and any conjunctive words linking "Planning Board" with "zoning board of adjustment," such as "and" or "or" or "both." All references to "Zoning Board of Adjustment" (or variant thereof) without linkage to "Planning Board" in the Newton Revised General Ordinances shall heretofore be replaced with "Planning Board." In the event of any inconsistency between the language of this Ordinance and the language of an existing Ordinance, the language of this Ordinance shall control.

12. Upon passage of this Ordinance the Town Council shall appoint two new Class IV members to the Planning Board and two new Alternates. The Planning Board shall otherwise continue as presently organized.

13. This Ordinance shall be effective January 1, 2011. Applications pending before the Zoning Board of Adjustment on the effective date of this Ordinance shall be

transferred to the Planning Board for continuation of the application process before the Planning Board.

NOTICE

TAKE NOTICE that the above-entitled Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton on September 15, 2010, and said Ordinance was adopted at a regular meeting of the Town Council of the Town of Newton held in the Council Chambers, 39 Trinity Street, Newton, New Jersey, on September 27, 2010.

Lorraine A. Read, RMC
Municipal Clerk

TOWN OF NEWTON

ORDINANCE NO. 2010-18

**AN ORDINANCE AMENDING CHAPTER 3 OF THE
NEWTON REVISED GENERAL ORDINANCES**

BE IT ORDAINED by the Town Council of the Town of Newton as follows:

I. Chapter 3 of the Newton Revised General Ordinances shall be amended as follows:

1. The asterisked language to the title to Chapter 3, "Police Department*," shall be amended to read:

* The establishment, maintenance, regulation and control of the municipal police department are provided for in N.J.S. 40A:14-118, et seq.

2. The provisions of Chapter 3-1 are hereby deleted and replaced with the following language:

3-1 Department Established; Composition.

The police department of the Town of Newton is hereby established and shall consist of a chief of police, a maximum of two (2) police lieutenants, a maximum of five (5) police sergeants, and such other patrol officers, probationary officers, traffic officers, school crossing guards, special police officers and employees that the town manager shall from time to time appoint.

3. There shall be two new subsections of Chapter 3-4, "Appointment of Officers," as follows:

3-4.5 Police Officer.

a. No person shall be given or accept a permanent appointment as a police officer in the Town unless such person has first been given a probationary or temporary assignment to such office for a period of not longer than one year, and has successfully completed a police training course at a school approved and authorized by the Police Training Commission.

b. Except as otherwise provided by law, no person shall be appointed as a member of the police department and force, unless he:

(1) is a citizen of the United States;

(2) is sound in body and of good health sufficient to satisfy the board of trustees of the police and firemen's retirement system of New Jersey as to his eligibility for membership in the retirement system;

(3) is able to read, write and speak the English language well and intelligently;

(4) is of good moral character, and has not been convicted of any criminal offense involving moral turpitude;

(5) has successfully undergone psychological testing that is required of all full-time police officers in the Town of Newton and approved by the Police Training Commission.

c. No person shall be appointed to the police department as a regular or probationary member unless he shall at the time of making application be between the age of 21 and 35 years, except as provided by law in the case of veterans.

3-4.6 Special Police Officer.

a. Special Police Officers may be appointed for terms not to exceed one year. Nothing herein shall be construed to require reappointment upon the expiration of the term.

b. There shall be two classifications for special police officers. The classifications shall be based upon the duties to be performed by the special police officer as follows:

1. Class One: Officers of this class shall be authorized to perform routine traffic detail, spectator control and similar duties. Class One officers shall have the power to issue summonses for disorderly persons and petty disorderly persons offenses, violations of municipal ordinances and violations of Title 39 of the Revised Statutes. The use of a firearm by an officer of this class shall be strictly prohibited and no Class One officer shall be assigned any duties which may require the carrying or use of a firearm.

2. Class Two: Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer. The use of a firearm by an officer of this class may be authorized only after the officer has been fully certified as

successfully completing training as prescribed by the Police Training Commission.

c. No person shall be appointed as a Special Police Officer unless the person:

(1) is a resident of the State during the term of appointment;

(2) is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent;

(3) is sound in body and of good health and good moral character;

(4) has not been convicted of any offense involving dishonesty, or which would make him unfit to perform the duties of his office;

(5) has successfully undergone the same psychological testing that is required of all full-time police officers in the Town of Newton and approved by the Police Training Commission.

c. No person shall commence his duties as Special Police Officer unless he/she has successfully completed a training course approved by the Police Training Commission. No Special Police Officer may be issued a firearm unless he has successfully completed the basic firearms course approved by the commission.

4. The provisions of Chapter 3-6 are hereby deleted.

5. The provisions of Chapter 3-7.1(d) are hereby deleted and replaced with the following language:

d. All applicants to be classified within Class 1 must be residents of the Town of Newton as of the date of application and must maintain continuous residence within the Town of Newton through the examination process, up to and including the date of appointment.

6. The provisions of Chapter 3-7.1(e) are hereby deleted and replaced with the following language:

e. The provisions of this section shall apply only to the initial appointments and not to promotional appointments of persons already members of the police department.

7. The provisions of Chapter 3-7.2(a) are hereby deleted and replaced with the following language:

a. The town manager of the Town of Newton shall first appoint to membership in the police department of the Town of Newton persons qualifying in Class 1 provided in the preceding section herein, and then those in each succeeding Class in the order listed in the said foregoing section, and shall appoint a person or persons in any such Class only to a vacancy or vacancies remaining after all qualified applicants in the preceding Class or Classes have been appointed or have declined an offer of appointment.

8. The subsections of Chapter 3-9, "Powers and Duties," shall be re-organized as follows:

Subsections:

- 3-9.1 Chief of Police
- 3-9.2 Police Lieutenant
- 3-9.3 Police Sergeant
- 3-9.4 Police Officer
- 3-9.5 Special Police Officer
- 3-9.6 Duties of Department

9. The provisions of Chapter 3-9.1(c) are hereby deleted and replaced with the following language:

c. The chief of police shall recommend to the town manager from time to time the purchase of new equipment or the repair or rearrangement of such old equipment as will increase the efficiency of the department. He shall have full charge and control of all apparatus and equipment of the department and its assignment and use, and shall be held responsible for its care, cleanliness and safekeeping.

10. The provisions of Chapter 3-9.3(b) (to become Chapter 3-9.2(b)) are hereby deleted and replaced with the following language:

b. The Lieutenant gives suitable police assignments and instruction to sergeants and police officers; provides them with needed advice and assistance when difficult problems or maneuvers arise; and checks their work to see that the proper procedures are followed, reasonable standards

of workmanship, conduct, and output are maintained, and desired police objectives are achieved.

11. The provisions of Chapter 3-9.3.1(a) (to become Chapter 3-9.3(a)) are hereby deleted and replaced with the following language:

a. Under supervision of a Police Lieutenant during an assigned tour of duty, a Police Sergeant has charge of police activities intended to provide assistance and protection for persons, to safeguard property, to assure observance of the laws, and to apprehend law-breakers; and does related supervisory work as required.

12. The provisions of Chapter 3-9.3.1(e) (to become Chapter 3-9.3(e)) are hereby deleted and replaced with the following language:

e. Sees that needed police protection is provided when there are fires, outbreaks, and other conditions which may result in disorder, and when large numbers of people congregate for any reason.

13. As part of the re-organization of Chapter 3-9.3.1 into Chapter 3-9.3, there shall be a new Chapter 3-9.3(g), as follows:

g. Directs criminal and non-criminal investigations and sees that appropriate police action is taken.

14. The provisions of Chapter 3-9.3.2(a) (to become Chapter 3-9.4) are hereby deleted and replaced with the following language:

3-9.4 Police Officer.

During an assigned tour of duty, on foot, bike or in an automobile, patrols a designated area to provide assistance and protection for persons, to safeguard property, to assure observance of the law, to apprehend law-breakers; and does related work as required or assigned.

15. There shall be a new Chapter 3-9.5, as follows:

3-9.5 Special Police Officer.

During an assigned tour of duty, on foot, bike or in an automobile, patrols a designated area to provide assistance and protection for persons, to safeguard property, to assure observance of the law, to apprehend law-breakers, and does related work as required.

16. The provisions of Chapter 3-10 are hereby deleted.

17. The provisions of Chapter 3-11 are hereby deleted and replaced with the following language:

3-11 Hours of Employment.

The hours of employment of uniformed members of the police department shall not exceed twelve (12) consecutive hours in one day, nor eighty-four (84) hours in any one pay period; provided that in the case of an emergency the officer, board or other official having charge or control of the police department or the police system shall have full authorization to summon and keep on duty any and all such members during the period of emergency.

18. The provisions of Chapter 3-12 are hereby deleted and replaced with the following language:

3-12 Removal and Suspension.

Each regular police officer shall hold office and continue employment during good behavior and efficiency, and no person shall be removed from office or employment for any causes other than incapacity, misconduct, neglect of duty, conduct unbecoming a police officer, disobedience of the rules and regulations established or hereafter established for the department, or absence from duty without just cause for five days or more.

Any member of the department may be suspended, removed, fined, or reduced in rank for just cause upon due notice and service of written charges and a hearing if requested by the member.

19. The provisions of Chapter 3-13 are hereby deleted and replaced with the following language:

3-13 Uniforms and Equipment.

Duty firearms, holsters, and magazine holders for members of the police department authorized to have such equipment shall be furnished by the Town and remain its property. The expense of obtaining all other required uniforms and equipment shall be borne by each officer. Only Special Officers shall be furnished uniforms and related equipment by the Town, to be issued by the chief of police. Upon issuance of property to a member of the department the chief of police shall take a receipt from the member obtaining the property. Members receiving property from the

department shall be held responsible for the same and upon leaving the service for any cause shall turn in to the chief of police all property belonging to the Town. The reasonable value of any property including uniforms and equipment not returned shall be deducted from the amount of salary or wages due each member.

The members of the police department shall, when on duty, wear such uniforms and equipment as shall be prescribed from time to time by the chief of police and shall at all times present a neat, clean, and respectable appearance.

20. The provisions of Chapter 3-14.1(a) are hereby deleted and replaced with the following language:

a. Members of the Police Department shall be permitted to accept police-related employment from private employers or school districts only during off-duty hours and at such times as will not interfere with the efficient performance of regularly scheduled or emergency duty for the Town.

II. This Ordinance shall take effect January 1, 2011.

NOTICE

TAKE NOTICE that the above-entitled Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton on September 27, 2010, and said Ordinance will be considered for final passage at a regular meeting of the Town Council of the Town of Newton to be held in the Council Chambers, 39 Trinity Street, Newton, New Jersey, on October 13, 2010.

Lorraine A. Read, R.M.C.
Municipal Clerk

TOWN OF NEWTON

ORDINANCE #2010-19

A FULLY FUNDED WATER SEWER CAPITAL IMPROVEMENT ORDINANCE IN THE AMOUNT OF \$14,400 FOR ACQUISITION OF A HOT BOX FOR THE TOWN OF NEWTON

BE IT ORDAINED by the Town Council of the Town of Newton, in the County of Sussex, as follows:

Section 1. \$14,400 is hereby appropriated from the Water Sewer Capital – Capital Improvement Fund for the following purpose in the Town of Newton, including all costs necessary therefore or incidental thereto:

Acquisition of a Hot Box – A hot box is a piece of equipment which keeps the asphalt hot while repaving roads for general road improvements and road improvements required due to improving watermain projects. The Town expects to save money through this purchase since road repairs adhere better, have a longer life due to road materials being applied at a hotter temperature, millings dug up from the road being repaired can be recycled thereby saving disposal costs and costs to purchase new asphalt.

\$14,400.00

A similar ordinance is being adopted in the General Capital Fund in the amount of \$14,400.00, to cover the total cost of \$28,800.00.

Section 2. The Water Sewer Capital Budget of the Town of Newton is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 3. This ordinance shall take effect as provided by the law.

TAKE NOTICE that the above entitled Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton held on September 27, 2010. It will be considered for adoption, after public hearing and final reading thereon, at a regular meeting of said Governing Body to be conducted on October 13, 2010, and shall take effect according to law.

Lorraine A. Read, RMC
Municipal Clerk

TOWN OF NEWTON

ORDINANCE #2010-20

A FULLY FUNDED GENERAL CAPITAL IMPROVEMENT ORDINANCE IN THE AMOUNT OF \$14,400 FOR ACQUISITION OF A HOT BOX FOR THE TOWN OF NEWTON

BE IT ORDAINED by the Town Council of the Town of Newton, in the County of Sussex, as follows:

Section 1. \$14,400 is hereby appropriated from the General Capital - Capital Improvement Fund for the following improvement in the Town of Newton, including all costs necessary therefore or incidental thereto:

Acquisition of a Hot Box – A hot box is a piece of equipment which keeps the asphalt hot while repaving roads for general road improvements and road improvements required due to improving watermain projects. The Town expects to save money through this purchase since road repairs adhere better, have a longer life due to road materials being applied at a hotter temperature, millings dug up from the road being repaired can be recycled thereby saving disposal costs and costs to purchase new asphalt.

\$14,400.00

A similar ordinance is being adopted in the Water Sewer Capital Fund in the amount of \$14,400.00, to cover the total cost of \$28,800.00.

Section 2. The General Capital Budget of the Town of Newton is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 3. This ordinance shall take effect as provided by the law.

TAKE NOTICE that the above entitled Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton held on September 27, 2010. It will be considered for adoption, after public hearing and final reading thereon, at a regular meeting of said Governing Body to be conducted on October 13, 2010, and shall take effect according to law.

Lorraine A. Read, RMC
Municipal Clerk

TOWN OF NEWTON

ORDINANCE # 2010-21

AN ORDINANCE TO AMEND CHAPTER XXI, FEES AND COSTS, OF THE REVISED GENERAL ORDINANCES OF THE TOWN OF NEWTON

BE IT ORDAINED, by the Town Council of the Town of Newton, that Chapter XXI, Fees and Costs, be amended as follows:

21-1.1 Licensing General (Relating to Chapter VI)

n. Trailer court operations (6-13.4)

- | | |
|-------------------|-----------------|
| 1. Monthly charge | \$50.00/trailer |
| 3. Delete | |

21-1.5 Traffic (Relating to Chapter X).

- | | |
|---|----------|
| 1. Overnight Parking Pass Monthly Fee | |
| a. Central Plaza (Lot #4), Western Plaza (Lot #3), and the Adams Street Lot (Lot #1) (residents and business night shift employees) | \$15.00* |
| b. Tractor Trailer/Box Truck Parking - Annually | \$25.00* |
| c. Park & Ride (10-13B.2-b) | Free |

*plus applicable NJ State Sales Tax

21-1.15 Miscellaneous Fees and Charges

c. Miscellaneous Fees:

14. Delete (duplication of 21-1.1(o)).

g. Copying fees:

- | | |
|---|--------------|
| 1. 8 ½" x 11" copies:
or smaller | .05 per page |
| 2. 8 ½" x 14" copies: | .07 per page |
| 3. 11" x 17" copies: | .07 per page |
| 4. 3" x 5" photographs, per print from
negative | actual cost |
| 5. 3" x 5" photographs, per print through
reproduction | actual cost |

6. Blueprint reproductions and computerized technological electronic information:

All unusual copy sizes such as 18" x 24", 24" x 36" and 36" x 48" including plans and tax maps that cannot be reproduced by ordinary document copying equipment in ordinary business sizes (8 ½" x 11", 8 ½" x 14" or 11" x 17") will be charged in accordance with the amounts charged to the town for having such copies made.

Paper copies shall be provided by the Town of Newton. In the event that requests are made for records to be copied onto medium not routinely maintained by the Town of Newton or which require a substantial amount of manipulation, programming or transfer of electronic or information technology records, then in addition to the per copy cost, the town may also charge the actual cost to contract a professional to provide the service of copying or transferring such records to computer diskettes, CDs, DVDs, etc. Such reasonable fee shall be equal to the actual cost incurred by the town for recording medium such as diskettes, CDs, or DVDs, plus programming, copying and transferring records to medium other than paper.

NOTICE

TAKE NOTICE that the above-entitled Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton on September 27, 2010, and said Ordinance will be considered for adoption after public hearing at the regular meeting of the Town Council of the Town of Newton to be held in the Council Chambers, 39 Trinity Street, Newton, New Jersey, on October 13, 2010, and shall take effect according to law.

Lorraine A. Read, R.M.C.
Municipal Clerk

TOWN OF NEWTON

ORDINANCE NO. 2010-22

**AN ORDINANCE AUTHORIZING SALE BY PUBLIC AUCTION
OF MUNICIPAL LANDS NOT NEEDED FOR PUBLIC USE**

WHEREAS, the Town of Newton has title to certain parcels of real property which are Lots 42.02 and 42.03 in Block 902 as shown on the Newton Tax Map, which parcels are not needed for public use; and

WHEREAS, the governing body has determined that said parcels should be sold separately at public auction to the highest bidder subject to the terms and conditions hereinafter set forth pursuant to N.J.S.A. 40A:12-13;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEWTON IN THE COUNTY OF SUSSEX AND STATE OF NEW JERSEY AS FOLLOWS:

1. That Block 902, Lots 42.02 and 42.03, as shown on the Town of Newton Tax Map, be offered separately for sale at public auction to the highest bidder with a minimum bid required for Lot 42.02 of Thirty-Four Thousand and no/100 (\$34,000.00) Dollars, and for Lot 42.03 of Thirty-Five Thousand and no/100 (\$35,000.00) Dollars pursuant to N.J.S.A. 40A:12-13.

2. The sales shall be conducted in the Municipal Building of the Town of Newton, 39 Trinity Street, Newton, New Jersey, on November 22, 2010 at 10:00 a.m.

3. The governing body hereby appoints and designates the Newton Town Manager or such other person as the governing body shall designate, to conduct the separate

sales of Block 902, Lots 42.02 and 42.03 on behalf of the governing body.

4. The parcels placed for sale in this auction shall be auctioned with reservation. No bid shall be accepted in an amount less than Thirty-Four Thousand and no/100 (\$34,000.00) Dollars for Lot 42.02 and Thirty-Five Thousand and no/100 (\$35,000.00) Dollars for Lot 42.03 . The auctioneer shall commence the bidding for each lot at the minimum required bid. The Town of Newton reserves the right, in its sole discretion, to either accept or reject any bid it deems in the Town of Newton's best interests. The Town, in its sole discretion, may accept a lower bid for any reason it deems in the Town's best interests. No bid shall be considered finally accepted until the passage of a Resolution by the Town Council of the Town of Newton as set forth in Paragraph 9 hereof.

5. The higher bidder for each lot shall execute separate Offers to Purchase in the form attached hereto at the conclusion of the bidding and pay a deposit by cash, bank check or cashier's check or attorney's trust account check in an amount equal to ten (10%) percent of the highest bid for each lot. The balance of the monies due for each lot pursuant to the highest bid and Offer to Purchase shall be paid in cash or certified check on delivery of the Deed, which shall be no later than December 30, 2010 at the offices of the Municipal Attorney, Hollander Strelzik Pasculli Pasculli Hinkes Gacquin Vandenberg & Hontz, LLC, 40 Park Place, Newton, NJ 07860, or at such other location as mutually agreed upon.

6. The municipality expressly disclaims any and all implied warranties of habitability or usability with respect to each of these properties. The highest bidder for each lot shall purchase the property in an "as is" condition, having had an ample and sufficient opportunity to inspect said premises, examine its title, and review municipal ordinances and laws effectuating said premises, and that no representations regarding the value, character, quality,

habitability or condition thereof, including environmental conditions, have been made to Buyer on behalf of the Town of Newton, prior to making a bid. The highest bidder for each lot, after closing, shall be responsible for all present and future defects of any kind in any part of the property. This agreement shall survive the closing of title.

7. The parcels offered for sale in this auction are the same lands and premises which the Town of Newton took title to by virtue of a certain Final Judgment of the Superior Court of New Jersey, Docket No. F-63920-02, dated May 4, 2010, and recorded in the Sussex County Clerk's Office in Deed Book 3249, Page 231&c. A copy of Judgment is attached hereto as **Schedule A**. The Town of Newton shall use in the deed of conveyance the description set forth in **Schedule A**. The highest bidder for each lot shall have the right, at its sole cost and expense, to obtain a new survey of that lot. Provided such survey depicts the lot and is certified to be correct to the Town of Newton, the Town of Newton shall utilize the legal description drawn in accordance with such survey in the Deed of conveyance, provided the highest bidder provides such legal description and a copy of the certified survey to the Town of Newton not less than one week prior to the date set for closing of title.

8. The conveyance of each lot shall be by Bargain and Sale Deed, and each lot shall be sold subject to covenants, restrictions, conditions, reservations of record, easements established of record, or by prescription, including but not limited to, Deed Book 383, Page 73&c., Deed Book 1537, Page 63&c., Deed Book 1578, Page 89&c., Deed Book 2235, Page 12&c., and Deed Book 2332, Page 108&c., laws, municipal ordinances, water and sewer connection fees, if any, and such state of facts as an accurate survey or inspection of the premises may disclose.

9. The highest bid for each lot shall be separately accepted or rejected by a

Resolution of the Governing Body no later than the second regular meeting of the Governing Body following the date of such auction sale. No bid may be withdrawn prior to such Resolution.

10. This notice of the auction sale of said lots shall be advertised in the New Jersey Herald at least once a week during two consecutive weeks, the last publication being no earlier than seven days prior to the date of such sale.

TAKE NOTICE that the above-entitled Ordinance was introduced on the first reading by the Town Council by the Town of Newton, Sussex County, New Jersey, at a Regular Meeting of said Council, held on September 27, 2010, and that it will be considered for adoption after a public hearing regarding the above to held on October 13, 2010, at the Municipal Building, 39 Trinity Street, Newton, New Jersey at 7:00 p.m. , and shall take effect according to law.

Kristen S. Becker

Mayor

Lorraine A. Read, RMC

Municipal Clerk

PELLEGRINO & FELDSTEIN, L.L.C.
290 Route 46 West
Denville, NJ 07834
973-586-2300
File No. 11326-09
Attorneys for Plaintiff(s) TOWN OF NEWTON

FILED
SUPERIOR COURT OF NJ
MAY 04 2010

TOWN OF NEWTON,
Plaintiff,

v.
Sch-1
Block 902, Lot 42.02
Assessed to ANNE M. BADUINI
Sch-2
Block 902, Lot 42.03
Assessed to ANNE M. BADUINI

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
SUSSEX COUNTY

DOCKET NO.: F-63920-09



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05/17/2010 02:17:54 PM FIN-J
Bk: 3249 Pg: 231
Erma Gormley, County Clerk
Sussex County, NJ

CIVIL ACTION

FINAL JUDGMENT

The cause being opened to the Court by Michael G. Pellegrino, Esq., attorney for plaintiff, and it appearing that plaintiff filed its complaint pursuant to the provisions of N.J.S.A. 54:5-104.29 et seq., as amended and the rules of this court governing such practice and procedure to foreclose in rem, certain Tax Sale Certificates as follows:

NEWTON TAX FORECLOSURE LIST

Sch No.	Tax Sale Block/Lot Cert. No	Owner on Last Tax Duplicate	Date Cert. Recorded	Mortgage Book& Page
---------	-----------------------------	-----------------------------	---------------------	---------------------

Please see attached Schedule A.

and that notice of this foreclosure suit in the form prescribed by said statute and the rules of this court was published once in the Herald, a newspaper circulating in Newton and the County of Sussex, the municipality wherein the lands to be affected are located, and it further appearing that no answer has been filed in this cause by any persons having or claiming to have a right, title or interest in or to, or lien upon any parcel of land described in the complaint filed herein within the time fixed by said statute, and it appearing that the plaintiff has filed a copy of the complaint and all amendments thereto, in the Office of the Tax Collector of Newton of Sussex County and in the Office of the Register of the County of Sussex , and in the Office of

Rec'd 11/10/10

the Attorney General of the State of New Jersey, and the court having read and considered the verified complaint filed herein, together with the proofs of publication, mailing and posting of said notice of foreclosure, and the affidavit showing that there has been no redemption of any of the Tax Sale Certificates; and the court being satisfied and having determined that there has been a compliance with said statute;

IT IS thereupon, and this 4th day of May, 2010;

ORDERED AND ADJUDGED that all persons having a vested or contingent title or interest in or lien or claim upon or against said lands, including the State of New Jersey, and any agency and political subdivision thereof, and their heirs, devisees, executors, administrators, grantees, assigns or successors in right, title or interest, be barred of the right of redemption and be foreclosed of all prior or subsequent alienation and descents of said lands and encumbrances thereon, and that an absolute and indefeasible estate of inheritance in fee simple in said lands be vested in the plaintiff, Newton, a Municipal Corporation in the County of Sussex and State of New Jersey.

LAST TRANSFERENCE OF RECORD SCHEDULE

Sch No.	Transferee or Purchase of Title	Deed Dated	Date Recorded	Book & Page Number
1.	ANNE M. BADUINI	10/26/1998	11/24/1998	2332&108
2.	ANNE M. BADUINI	10/26/1998	11/24/1998	2332&108

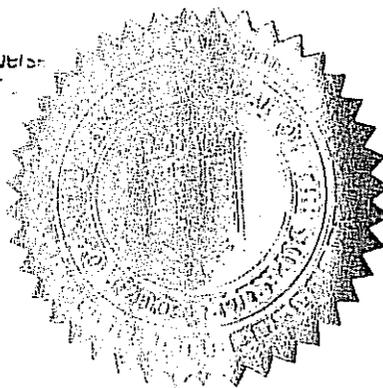
Respectfully recommended
 FORECLOSURE OFFICE OF FORECLOSURE

Mary C. Jacobson, P.J.Ch.
 MARY C. JACOBSON, P.J.Ch.

I, Jennifer M. Perez, Esq., Acting Clerk of the Superior Court of New Jersey, the same being a Court of Record, do hereby certify that the foregoing is a true copy of the FINAL JUDGMENT now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Trenton, this 4th day of May Two Thousand 10

Jennifer M. Perez
 JENNIFER M. PEREZ, ESQ.
 Acting Clerk of Superior Court



Schedule Number	Certificate Number	Name of owner as it appears on last Tax Duplicate		Description of land as it appears on Tax Duplicate and Certificate of Sale		Property Location	Date of Tax Sale	Amount of Tax Sale	Amount of liens accruing subsequent to tax sale	Interest to 10/30/09 Amount to Redeem	Interest to 4/30/10 Amount to Redeem	Date of Recording	Book and Page or instrument number in County Clerk's Office	
		Tax Duplicate	Tax Duplicate	Block	Lot								8540	778
1	1265	Badhini, Anne M.	Badhini, Anne M.	902	42.02	141 Woodside Ave	10/29/2008	\$2,192.62	\$3,956.50	\$43,081.45	\$46,510.56	12/03/2008	8540	778
2	1266	Badhini, Anne M.	Badhini, Anne M.	902	42.03	139 Woodside Ave	10/29/2008	\$2,235.61	\$3,906.67	\$44,204.90	\$47,732.37	12/03/2008	8540	776
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 NUMBER OF PAGES : 3
 GLYONS
 Recording Fee : \$28.00

**OFFER TO PURCHASE
BLOCK 902, LOT 42.02**

1. The Undersigned hereby irrevocably offers to purchase from the Town of Newton, Lot 42.02 in Block 902 as shown on the Town of Newton Tax Map and as further described on **Schedule A** attached hereto and made a part hereof, for the sum of

2. A bank check, certified check, attorney trust account check or cash for ten percent (10%) of the purchase price, payable to the "Town of Newton", is attached hereto, and shall be held in escrow in the trust account of the law firm of Hollander Strelzik, et al., and disbursed in accord with this Offer.
3. The balance of the purchase price shall be paid at the closing and upon delivery of the Deed, in cash, certified check, or bank check.
4. The closing will take place by December 30, 2010, at the offices of the municipal attorney, Hollander Strelzik, et al., 40 Park Place, Newton, New Jersey, or at such other location as is mutually agreed upon.
5. The conveyance of each lot shall be by Bargain and Sale Deed, and each lot shall be sold subject to covenants, restrictions, conditions, reservations of record, easements established of record, or by prescription, including but not limited to, Deed Book 383, Page 73&c., Deed Book 1537, Page 63&c., Deed Book 1578, Page 89&c., Deed Book 2235, Page 12&c., and Deed Book 2332, Page 108&c., laws, municipal ordinances, water and sewer connection fees, if any, and such state of facts as an accurate survey or inspection of the premises may disclose.
6. The Town of Newton will use in the deed of conveyance the premises described on **Schedule A** attached hereto. The Buyer shall have the right, at its sole cost and expense, to obtain a new survey of the property. Provided such survey depicts the property and is certified to be correct to the Town of Newton, the Town of Newton shall utilize the legal description drawn in accordance with such survey in the Deed of conveyance, provided the undersigned bidder provides such legal description and a copy of the certified survey to the Town of Newton not less than one week prior to the date set for closing of title.
7. This Offer shall not be deemed accepted until the adoption of a Resolution by the Newton Town Council, which shall take place no later than its second regular meeting following the date hereof. This Offer may not be withdrawn prior to such Resolution.

8. The Buyer has executed this Offer to Purchase with full knowledge as to the value of the land, buildings and improvements thereon, which buildings and improvements thereon, if any, are sold in an "as is" condition. The Buyer, by the execution of this Offer to Purchase, acknowledges that they have had the opportunity and have inspected the premises, examined its title, reviewed municipal ordinances and laws affecting the premises, and that no representations regarding the value, character, quality, habitability or condition thereof (including environmental conditions) have been made by or on behalf of the Town of Newton. The Buyer further acknowledges that the municipality has expressly and does expressly disclaim any and all implied warranties of habitability or usability with respect to this property. The Buyer agrees that by the execution of this Offer to Purchase to be responsible, after closing, for all present and future defects of any kind in any part of the property and to indemnify and hold harmless the Town of Newton regarding such present and future defects. This agreement shall survive the closing of title.
9. In the event that time shall be made of the essence in regard to this Offer, such Notice shall be sufficient and reasonable if mailed by ordinary mail to the address of the Undersigned as set forth herein, if such Notice making time of the essence shall direct the closing to be held at the time and place provided therein on a date not less than ten (10) days from the date of mailing of such Notice.
10. The Buyer represents that this is a non-contingent offer and that the Buyer has sufficient cash which will enable the Buyer to fully consummate this transaction without the requirement of approval by any lending institution.
11. In the event the Undersigned does not close title on or before December 30, 2010, or any extended closing date agreed upon in writing by the municipality, or if the Undersigned defaults hereunder, the Undersigned agrees that it would be impossible to accurately ascertain the actual damages the municipality would suffer, this Agreement may be deemed terminated by the Town of Newton and the Town of Newton shall be entitled to retain all sums paid by the Undersigned hereunder, as liquidated damages, and not in the nature of a penalty, and thereupon neither the Undersigned nor the municipality shall have any further rights against or obligations to the other hereunder.
12. THE THREE DAY ATTORNEY REVIEW PERIOD DOES NOT APPLY TO THIS TRANSACTION. By the execution of this Offer, the Undersigned acknowledges that they have had the opportunity to consult and have consulted with separate and independent counsel of their own choice in regard to the rights and obligations hereunder.

DATED: _____ SIGNED: _____
Signature

Print Full Name(s) Above

Address

Town, State, Zip

Telephone Number

Buyer's Legal Representation:

Name of Attorney

Name of Firm

Street Address

Town, State, Zip

Telephone Number

**OFFER TO PURCHASE
BLOCK 902, LOT 42.03**

1. The Undersigned hereby irrevocably offers to purchase from the Town of Newton, Lot 42.03 in Block 902 as shown on the Town of Newton Tax Map and as further described on **Schedule A** attached hereto and made a part hereof, for the sum of _____.
2. A bank check, certified check, attorney trust account check or cash for ten percent (10%) of the purchase price, payable to the "Town of Newton", is attached hereto, and shall be held in escrow in the trust account of the law firm of Hollander Strelzik, et al., and disbursed in accord with this Offer.
3. The balance of the purchase price shall be paid at the closing and upon delivery of the Deed, in cash, certified check, or bank check.
4. The closing will take place by December 30, 2010, at the offices of the municipal attorney, Hollander Strelzik, et al., 40 Park Place, Newton, New Jersey, or at such other location as is mutually agreed upon.
5. The conveyance of each lot shall be by Bargain and Sale Deed, and each lot shall be sold subject to covenants, restrictions, conditions, reservations of record, easements established of record, or by prescription, including but not limited to, Deed Book 383, Page 73&c., Deed Book 1537, Page 63&c., Deed Book 1578, Page 89&c., Deed Book 2235, Page 12&c., and Deed Book 2332, Page 108&c., laws, municipal ordinances, water and sewer connection fees, if any, and such state of facts as an accurate survey or inspection of the premises may disclose.
6. The Town of Newton will use in the deed of conveyance the premises described on **Schedule A** attached hereto. The Buyer shall have the right, at its sole cost and expense, to obtain a new survey of the property. Provided such survey depicts the property and is certified to be correct to the Town of Newton, the Town of Newton shall utilize the legal description drawn in accordance with such survey in the Deed of conveyance, provided the undersigned bidder provides such legal description and a copy of the certified survey to the Town of Newton not less than one week prior to the date set for closing of title.
7. This Offer shall not be deemed accepted until the adoption of a Resolution by the Newton Town Council, which shall take place no later than its second regular meeting following the date hereof. This Offer may not be withdrawn prior to such Resolution.

8. The Buyer has executed this Offer to Purchase with full knowledge as to the value of the land, buildings and improvements thereon, which buildings and improvements thereon, if any, are sold in an "as is" condition. The Buyer, by the execution of this Offer to Purchase, acknowledges that they have had the opportunity and have inspected the premises, examined its title, reviewed municipal ordinances and laws affecting the premises, and that no representations regarding the value, character, quality, habitability or condition thereof (including environmental conditions) have been made by or on behalf of the Town of Newton. The Buyer further acknowledges that the municipality has expressly and does expressly disclaim any and all implied warranties of habitability or usability with respect to this property. The Buyer agrees that by the execution of this Offer to Purchase to be responsible, after closing, for all present and future defects of any kind in any part of the property and to indemnify and hold harmless the Town of Newton regarding such present and future defects. This agreement shall survive the closing of title.
9. In the event that time shall be made of the essence in regard to this Offer, such Notice shall be sufficient and reasonable if mailed by ordinary mail to the address of the Undersigned as set forth herein, if such Notice making time of the essence shall direct the closing to be held at the time and place provided therein on a date not less than ten (10) days from the date of mailing of such Notice.
10. The Buyer represents that this is a non-contingent offer and that the Buyer has sufficient cash which will enable the Buyer to fully consummate this transaction without the requirement of approval by any lending institution.
11. In the event the Undersigned does not close title on or before December 30, 2010, or any extended closing date agreed upon in writing by the municipality, or if the Undersigned defaults hereunder, the Undersigned agrees that it would be impossible to accurately ascertain the actual damages the municipality would suffer, this Agreement may be deemed terminated by the Town of Newton and the Town of Newton shall be entitled to retain all sums paid by the Undersigned hereunder, as liquidated damages, and not in the nature of a penalty, and thereupon neither the Undersigned nor the municipality shall have any further rights against or obligations to the other hereunder.
12. THE THREE DAY ATTORNEY REVIEW PERIOD DOES NOT APPLY TO THIS TRANSACTION. By the execution of this Offer, the Undersigned acknowledges that they have had the opportunity to consult and have consulted with separate and independent counsel of their own choice in regard to the rights and obligations hereunder.

DATED: _____ SIGNED: _____
Signature

Print Full Name(s) Above

Address

Town, State, Zip

Telephone Number

Buyer's Legal Representation:

Name of Attorney

Name of Firm

Street Address

Town, State, Zip

Telephone Number

TOWN OF NEWTON

ORDINANCE # 2010-23

**AN ORDINANCE AUTHORIZING A SPECIAL EMERGENCY
APPROPRIATION FOR THE PREPARATION AND IMPLEMENTATION OF A
REASSESSMENT OF ALL REAL PROPERTY WITHIN THE TOWN OF NEWTON
(N.J.S.A. 40A: 4-53b)**

WHEREAS, the Sussex County Board of Taxation has requested that the Director of the New Jersey Division of Taxation approve an Order mandating that the Town of Newton conduct a Reassessment of all real property within the corporate boundaries of said municipality; and

WHEREAS, the Division of Taxation had previously approved an Order for Revaluation on April 12, 2006; and

WHEREAS, a complete revaluation was completed and implemented on the 2008 Tax Book; and

WHEREAS, due to the sharp decline in property values over the past 2 years, the Town's true assessment ratio is well in excess of 100%. Since the New Jersey Constitution does not permit any property owner to be assessed at a ratio greater than 100%, the Town of Newton needs to reassess all properties within the Town for the purpose of establishing an equitable distribution of the municipal tax base in accordance with the law;

NOW, THEREFORE BE IT ORDAINED, by the Town Council of the Town of Newton, in the County of Sussex, State of New Jersey, that pursuant to NJSA 40A:4-53b, the sum of Sixty Thousand Dollars (\$60,000.00) is hereby appropriated for the preparation and implementation of a complete program of Reassessment of all real property within the Town of Newton. This action shall be deemed a "Special Emergency Appropriation" as defined and provided for in NJSA 40A:4-53b; and

BE IT FURTHER ORDAINED, that such appropriation and "special emergency notes" authorized to finance the appropriation shall be provided for in succeeding annual budgets by the inclusion of at least one-fifth (1/5) of the amount authorized pursuant to this act.

TAKE NOTICE that the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on Monday, September 27, 2010. It will be considered for adoption, after public hearing and final reading thereon, at a regular meeting of the Newton Governing Body to be conducted at 7:00pm on Wednesday, October 13, 2010 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect according to law.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #161-2010

September 27, 2010

“Authorize Award of a Non-Fair and Open Contract for Architectural Services for the design of a new Concession Stand Building at the Memory Park Pool”

WHEREAS, the Town of Newton has a need to acquire the services of FKA Architects as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4 for architectural services for the design of a new Concession Stand Building at the Memory Park Pool; and

WHEREAS, FKA Architects submitted a proposal dated September 10, 2010 outlining the services to be provided for an amount not to exceed \$9,000 which is less than the threshold established by the Local Public Contracts Law; and

WHEREAS, the Chief Financial Officer of the Town of Newton has certified that funds are available to support this contractual services agreement;

NOW, THEREFORE BE IT RESOLVED, that the Town Council of the Town of Newton hereby authorizes the Mayor and Clerk to execute an agreement with FKA Architects, for the design of a new Concession Stand Building at the Memory Park Pool, and that a notice of this agreement be published in the newspaper of record for the Town in accordance with the Local Public Contracts Law.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, September 27, 2010.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

CERTIFICATION OF THE AVAILABILITY OF FUNDS
(AS REQUIRED BY N.J.S.A. 40A:4-57, N.J.A.C. 5:34-5.1 et seq)

THIS IS TO CERTIFY THAT FUNDS ARE AVAILABLE AS FOLLOWS:

RESOLUTION #: 161-2010

APPROVING: FEITLOWTIZ & KOSTEN ARCHITECTS

FOR THE PURPOSE OF: ARCHITECT FOR POOL CONCESSION STAND

IN THE AMOUNT OF: NOT TO EXCEED \$9,000.00

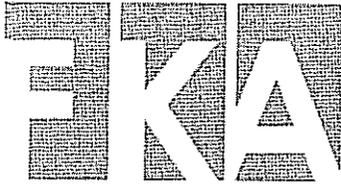
APPROPRIATED BY: GENERAL CAPITAL -

ORD.#2005-14 #3090524 \$9,000.00

DATED THIS 27TH DAY OF SEPTEMBER 2010

BY

DAWN L. BABCOCK
CHIEF FINANCIAL OFFICER



ARCHITECTS

A PROFESSIONAL ASSOCIATION

Architecture • Interior Design
Planning • Project Management

Thomas J. Kosten, A.I.A.
Michael R. Bieri, A.I.A.
Martin M. Feitlowitz, A.I.A.

September 10, 2010

Mr. Thomas S. Russo, Jr.
Newton Town Manager
Town of Newton
39 Trinity Street
Newton, New Jersey 07860

Via E-Mail

**Project: New Concession Stand Building
Memory Park Swimming Pool Complex
Town of Newton**

Re: Proposal for Architectural & Partial Engineering Services

Dear Thomas:

Thank you, for giving FKA the opportunity to submit a proposal for the above referenced project.

Project Description

It is our understanding that the Town of Newton would like to construct a new Concession Stand within the existing swimming pool complex at Memorial Park.

The new concession stand is to be a new stand-alone building and is to be designed to provide food service to the patrons of the pool complex. The layout of the building is to provide adequate space and equipment for food service, with the intention that an outside food vendor could run the stand.

The concession stand is to contain the following commercial grade equipment:

- 2 refrigerators.
- 2 freezers, one for food storage, one for ice cream
- A triple bay sink for food preparation as well as a separate hand sink.
- 3 commercial microwave ovens.
- A retail type food warmer, hot dog roller machine, pretzel warmer, pizza warmer, and nacho station.
- The menu would also include, salads, wraps, candy and popcorn.
- An area currently exists, along the existing pool building, for vending machines.

The counters within the stand are to be a durable material such as corian. Serving windows are to be at least four feet wide and located on two sides of the concession stand. Additional windows are to be provided on the sides of the building to allow occupants views around the building.

The flooring will be a seamless material similar to Dex-O-Tex, and the walls will be covered with FRP panels. All colors will be selected with the input of the Owner. The style of the concession stand will match that of the existing pool building. The building will be located in the area where utilities have previously been provided, including 6 electrical conduits and a water line.



**New Concession Stand Building
Memory Park Swimming Pool Complex
Page 2.**

The concession stand will be utilized during the summer months, therefore no heating or air conditioning systems will be provided. An exhaust fan will be provided to help to ventilate the space during summer months. All plumbing utilities will be drained for the winter months. New security cameras will be provided, which will be tied into the existing system. New power, data, and phone lines will be included to allow data connection to the cash register.

An appropriate menu board will be included along with all necessary building signage. A separate area will be designated for waste disposal as well as recycling bins. All food-packaging materials are to be recyclable. The area around the concession stand is to include additional tables and chairs with umbrellas for patrons to utilize.

When FKA has prepared preliminary design drawings we, along with the Town of Newton, will meet with the health department, as well as potential vendors to obtain input and recommendations on the design.

This proposal is to complete all services for this project and includes Architectural, Structural, and MEP, Services. It is assumed that all electrical and plumbing services will be tied into the existing building system, and that the building will be located in the area of the existing concrete patio, therefore we have not included the cost of any Civil Engineering Services.

After the preliminary plans are developed, FKA will recommend that the Town hire a Geotechnical Consultant to conduct a few borings to determine adequate sub-surface conditions for the new building.

Scope of Services

1. Preliminary Phase

- Investigate existing site layout and prepare existing condition Architectural Site Plan.
- Prepare preliminary site plan showing location and configuration of new concession stand.
- Prepare floor plan of proposed building.
- Prepare furniture and equipment plan indicating all food service equipment.
- Prepare elevations of proposed building.
- Submit preliminary drawings to owner for review, modification and approval.
- Meet with the Health department, and potential Vendors for input on design.
- Modify drawings to represent the approved design of concession stand.

2. Construction Document Phase

- Based on approved preliminary drawings, prepare complete construction documents for the purposes of obtaining building permits, contractor's bids, and all construction activities.
- Construction documents shall include the following information:
 1. Title Sheet with project location and general notes.
 2. Floor plan at 1/4" scale.
 3. Furniture and equipment plan at 1/4" scale.



New Concession Stand Building
Memory Park Swimming Pool Complex
Page 3.

- 4. Concession Stand Elevations and Sections.
- 5. Reflected ceiling plan and notes at 1/4" scale.
- 6. Detail sheets including; partition types, door schedule and details.
- 7. Finish plans and details indicating final finishes for each area.
- 8. Plumbing, and electrical drawings indicating new work.
- 9. Building details including structural information.
- 10. Architectural Site drawings including patio modifications.
- 11. Prepare Project Manual including all technical specifications.
- 12. Submit drawings to Owner and revise as requested.

3. Bidding Phase

- Assist Town of Newton in preparing bid packages.
- Assist with pre-bid walk through if requested by the Owner.
- Respond to any contractor inquires.
- Assist in analyzing bids and provide recommendation of contract award.

4. Construction Administration Phase *(Hourly if requested by the Owner)*

- Conduct bi-monthly construction coordination meetings.
- Review all submittals for compliance.
- Review construction on a regular basis to ensure conformance with construction documents.
- Review all payment applications for conformance with completed work.
- Respond to Contractors RFI's.
- Assist in Closeout procedures.

BASIS OF COMPENSATION

1.	Preliminary Phase	\$2,400.00
2.	Construction Document Phase	\$6,400.00
3.	Bidding Phase	<u>\$ 200.00</u>
	TOTAL =	\$9,000.00

4. Construction Administration Phase *(Hourly if requested by the Owner)*

REIMBURSABLE EXPENSES Reimbursable expenses will be submitted to the Owner at cost.



New Concession Stand Building
Memory Park Swimming Pool Complex
Page 4.

ADDITIONAL SERVICES

The basis compensation is for architectural and engineering services as outlined in the Scope Of Services. Any services provided which are not identified as part of the "Scope of Services" will be billed hourly according to the following rates:

<u>Staff</u>	<u>Hourly Rate</u>
Principal	\$165.00
Project Manager	\$110.00
Job Captain	\$ 95.00
Draftsperson	\$ 75.00
Clerical	\$ 45.00

Please review this proposal in detail and let me know if you have any questions. We look forward to the opportunity of working with you on this interesting project.

Sincerely,
Feitlowitz & Kosten Architects

A handwritten signature in black ink, appearing to read 'T. Kosten', written over a horizontal line.

Thomas J. Kosten, AIA, LEED AP
President



TOWN OF NEWTON

RESOLUTION #162-2010

September 27, 2010

"Approve Fireworks Display at Newton Memorial Hospital"

WHEREAS, a Resolution of the Newton Governing Body is required by the New Jersey Department of Labor, Division of Workplace Standards, to grant permission for the public display of fireworks; and

WHEREAS, Zambelli Fireworks of New Castle, PA has submitted a proposal for a fireworks display with a copy of the permit application, certificate of insurance, site diagram and other pertinent information, in conjunction with a fireworks display that will take place at Newton Memorial Hospital on Saturday, November 20, 2010 as part of the annual "Festival of Lights"; and

WHEREAS, Newton Fire Official Joseph C. Inga has advised that the application for said fireworks display is complete and in order;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that Newton Memorial Hospital is granted permission for a fireworks display during the "Festival of Lights" event to take place on November 20, 2010 and that said fireworks display will be provided by Zambelli Fireworks of New Castle, PA; and

BE IT FURTHER RESOLVED that a certified original of this Resolution be forwarded to the New Jersey Department of Labor and Newton Fire Official Joseph C. Inga.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, September 27, 2010.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #163-2010

September 27, 2010

**"Award Bid for Public Works Facility
Standby Generator"**

WHEREAS, the Town of Newton publicly opened and read bids for the acquisition and installation of a Standby Generator for the Public Works Facility on Friday, September 17, 2010 at 10:00 a.m. as follows:

<u>Name and Address of Bidder</u>	<u>Bid Price</u>
Lulo Electric, LLC 25 Saxton Drive Hackettstown, NJ 07840	\$65,800.00
High Point Electric, Inc. 719 Route 519 Wantage, NJ 07461	\$63,390.00
Manor II Electric 3 Ardsley Court Holmdel, NJ 07733	\$54,850.00
Power with Prestige, Inc. 40 Swartswood Road Newton, NJ 07860	\$73,700.00
Echelon Services, LLC. PO Box 536 Franklin, NJ 07416	\$98,000.00
Panz Electric Co. 16 Tuscarora Street Bergenfield, NJ 07621	\$61,466.40
Beaver Electric Co. 174 Eagle Rock Avenue Roseland, NJ 07068	\$59,122.00
Wires Electric Shop, Inc. 107 W. Valley View Avenue Hackettstown, NJ 07840	\$54,955.00
Liberty Construction and Developing, Inc. 641 County Route 601 Belle Mead, NJ 08502	\$59,600.00

WHEREAS, the Town Engineer in a letter dated September 17, 2010 recommended the award of the bid to Manor II Electric in the amount of \$54,850.00; and

WHEREAS, the Chief Financial Officer has certified funds are available based on the attached certification;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the bid submitted for the acquisition and installation of a Standby Generator for the Public Works Facility be awarded to Manor II Electric, 3 Ardsley Court, Holmdel, NJ 07733, in the amount of \$54,850.00.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, September 27, 2010.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

CERTIFICATION OF THE AVAILABILITY OF FUNDS
(AS REQUIRED BY N.J.S.A. 40A:4-57, N.J.A.C. 5:34-5.1 et seq)

THIS IS TO CERTIFY THAT FUNDS ARE AVAILABLE AS FOLLOWS:

RESOLUTION #: 163-2010

APPROVING: MANOR II ELECTRIC

FOR THE PURPOSE OF: ACQ. & INSTALL STANDBY GENERATOR DPW

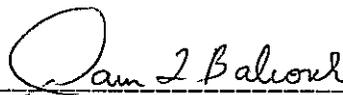
IN THE AMOUNT OF: \$54,850.00

APPROPRIATED BY: CAPITAL - ORD.#2010-7

#3091075 DPW GENERATOR & SAFETY EQUIPMENT \$54,850.00

DATED THIS 27th DAY OF SEPTEMBER 2010

BY



DAWN L. BABCOCK

CHIEF FINANCIAL OFFICER



TOWN OF NEWTON

RESOLUTION #164-2010

September 27, 2010

"Final Acceptance of the Renovations to
Firehouse #1 Project"

WHEREAS, on December 14, 2010 by adoption of Resolution #269-2009, the Newton Town Council awarded a contract to Zinno Construction for the Renovations to Firehouse #1 project; and

WHEREAS, in his memo dated September 15, 2010, the project architect, Sergio J. Chavarria of HQW Architects, LLC., states that said project has been completed and recommends the project be accepted as final and complete;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that it hereby concur with HQW's recommendation and accept the Renovations to Firehouse #1 project as final and complete; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be forwarded to Zinno Construction and the project architect.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, September 27, 2010.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #165-2010

September 27, 2010

**"Refund of Monies for Taxes Due to a
State Tax Court for 189-191 Spring Street"**

WHEREAS, 189-191 Spring Street LLC., Block 717.01, Lot 12; also known as 189-191 Spring Street filed a State Tax Court Appeal to lower the 2009 assessment on said block and lot; and

WHEREAS, on August 26, 2010, the Newton Tax Collector received a judgment issued by the State Tax Court ordering a reduction for the assessment for Block 717.01, Lot 12 for the tax year 2009. This order has resulted in a refund of monies in the amount of \$4,906.88 for 2009;

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Newton that this Governing Body acknowledges this judgment and that 189-191 Spring Street LLC is entitled to a refund in the amount of \$4,906.88; and

BE IT FURTHER RESOLVED, that the Tax Collector is hereby authorized to process a refund to Michael I. Schneck, Trustee for 189-191 Spring Street LLC in the amount of \$4,906.88 in accordance with said State Tax Court Judgment.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, September 27, 2010.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #166-2010

September 27, 2010

"Refund of Monies for Taxes Due to a State Tax Court Judgment for 69 Sparta Avenue"

WHEREAS, Merriam Gateway Apartments, Inc. Block 1301, Lot 15; also known as 69 Sparta Avenue filed a State Tax Court Appeal to lower the 2008 and 2009 assessment on said block and lot; and

WHEREAS, on August 26, 2010, the Newton Tax Collector received a judgment issued by the State Tax Court ordering a reduction for the assessment for Block 1301, Lot 15 for the tax years 2008 and 2009. This order has resulted in a refund of monies in the amount of \$26,744.22 for 2008 and \$5,052.63 for 2009 for a total refund of \$31,796.85;

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Newton that this Governing Body acknowledges this judgment and that Merriam Gateway Apartments, Inc. is entitled to a refund in the amount of \$31,796.85; and

BE IT FURTHER RESOLVED, that the Tax Collector is hereby authorized to process a refund to Michael I. Schneck, Trustee for Merriam Gateway Apartments, Inc., in the amount of \$31,796.85 in accordance with said State Tax Court Judgment.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, September 27, 2010.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #167-2010

September 27, 2010

"Refund of Monies for Taxes Due to a
State Tax Court Judgment for 75 Sparta
Avenue"

WHEREAS, Merriam Gateway C/O Sussex Warren H, Block 1301, Lot 14; also known as 75 Sparta Avenue filed a State Tax Court Appeal to lower the 2008 and 2009 assessment on said block and lot; and

WHEREAS, on August 26, 2010, the Newton Tax Collector received a judgment issued by the State Tax Court ordering a reduction for the assessment for Block 1301, Lot 14 for the tax years 2008 and 2009. This order has resulted in a refund of monies in the amount of \$10,984.93 for 2008 and \$5,783.93 for 2009 for a total refund of \$16,768.86;

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Newton that this Governing Body acknowledges this judgment and that Merriam Gateway C/O Sussex Warren H, is entitled to a refund in the amount of \$16,768.86; and

BE IT FURTHER RESOLVED, that the Tax Collector is hereby authorized to process a refund to Michael I. Schneck, Trustee for Merriam Gateway C/O Sussex Warren H, in the amount of \$16,768.86 in accordance with said State Tax Court Judgment.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, September 27, 2010.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #168-2010

September 27, 2010

"Authorize Credits Due Water and Sewer Utility Accounts"

WHEREAS, the Water and Sewer Collector has determined that the following Water and Sewer Utility Account are due credits for the reasons stated;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the Water and Sewer Collector is hereby authorized to credit the following account for amount billed incorrectly due to the reason(s) stated:

Credit penalty due to meter reading being overestimated:

<u>Account</u>	<u>Address</u>	<u>Amount</u>
8465	35 Condit Street	\$41.22

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, September 27, 2010.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #169-2010

September 27, 2010

"Award Contract for Make-up Air Furnace and Exhaust Fan Replacement"

WHEREAS, the Town of Newton Wastewater Treatment Plant Inlet Heating is in major disrepair and requires immediate attention due to the change in weather and the potential of the heating system failing in operation; and

WHEREAS, Willco has provided the Town of Newton a quote in the amount of \$22,390.00 to replace the existing heating unit in the inlet building with a Reznor RDH 200 gas fired rooftop-heating unit and one (1) Greenheck exhaust fan to replace the failing system in place at the inlet building; and

WHEREAS, the Town of Newton bid threshold is \$29,000, and the Qualified Purchasing Agent recommends the purchase of the make-up air furnace and exhaust fan replacement from Willco due to the emergent nature of the system; and

WHEREAS, the Chief Financial Officer for the Town of Newton has certified that funds are available to support this project as per the attached certification;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that Willco, of Branchville, NJ be awarded the contract for the make-up air furnace and exhaust fan replacement in the amount of \$22,390.00.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, September 27, 2010.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

CERTIFICATION OF THE AVAILABILITY OF FUNDS
(AS REQUIRED BY N.J.S.A. 40A:4-57, N.J.A.C. 5:34-5.1 et seq)

THIS IS TO CERTIFY THAT FUNDS ARE AVAILABLE AS FOLLOWS:

RESOLUTION #: 169-2010

APPROVING: WILLCO

FOR THE PURPOSE OF: REPLACE EXISTING HEATING UNIT AND
EXHAUST FAN IN WASTEWATER TREATMENT PLANT INLET BUILDING

IN THE AMOUNT OF: \$22,390.00

APPROPRIATED BY:

2010 W/S UTILTIY - CIF, SEWER REHABILITATION WORK

#6089303 \$22,390.00

DATED THIS 27TH DAY OF SEPTEMBER, 2010

BY

DAWN L. BABCOCK
CHIEF FINANCIAL OFFICER



TOWN OF NEWTON

RESOLUTION #170-2010

September 27, 2010

Award Purchase of Mid-mount Aerial Platform Truck"

WHEREAS, the Town of Newton publicly opened and read bids for the purchase of a Mid-mount Aerial Platform Truck on Tuesday, September 14, 2010 at 11:00 a.m. as follows:

<u>Name and Address of Bidder</u>	<u>Bid Price</u>	<u>Factory Inspection Option</u>
Absolute Fire Protection Co., Inc. 2800 Hamilton Blvd. South Plainfield, NJ 07080	\$919,360.00	\$13,000.00
Pierce Manufacturing, Inc. (N.J. Rep: Pierce Fire & Safety Services, Ltd.) 200 Ryan Street South Plainfield, NJ 07080	\$938,357.00	\$13,000.00

WHEREAS, the Truck Committee of the Newton Fire Department has submitted to the Newton Town Manager an analysis of compliance with bid specifications dated September 20, 2010, noting therein:

Technical Specifications, "Special Requirements," Subpart 1-28-5, is as follows:

Due to the layout and design of some streets in the Town of Newton, the following dimensions shall be strictly adhered to, NO EXCEPTION:

- Center line of rear tandem axle to the end of the body shall not exceed 167".
- The measurement from the bottom of the rear-most compartment on each side to the ground not less than 26".
- The measurement from the bottom of the compartment directly behind the tandem axle to the ground not less than 20"; and

WHEREAS, notwithstanding the specific instruction that no exception may be taken from this specification for the reason stated, the bid by Absolute Fire Protection Co., Inc., did not comply with the requirement of a maximum 167-inch measurement from the centerline of the rear tandem axle to the end of the body, with its equipment measuring 211 inches (211-inch dimension shown on "Drawing Sheet 1 of 2, Aerial Body, Quest Chassis, Aerial Ladder"); and

WHEREAS, based on the advice of the Town Attorney regarding the foregoing non-compliance with specifications the bid by Absolute Fire Protection Co., Inc., must be disqualified; and

WHEREAS, the bid document entitled "Information for Bidders" states:

If, for any reason, the Bidder takes exception to any part of the Contract Documents as contained herein, the Bidder shall note the exception in his Bid and give the reason for the exception. The Owner will review the exceptions, as noted, and the reasons for those exceptions, and reserves the right either to reject or accept the exceptions and reasons as noted, whichever prove to be in the best interest of the Town of Newton; and

WHEREAS, the Truck Committee has recommended rejection of the following exceptions from specifications taken by Absolute Fire Protection Co., Inc.:

First:

Section 4-1-1: These specifications describe the minimum requirements for a mid-mounted, 95 ft. telescoping, elevating platform. The unit shall consist of a five section steel ladder with a self-leveling platform attached to the fly ladder.

Truck Committee Analysis: The equipment proposed by Absolute Fire Protection Co. has a four section aluminum ladder instead of the required five-section steel ladder, which is unsatisfactory.

Second:

Section 4-1-2: The aerial device shall be mid-mounted to a torque box, on the truck chassis. The aerial device pedestal shall be raised to afford the widest operating parameters, especially when operating over the cab. The aerial shall be able to be lowered to a minimum of 11 degrees while operating over the front of the cab. No sign of instability, such as lifting of the jacks shall be evident when fully loaded and extended horizontally over the cab.

Truck Committee Analysis: The equipment proposed by Absolute Fire Protection Co. has a 53-degree minimum instead of the required 11-degree minimum, which is unsatisfactory; and

WHEREAS, all other exceptions in both bids were acceptable to the Truck Committee, and

WHEREAS, the Truck Committee has requested that the award include \$13,000 for the option for two factory visits (\$1,000 per visitor), per Specifications 1-26 and 9-1, which sums would be credited to the Town in the event of a decision by the Town to either limit participation in or cancel such visits; and

WHEREAS, based on the disqualification of bidder Absolute Fire Protection Co. for non-compliance with Specification Section 1-28-5 and the other discretionary reasons as set forth above, the Truck Committee of the Fire Department, Town Attorney, Town Manager and Qualified Purchasing Agent recommend award of the Mid-mount Aerial Platform Truck to Pierce Manufacturing, Inc., in the amount of \$951,357.00 (including \$13,000 option); and

WHEREAS, the municipal Chief Financial Officer has certified funds are available based on the attached Certification.

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the bid submitted for the purchase of Mid-mount Aerial Platform Truck be awarded to Pierce Manufacturing, Inc., c/o Pierce Fire & Safety Services, Ltd., 200 Ryan Street, South Plainfield, NJ 07080, in the amount of \$951,357.00; and

BE IF FURTHER RESOLVED that the appropriate municipal officials submit a copy of this Resolution with the requisite Contract to Pierce Manufacturing, Inc., for execution and satisfaction of all post-award requirements.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, September 27, 2010.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

CERTIFICATION OF THE AVAILABILITY OF FUNDS
(AS REQUIRED BY N.J.S.A. 40A:4-57, N.J.A.C. 5:34-5.1 et seq)

THIS IS TO CERTIFY THAT FUNDS ARE AVAILABLE AS FOLLOWS:

RESOLUTION #: 170-2010

APPROVING: PIERCE MANUFACTURING, INC.

FOR THE PURPOSE OF: PURCHASE MID-MOUNT AERIAL PLATFORM
FIRE TRUCK

IN THE AMOUNT OF: \$951,357.00

APPROPRIATED BY:
GENERAL CAPITAL -

ORD.#2008-12	#3090812	\$ 5,813.00
ORD.#2010-7	#3091079	\$945,544.00

DATED THIS 27TH DAY OF SEPTEMBER , 2010

BY *Dawn L. Babcock*

DAWN L. BABCOCK
CHIEF FINANCIAL OFFICER

**3 YEAR WATER SEWER CAPITAL PROGRAM 2010 - 2012
SUMMARY OF ANTICIPATED FUNDING SOURCES AND AMOUNTS**

PROJECT	BUDGET APPROPRIATIONS				BONDS AND NOTES					
	ESTIMATED COST	CURRENT YEAR 2010	FUTURE YEARS	CAPITAL IMPROVEMENT FUND	CAPITAL SURPLUS	GRANTS IN AID AND OTHER FUNDS	GENERAL	SELF LIQUIDATING	ASSESSMENT	SCHOOL
Acquisition of Hot Box	14,400.00			14,400						
TOTAL ALL PROJECTS	14,400			14,400	0	0	0	0	0	0

Be It Further Resolved, that two certified copies of this resolution be filed forthwith in the Office of the Director of Local Government Services, and one copy be forwarded to the Township Auditor and Chief Financial Officer.

It is hereby certified that this is a true copy of a resolution creating the capital budget section adopted by the governing body on the 27th day of September, 2010.

Certified by: Lorraine A. Read, RMC

_____ Date
_____ Municipal Clerk

**3 YEAR CAPITAL PROGRAM 2010 - 2012
SUMMARY OF ANTICIPATED FUNDING SOURCES AND AMOUNTS**

PROJECT	BUDGET APPROPRIATIONS				BONDS AND NOTES					
	ESTIMATED COST	CURRENT YEAR 2010	FUTURE YEARS	CAPITAL IMPROVEMENT FUND	CAPITAL SURPLUS	GRANTS IN AID AND OTHER FUNDS	GENERAL	SELF LIQUIDATING	ASSESSMENT	SCHOOL
Acquisition of Hot Box	14,400.00			14,400						
TOTAL ALL PROJECTS	14,400			14,400	0	0	0			

Be It Further Resolved, that two certified copies of this resolution be filed forthwith in the Office of the Director of Local Government Services, and one copy be forwarded to the Township Auditor and Chief Financial Officer.

It is hereby certified that this is a true copy of a resolution creating the capital budget section adopted by the governing body on the 27th day of September, 2010.

Certified by Lorraine A. Read, RMC

_____ Date
_____ Municipal Clerk



TOWN OF NEWTON

RESOLUTION #173-2010

September 27, 2010

“Resolution of the Town of Newton, in the County of Sussex, New Jersey Directing the Town Planning Board to Review a Proposed Redevelopment Plan Pursuant to the Local Redevelopment and Housing Law”

WHEREAS, the *Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.* (the “Act”), authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment or areas in need of rehabilitation, as such terms are defined in the Act; and

WHEREAS, on April 23, 2007, the Town of Newton (the “Town”), designated certain properties within its borders as an area in need of rehabilitation in accordance with the Act (the “Rehabilitation Area”); and

WHEREAS, the Town wishes to implement a redevelopment plan for a portion of the Rehabilitation Area comprised of: Block 1104, Lot 22; Block 1209, Lots 10, 11, 12.01; Block 1301, Lots 1, 1.04, 10, 11, 12, 13, 14, 15, 16; and Block 1308, Lots 1, 1.01, 1.02, 10, 11, 12, 13 and 14, together with the public streets and rights-of-way adjacent thereto (collectively, the “Plan Area”); and

WHEREAS, in accordance with the Act, the Town has prepared a proposed redevelopment plan for the Plan Area, which is attached hereto as Exhibit A; and

WHEREAS, the Town Council desires to utilize the Planning Board's expertise and experience in crafting a redevelopment plan for the Plan Area;

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Newton as follows:

I. GENERAL

The aforementioned recitals are incorporated herein as though fully set forth at length.

II. PLANNING BOARD DIRECTED TO REVIEW REDEVELOPMENT PLAN

The Town Council hereby authorizes and directs the Planning Board to review the draft redevelopment plan attached hereto as Exhibit A, and to transmit its comments to the Town Council within 45 days, as required by N.J.S.A. 40A:12A-7(e).

III. SEVERABILITY

If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.

IV. AVAILABILITY OF THE RESOLUTION

A copy of this resolution shall be available for public inspection at the offices of the Town.

V. EFFECTIVE DATE

This Resolution shall take effect upon final passage.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, September 27, 2010.

Lorraine A. Read, RMC
Municipal Clerk

EXHIBIT A

PROPOSED REDEVELOPMENT PLAN

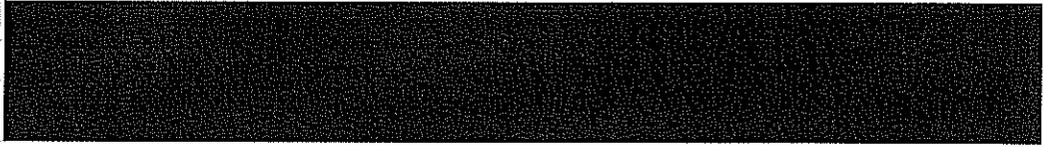


Merriam Gateway Redevelopment Plan

Town of Newton, New Jersey

DRAFT

DRAFT



This document was signed and sealed on September —, 2010 in accordance with Chapter 41 of Title 13 of the State Board of Professional Planners.

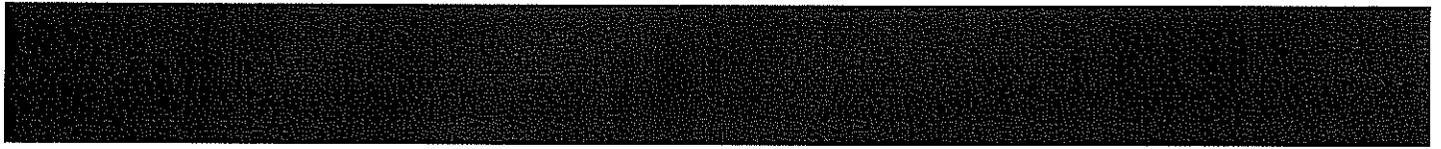
Ross Sheasley, PP

RES*Design*, L.L.C.

Professional Planner #594000

THIS PLAN WAS DEVELOPED, IN PART, USING NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION GEOGRAPHIC INFORMATION SYSTEM DIGITAL DATA, BUT THIS SECONDARY PRODUCT HAS NOT BEEN VERIFIED BY NJDEP AND IS NOT STATE-AUTHORIZED.

1. Description of the Plan		7. Landscape Plan	
1.1 Introduction	2	7.1 Introduction	58
1.2 Local Context Map	3	7.2 General Landscape Requirements	59
1.3 Block and Lot Map	4	7.3 Streetscape Requirements	60
1.4 Statutory Basis of the Plan	5	7.4 Semi-Public Edge Requirements	63
1.5 Purpose of the Plan	6	7.5 Stormwater Management	64
1.6 Overview of the Plan	7	7.6. General Utilities Requirements	65
1.7 Goals of the Plan	8	7.7 Signage Requirements	66
		7.8 Additional Guidelines	67
2. Existing Conditions		7.9 Suggested Plant List	68
2.1 Existing Zoning	10	8. Legal Provisions	
2.2 Environmental Conditions & Constraints	12	8.1 Legal Requirements	72
2.3 Circulation & Utilities	13	8.2 Plan Consistency Review	74
3. Definitions	16	8.3 Redevelopment Plan Implementation	75
4. Land Use		8.4 Schedule and Duration of the Plan	77
4.1 Land Use Regulations	22	8.5 Other Provisions	78
4.2 Land Use Plan	23	9. Acknowledgements	80
5. Mobility			
5.1 Introduction	26		
5.2 Mobility Regulations	27		
5.3 Thoroughfare Regulating Plan	29		
5.4 Thoroughfare Overview	30		
5.5 Thoroughfare Sections	31		
5.6 Vehicular Circulation Plan	36		
5.7 Parking Plan	37		
5.7.1 Parking - Surface Parking Standards	39		
5.7.2 Parking - Structured Parking Standards	40		
5.8 Pedestrian & Bicycle Circulation Plan	41		
6. Building Regulating Plan			
6.1 Introduction	44		
6.2 Building Envelope, Bulk & Setback Regulations	45		
6.3 Building Height Regulations	46		
6.4 General Architectural Regulations	47		
6.5 Architectural Styles	48		
6.5.1 Architectural Styles: Mixed-Use	49		
6.5.2 Architectural Styles: Multi-Family	50		
6.6 Facade Regulations	51		
6.7 Visual Terminations & Landmark Buildings	52		
6.8 Building Signage & Lighting Standards	53		
6.9 Green Building Standards	54		





SECTION 1.0

Description of the Plan

This Merriam Gateway Redevelopment Plan (the "Plan") governs a portion of the Town of Newton Rehabilitation Area, designated by the Town of Newton on April 23, 2007, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "Redevelopment Law"), including parcels, public streets and Rights-of-Way adjacent to and including Sparta Avenue and Diller Avenue (the "Plan Area"). The Plan Area is illustrated on the Local Context Map found on page 3.

offer neighborhood-oriented retail and services along with housing, civic uses and centrally located green space. The State Plan indicates that a neighborhood center is generally within a 10-minute walking distance from what is considered the neighborhood edge, in this case being about the intersection of Merriam Avenue with Paterson Avenue to the west and the intersection of Diller Avenue and Lower Spring Street to the north.

The Plan Area is located along the Sparta Avenue corridor, centered at the intersection of Sparta and Diller Avenues, and encompasses an area of Newton which has historically been the manufacturing and industrial center of the Town. The current land-uses within the Area include a large, former factory which has been converted into a multi-family residential complex; single-family residential; duplex, multi-family residential; highway-oriented retail and service commercial; and surface parking facilities.

Sparta Avenue is a major arterial into Newton from Andover Township, with nearly 10,000 vehicle trips per day. At its intersection with Diller Avenue, roughly half of those vehicle trips continue on Sparta Avenue while the remainder continue on Diller Avenue. As a result of the proximity of this area of Newton to the intersection of Sparta and Diller Avenues, and its location towards the periphery of the Town, this area serves as a primary gateway into Newton. Due to the relevance of this area as a gateway into the Town, adjacent to the old Merriam Shoe Factory, this Plan is known as the Merriam Gateway Redevelopment Plan.

Redevelopment of this area of Newton is an integral piece of the realization of the Newton Urban Design Plan, adopted in 2006, which calls for the district surrounding the Plan Area to become a "neighborhood center". It is also a first step towards the revitalization of the Sparta Avenue corridor. According to the New Jersey State Development and Redevelopment Plan (the "State Plan"), neighborhoods are defined by walking distances and contribute to a balanced mix of uses and activities. The State Plan indicates that the identity of a neighborhood is most commonly achieved through the manipulation of the physical design features and/or by offering a unique facility or range of uses.

According to the State Plan, a neighborhood center is the central focus for a neighborhood, reflecting the neighborhood's physical character and density. The neighborhood center may be an employment center, may

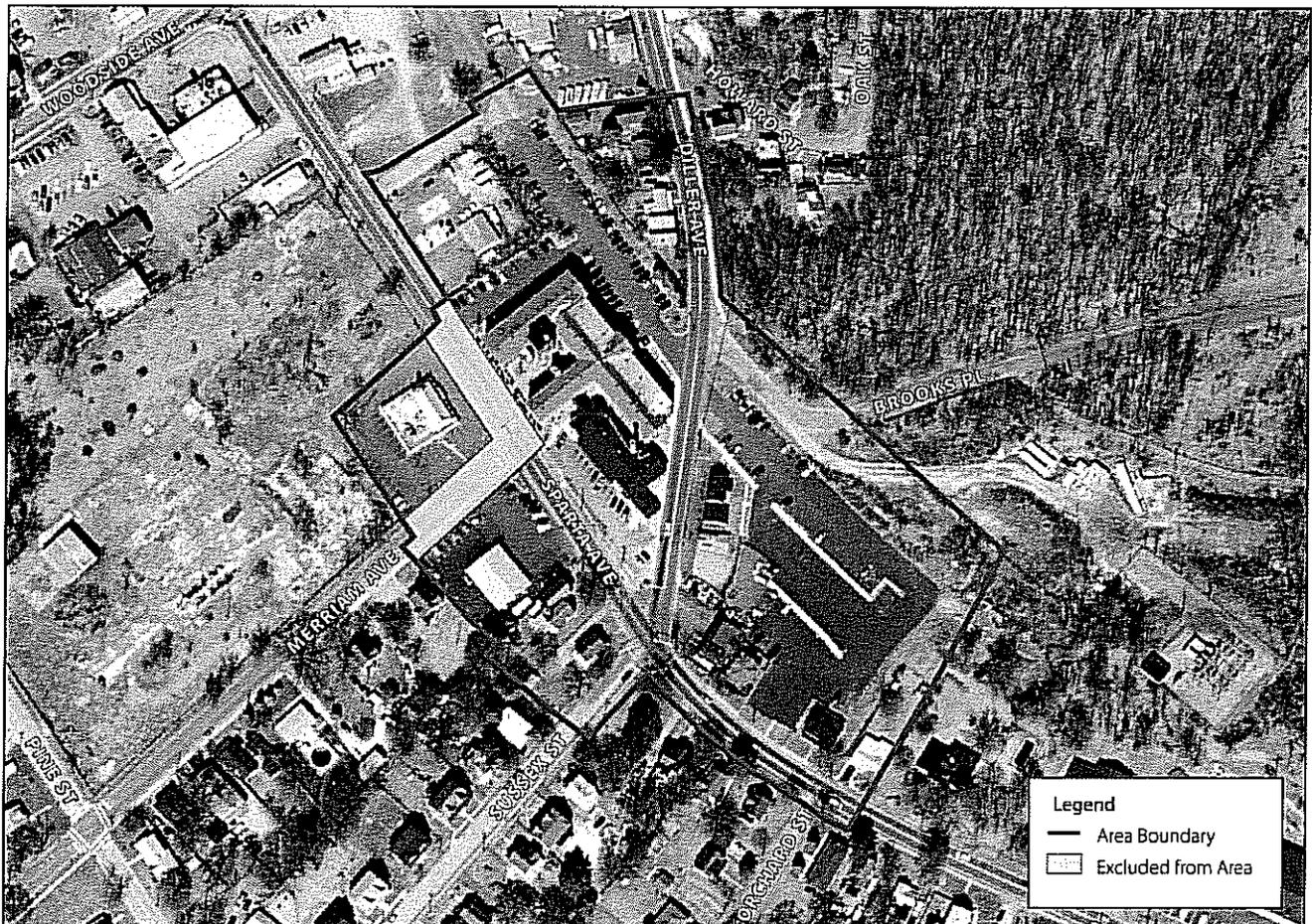
The Plan Area is located approximately one half mile to the south of the Central Business District of Newton and along what is referred to in the Newton Urban Design Plan as the Spring Street - Sparta Avenue "spine" of the Town. The Area is within the section of Newton which developed as the Town's industrial and manufacturing base in the mid to late 19th century. This development as a manufacturing district was facilitated by its proximity to the Sussex Branch Railroad which ran through the Area roughly parallel to Sparta Avenue. The Area has frontage along Sparta Avenue, Diller Avenue, Merriam Avenue, Sussex Street and Railroad Place. Diller Avenue bisects the Area into roughly two parts.

The Area is currently a mixture of light industrial, commercial and residential land uses. The Merriam Gateway complex, a dominant feature within the Plan Area, is an adaptive re-use of a former industrial factory, converted into residential units and commercial space. Other land uses within the Plan Area include a former gas station, several automotive service commercial businesses, single family and multi family housing, and highway-oriented retail

and service commercial businesses. Adjacent to the Plan Area is a large vacant industrial parcel known as 56 Sparta Avenue, which has been declared an Area in Need of Redevelopment, and a fuel distribution operation fronting on Diller Avenue known as "Able Oil".

The Area is in the process of evolving from incompatible adjacent land uses to more appropriate and compatible land uses, which fit within the vision of the future of Newton as well as its designation under the State Plan as a "Regional Center". However, the former industrial uses and documented contamination found within the Area are in conflict with the surrounding residential and commercial development.

The boundary of the Area is shown with the red line on the Local Context Map below. This Redevelopment Plan calls for the Area, and adjacent street rights-of-way, to be developed as part of a "neighborhood center", with some combination of mixed-use development (ground floor commercial space with other uses on floors above),



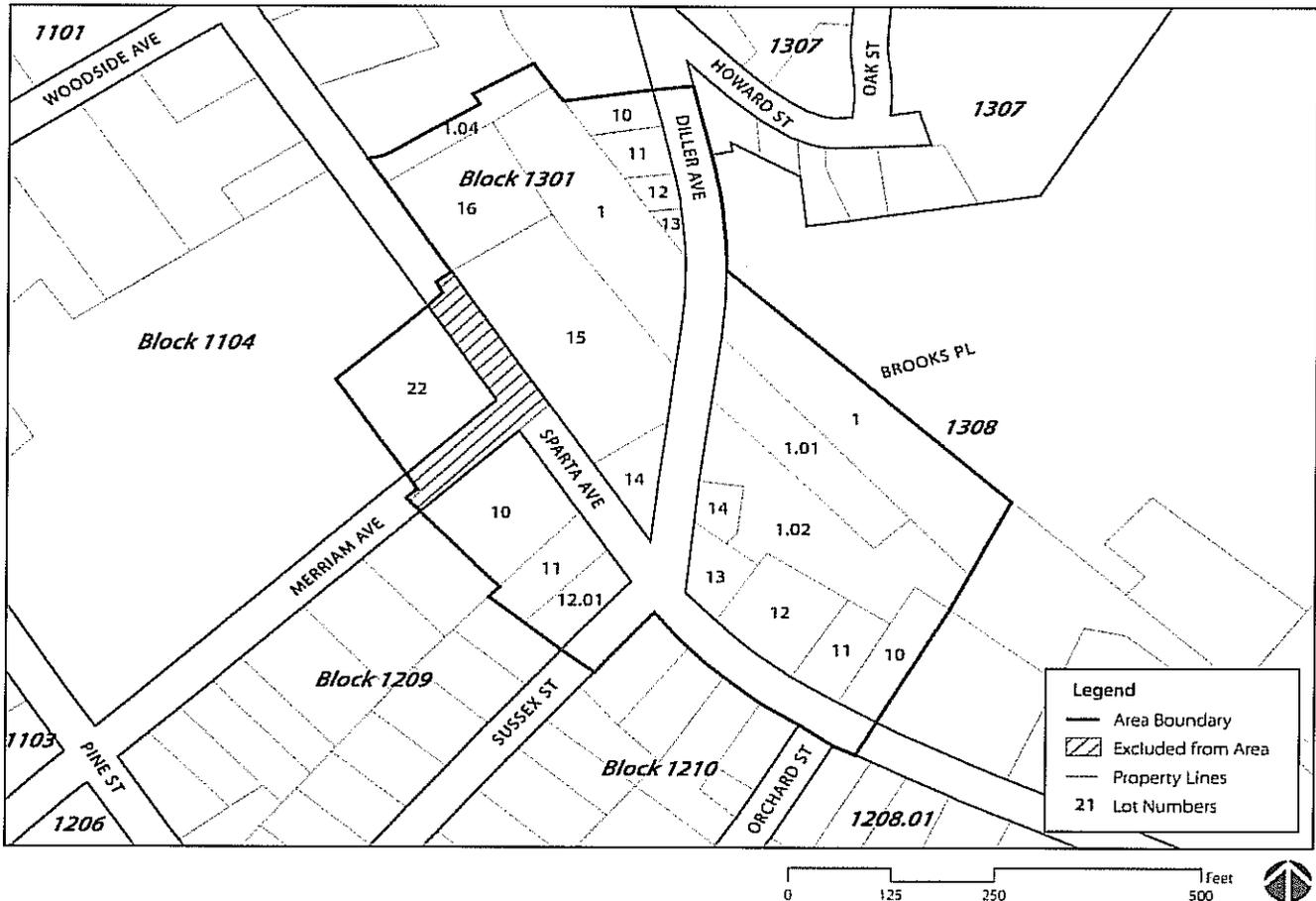
1.3 BLOCK AND LOT MAP

The Plan Area includes 21 tax lots on portions of four tax blocks, as well as the adjacent street rights-of-way of portions of Sparta Avenue, Diller Avenue, Sussex Street, and Railroad Place. The parcels located in the Plan Area are: Block 1104, Lot 22; Block 1209, Lots 10, 11, 12.01; Block 1301, Lots 1, 1.04, 10, 11, 12, 13, 14, 15, 16; and Block 1308, Lots 1, 1.01, 1.02, 10, 11, 12, 13 and 14. The Area measures approximately 10.18 acres, excluding street rights-of-way, and is irregularly configured, with frontage along Sparta, Diller and Merriam Avenues, Sussex Street and Railroad Place.

The Area is located approximately one half of a mile south of the Central Business District of Newton, and is surrounded by residential and commercial land uses. Residences fronting on Merriam Avenue, Sussex Street and Orchard Street abut the Area to the south, with residential properties fronting Diller Avenue abutting the

Area to the northeast. A vacant, former industrial parcel and commercial properties fronting on Sparta Avenue abut the Area to the west with additional commercial properties abutting the Area to the east. Commercial properties fronting onto Diller Avenue abut the Area to the north. In addition, undeveloped, environmentally constrained land abuts the Area to the northeast.

The Area is shown on the Block and Lot Map below, illustrating the layout of the parcels and adjacent rights-of-way which make up the Area as well as the surrounding parcels and streets.



This Plan has been prepared in furtherance of the Town of Newton's determination on April 23, 2007 by Council Resolution #70-2007 that the Rehabilitation Area meets the statutory criteria for designation as an "Area in Need of Rehabilitation" pursuant to N.J.S.A. 40A:12A-14.

Statutory Requirements

This Redevelopment Plan is presented to the Town of Newton in order to provide a form-based code of the layout and design for the rehabilitation of the Area. This Plan represents one step in the redevelopment process to achieve the long term vision for the redevelopment and rehabilitation of the Town pursuant to the Redevelopment Law.

4. Procedures and standards for amending the Redevelopment Plan; and

5. A form-based code containing street, building and architectural regulations for the redevelopment of this Area.

A. This Redevelopment Plan addresses the following issues as required by the Redevelopment Law:

1. The Plan's relationship to definite local objectives regarding land uses, population density, improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements;

2. The proposed land uses and building requirements in the Area;

3. The plan for the temporary and permanent relocation of any displaced businesses and/or residences, if any;

4. The plan for replacement of affordable housing, if any, to be removed as a result of the implementation of this Plan;

5. Any significant relationship of the Plan to (a) the Master Plans of contiguous municipalities, (b) the Master Plan of the County in which the municipality is located, and (c) the State Plan; and

6. Its relationship to the development regulations of the municipality.

B. This Redevelopment Plan will also contain:

1. Standards for the rehabilitation of the properties as mixed-use and residential uses;

2. Provisions for the enforcement of codes and ordinances;

3. Controls and requirements related to affordable housing if constructed as part of the redevelopment;

1.5 PURPOSE OF THE PLAN
1 The purpose of this Plan is to set forth the terms and conditions under which the Area may be rehabilitated.

The basic elements of this Plan, including the design of the streets and circulation networks and the general massing of the buildings, are conceptual and are illustrated in this document in a form-based code. This type of code assures the Town that they can expect redevelopment which fits into the context of the surrounding area, is constructed according to high standards of quality and character and will have a long term positive economic and aesthetic impact on the Town of Newton.

The redevelopment of the Area is part of a larger pattern of revitalization occurring in Newton. This process was first spearheaded by the Newton Mayor and Council, who recognized the need for a community vision of the future of Newton, resulting in the Newton Urban Design Plan.

The Newton Urban Design Plan is a community-oriented vision plan for the future of Newton which was adopted in early 2006. The Newton Urban Design Plan was generated through a community visioning process conducted in 2005 with a grant from the New Jersey Office of Smart Growth. The Urban Design Plan was based on results of a community-based Visual Preference Survey, community Demographic, Market and Policy Questionnaire, and Vision Translation Workshop.

Revitalization of the Town will occur through a combination of rehabilitation and redevelopment. To that end, a large portion of Newton comprises the Rehabilitation Area, while smaller focus areas have been designated as Areas in Need of Redevelopment. The Rehabilitation Area includes

much of the built-out areas of Town and includes buildings and or infrastructure which on average are at least 50 years old (see Rehabilitation Area Map below). Redevelopment and rehabilitation efforts are being concentrated in the Redevelopment Area focus areas and smaller Rehabilitation Area focus areas such as this Merriam Gateway Rehabilitation Area.

The entirety of Newton, and in particular the Rehabilitation Area, has the potential to be rehabilitated and redeveloped as a pedestrian-friendly, sustainable, and aesthetically pleasing series of streets and neighborhoods with a vibrant town center. This process will be guided by the Newton Urban Design Plan, which recommends the transformation of the entire length of the Sparta Avenue/Spring Street corridor, or the "spine" of the Town, into a pattern of more traditional vehicular and pedestrian-balanced neighborhoods and streets, allowing a diverse range of local and regional residential, commercial and office uses.



Rehabilitation Area Map

Year Structure Built

-  Rehabilitation Area
-  1-1850
-  1851-1925
-  1926-1956
-  Merriam Gateway Rehabilitation Area

Data provided by Harold E. Pellow & Associates, Inc.

Redevelopment Goals

By adoption of this Redevelopment Plan, the Town of Newton seeks to accomplish the following goals (not necessarily in the following order):

1. To eliminate continuing blighting influences on the surrounding community.
2. To allow for more efficient use of land and to expand the Town's tax base.
3. To allow context appropriate commercial and/or residential activity. The Town is committed to retaining economic activity and jobs within the Town as well as fostering additional economic activity and job creation in Newton.
4. To establish a pattern of redevelopment along the Sparta Avenue corridor to achieve a typology, density and quality of development that further encourages the revitalization of the Central Business District and Sparta Avenue/Spring Street "spine" through the Town.
5. To create well-planned development which provides expanded opportunities for a mix of uses within the Town and region, that also has the potential for sound development which improves the overall quality-of-life.
6. To provide a system of streets, sidewalks, crosswalks and open spaces that encourages a safe, engaging and pedestrian-friendly experience.
7. To enhance the positive visual character and safety of the Area and surrounding neighborhood through building placement and design, landscaping and streetscape improvements.
8. To provide flexibility of building design, while incorporating modern technologies and reflecting the architectural design vocabulary (design characteristics) of the surrounding neighborhood and the Town of Newton, and respecting the historic character of Newton.
9. To encourage placement of buildings and construction techniques that will contribute to future sustainability and energy conservation and minimize the "carbon footprint".
10. To provide for an intensity of uses and quality streetscapes that would encourage walking and bicycling to and from the Area.
11. To increase the amount of green space within the Sparta Avenue - Spring Street corridor.
12. To provide vehicular circulation and parking options to minimize impacts on the existing roadways and adjacent land uses.
13. To create building forms and design that set a new standard for the overall aesthetic appearance of the Area and surrounding neighborhood.

14. To further environmental sustainability through creation of a mandatory Potable Water Conservation Program by which stormwater is recaptured, stored and used for landscape irrigation and non-potable uses within commercial, manufacturing and/or retail structures. Unless it can be demonstrated by the redeveloper to the Town's reasonable satisfaction that such a program is not feasible.

The goals set forth above are intended to be broad, general policy statements. While it is possible that specific aspects of the Plan may result in minor variations or deviations from these goals, it is intended that the overall result of the implementation of this Plan will be consistent with the goals as set forth above.

Redevelopment Objectives

In carrying out this Redevelopment Plan for the Area, a variety of redevelopment actions are necessary, including but not limited to:

1. Clearance of all dilapidated and under-utilized structures.
2. Improvement of streetscapes.
3. Construction of buildings and other improvements appropriate to the purposes of this Plan.
4. Improvement, revitalization and beautification of the Area.



SECTION 2.0

Existing Conditions

2.1 EXISTING ZONING

The Town of Newton recently completed a Master Plan update, which was adopted by the Newton Planning Board on August 13, 2008. The updated Master Plan recommends the separation of the Town's land uses into form-based SmartCode Transect Zones. This change in land use designation reflects the community-based vision illustrated in the Newton Urban Design Plan, adopted in 2005.

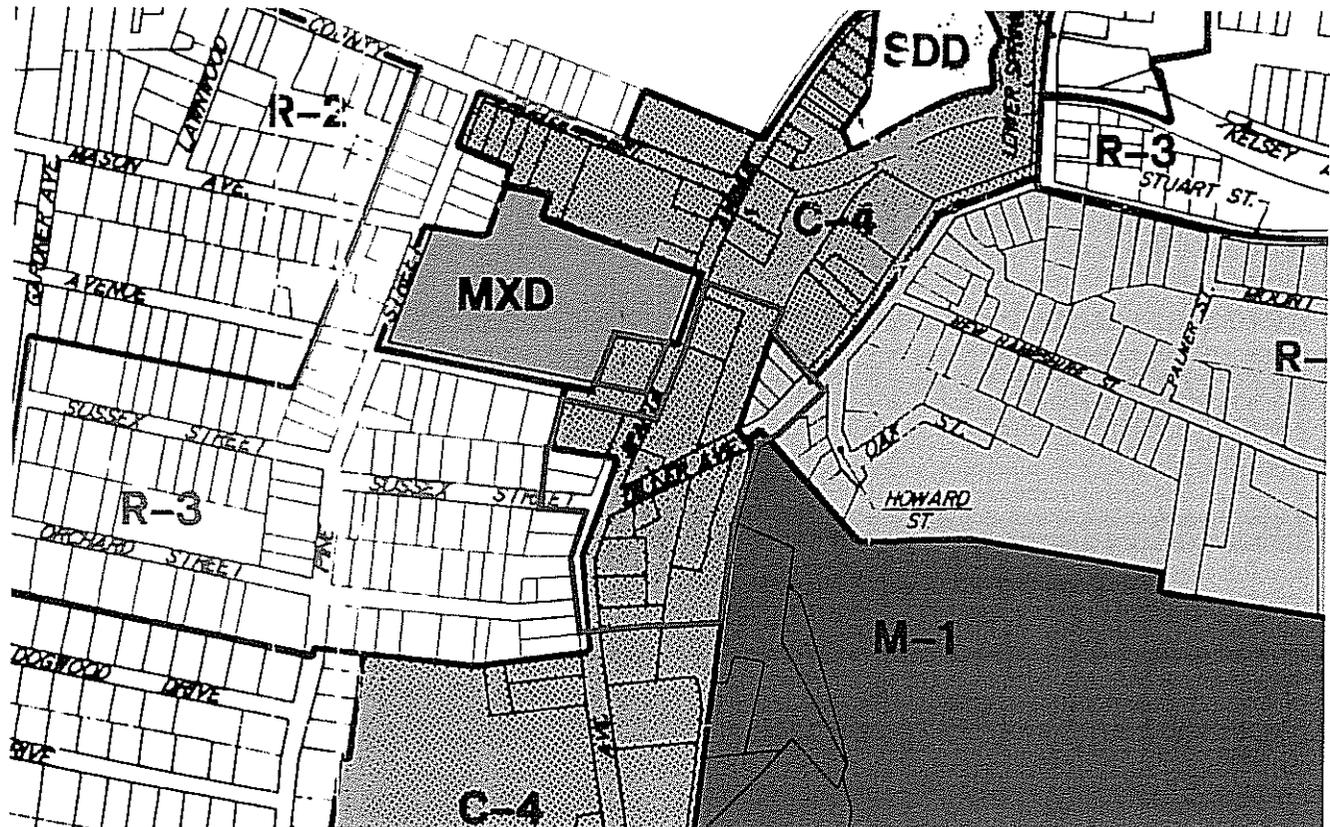
Under the 1996 Master Plan (See 1996 Zoning Map below), which was amended in 2003, several zoning districts were within the designated Area. The C-4 General Commercial District made up the bulk of the Area, with an R-3 Residential District governing two parcels on the west side of the area and extending west into the surrounding neighborhood, and an R-2 Residential district governing four parcels on the northeast corner of the Area and extending to the east. A MXD (Mixed-Use Development) District abutted the site to the northwest, while a M-1 Industrial District abutted the Area along its eastern edge.

Under the new land use designation in the 2008 Master Plan (See Transect Zoning Map on following page), the Area is located within the T-5 Zone (Town Core Support Area / Neighborhood Cores) the T-4 Zone (Neighborhood Services) and a portion of the SD-4 Zone (Industrial -

Manufacturing District). Transect zones surrounding the Area include the T-5 Zone extending north of the Area; the T-4 Zone (Neighborhood Services), extending northeast and south of the Area; the T-3 Zone (Neighborhood Residential), located on adjacent blocks to the east and west of the Area; the SD-4 Zone, located to the southeast of the Area; and the SD-5 Office-Manufacturing Zone located adjacent to the Area on the western edge.

The T-5 Zone allows a range of commercial uses including mixed-uses, retail and services, offices, hotels and mixed-use parking structures, as well as residential uses including townhouses, single-family detached dwelling units, duplexes, live/work units, residential flats over ground floor retail, multi-family flats (apartment buildings), and bed & breakfasts. The T-4 Zone allows a range of commercial uses similar to the T-5 Zone, including: mixed-use (up to 5 stories); retail and services; offices (up to 5 stories); houses of worship; day care centers; funeral homes; hospices; drive through services; and mixed-use parking facilities (up to 5 stories), as well as residential uses including, townhouses (up to three stories); small lot, single-family detached housing; live/work units; apartments over retail (up to four stories over; multi-family units; and bed & breakfasts.

The proposed zoning set forth in this Plan is consistent with the 2008 Master Plan:



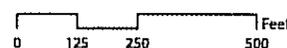
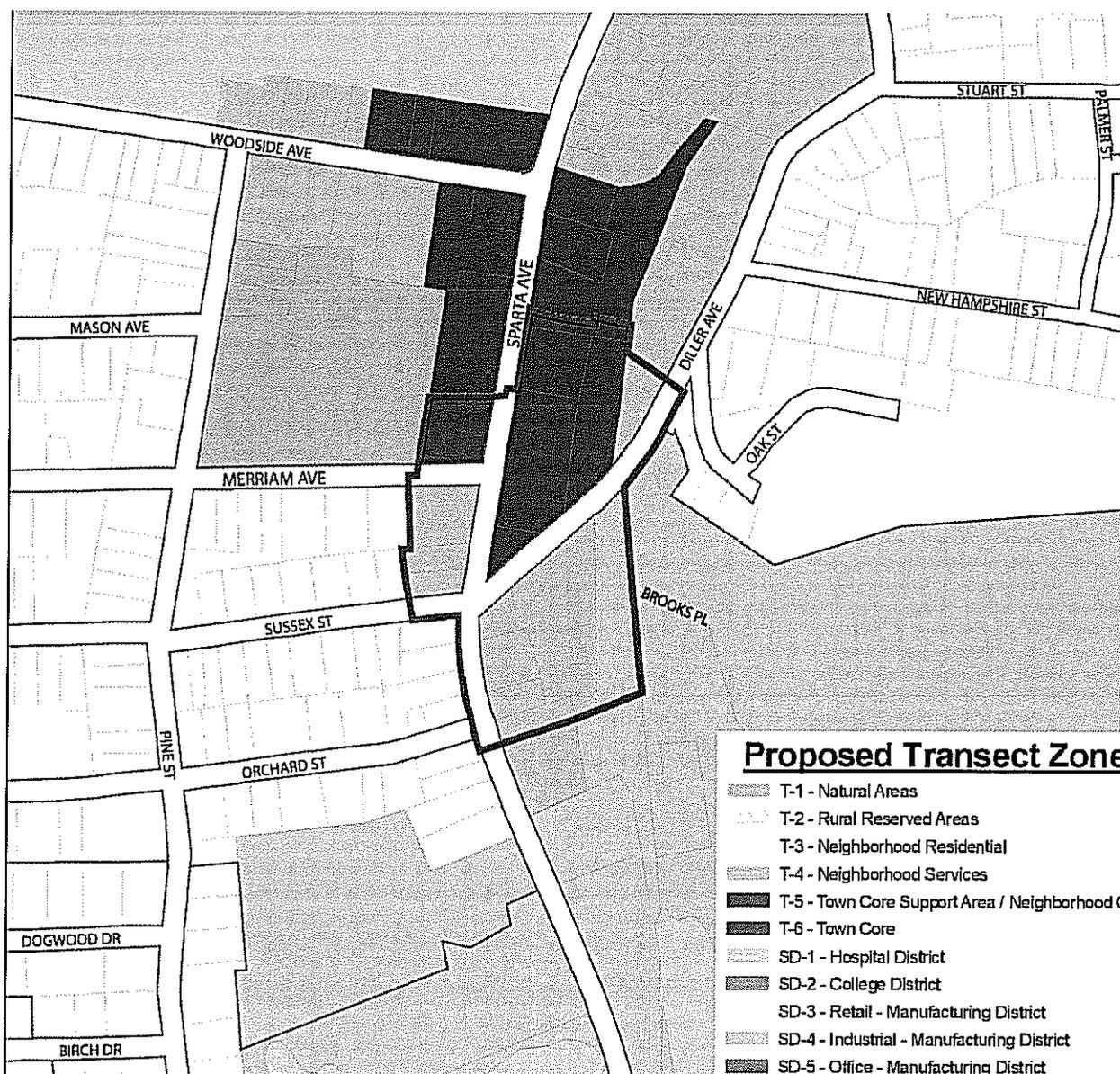
1. **Uses Permitted.** The following principal uses shall be permitted: mixed-use; professional offices; personal service establishments (e.g. tailor, barber shop or beauty salon, branch banks); restaurants, retail stores and shops (excluding drive-in or curbside establishments); multi-family residential buildings, single family residences, duplex residential units; and green space; provided it is part of and integrated with other principal uses.

2. **Distribution of Uses.** Permitted uses may be distributed throughout the Area, provided that mixed-use containing retail space shall be limited to the Sparta Avenue frontage and interior of Block 1308, oriented towards Sparta Avenue.

3. **Accessory Uses Permitted.** Accessory uses and buildings customarily associated with, and subordinate to, permitted principal uses.

4. **Minimum Tract Area.** One quarter (0.25) of an acre, to be developed in accordance with a master site development plan.

5. **Bulk Standards.** All development shall conform to the bulk standards set forth for each permitted use in this Plan, and shall take into consideration the context of the surrounding SmartCode Transect Zones.



In the Area of Newton that includes the Plan Area, a mix of land uses includes former industrial brownfields located adjacent to a range of retail commercial uses; food services; multi-family and single-family residential development. One former industrial facility was renovated in the mid-1990's and converted into a multi-family residential and commercial complex. A number of tax parcels within the Area are in a state of disrepair or otherwise in need of rehabilitation or redevelopment.

Former industrial and commercial facilities in the Plan Area included the industrial facility mentioned above, a shoe factory dating back to the late 19th century which is currently a multi-family apartment complex, automotive services, including a body works shop, tire store and gas station, as well as restaurants and personal services commercial establishments. In addition, industrial facilities located adjacent to the Plan Area included a fabric manufacturing facility, which was used in its later years for plastics manufacturing and is now vacant, and a fuel distribution facility which was severely damaged by fire in 2003.

Site Contamination

Due to the history of industrial and commercial uses around the Plan Area, a number of contamination issues could affect redevelopment activities within the Plan Area, while some issues have been previously remediated. Properties and businesses which have been previously listed in New Jersey Department of Environmental Protection (NJDEP) databases include:

Molecular Rearrangement, Inc., previously located at 69 Sparta Avenue (currently part of the Merriam Gateway Complex), was listed on the NJDEP RCRA database as a Large Quantity Generator (LQG) of hazardous materials. It was reportedly in compliance as of April 1986. It was also listed by NJDEP as a known State Hazardous Waste Site (SHWS), although the site has since been renovated into a multi-family residential complex.

Cono's Auto Body, currently located at 81 Sparta Avenue, was listed on the NJDEP RCRA database as a Small Quantity Generator of hazardous materials, although no violations have been documented on the site.

Dooley's Automotive Service, Inc., a gas station which was located at 74 Sparta Avenue, the site currently being utilized by Booton Tire, Inc. as a retail tire

establishment, was listed on the NJDEP BUST (Bureau of Underground Storage Tank) listing and the LUST (Leaking Underground Storage Tank) listing. It was noted, however, that all underground storage tanks have been removed from the property and the property had received a NFA letter from the NJDEP.

The former Newton Gas Station, currently the U-Save Convenience store at 65 Sparta Avenue, was listed on the NJDEP RCRA database as a LQG of hazardous materials. The site was also on the BUST and LUST listings. More recently, groundwater contamination was been documented on the site during storage tank removal. It is presently unknown whether groundwater contamination from the parcel has had any impact on other parcels within the Area.

Newton Plastics, Inc., a former facility located at 56 Sparta Avenue, a parcel adjacent to the Area, is on the NJDEP SHWA listing and the NJDEP BUST listing, although the property has purportedly received a NFA letter from the NJDEP, thus indicating it has not impacted the Area with any contamination issues.

As of the writing of this Plan, the Town does not have any additional NJDEP documentation of environmental conditions related to tax parcels within this Plan Area, and has requested a comprehensive review of all environmental documents related to this Plan Area.

Wetlands, Steep Slopes, Tree Cover

No identified wetlands or steep slopes exist within the Plan Area. Adjacent to the northeastern edge of the Plan Area along the Diller Avenue right-of-way, however, the terrain rises steeply.

No significant tree cover is located within the Plan Area, although trees are scattered throughout the Plan Area on the various residential properties located on Blocks 1209, 1301, and 1308, as well as scattered at the periphery of other parcels within the Plan Area, most notably on Block 1301, Lot 16.

Constraints

Several physical constraints impact redevelopment within the Plan Area. The most significant constraint to development within Block 1308 is the presence of two utility easements which bisect the block from the intersection of Sparta and Diller Avenues in roughly an eastern direction. The irregular shape of the Plan Area,

Constraints (continued)

as well as size and configuration of a number of parcels within the Plan Area forms the other constraint impacting rehabilitation within the Plan Area.

Circulation

Primary vehicular access to the Plan Area is from Sparta Avenue, which approaches the Plan Area from the Central Business District (CBD) to the north and from Andover Township to the east, and Diller Avenue, which approaches the Plan Area from the north and acts like a bypass around the CBD. The Plan Area also includes Railroad Place and a section of Sussex Street, and has frontage along a section of Merriam Avenue.

Sparta Avenue is a high volume arterial and a county road. Traffic on Sparta Avenue is steady throughout the day in the Plan Area. Traffic is considerably heavier during the morning and evening rush hours on Sparta Avenue. Signalized intersections at Woodside Avenue and Diller Avenue meter traffic flow along Sparta Avenue, which facilitates ingress and egress on Sparta Avenue within the Plan Area.

Diller Avenue is a high volume arterial through the Plan Area. Much of the traffic on Diller Avenue is due to its common use as a bypass around the CBD for traffic traveling to destinations north from Andover, and traffic traveling to destinations east from points north of Newton. The signalized intersection of Diller Avenue with Sparta Avenue meters traffic somewhat. However, the geometry of the intersection, Diller Avenue approaches the intersection at roughly a 45 degree angle, and limited sightlines along Diller Avenue, makes ingress and egress into the Plan Area from Diller Avenue less than optimal.

As residential streets, Merriam Avenue and Sussex Street are considerably less traveled than either Sparta or Diller Avenues. While these streets serve primarily as residential streets, they are relatively low volume and have a secondary function as collector streets which distribute local traffic to Sparta Avenue, and Route 206 via Paterson Avenue.

Pedestrian accessibility to and within the Plan Area is marginal. Sidewalks in the Plan Area tend to be narrow and deteriorated, although sidewalks and curbs have recently been replaced along the western side of Sparta Avenue. Sidewalks on the eastern side of Sparta Avenue

are narrow, overgrown and deteriorated. There are no sidewalks along either side of Diller Avenue, forcing pedestrians to use paved parking areas to traverse through the Area. The sidewalks on Sussex Street are narrow and deteriorated and there are sidewalks only on the south side of Merriam Avenue and north side of Railroad Place. In general, crosswalks throughout the Plan Area are either non-existent or severely weathered.

Utilities

Sewer

The Plan Area has access to the municipal sewer system. The WasteWater Treatment Plant has a capacity to treat 1.4 million gallons of wastewater flow per day while it currently processes an average of .910 million gallons of wastewater flow each day. There are four municipal sewer pump stations and over 20 miles of sewer collection lines. Any new sewer hookups require approval by the Town's Engineer and the Town's Utility Advisory Board. The redeveloper(s) shall be responsible for any appropriate hookup fees.

Water

The Plan Area has access to the municipal water system. The Town's surface water supply is the Morris Lake Reservoir located in Sparta Township. This has been Newton's water source since the early 1900's. Any new water hookups will require the approval of the Town's Engineer and the Town's Utility Advisory Board. The redeveloper(s) shall be responsible for any appropriate hookup fees.

Stormwater

Stormwater management within the Plan Area will be in accordance with the Town of Newton Stormwater Management Regulations as well as the strategies articulated in this Plan to further lessen and mitigate stormwater runoff and lessen the impact on limited potable water resources.

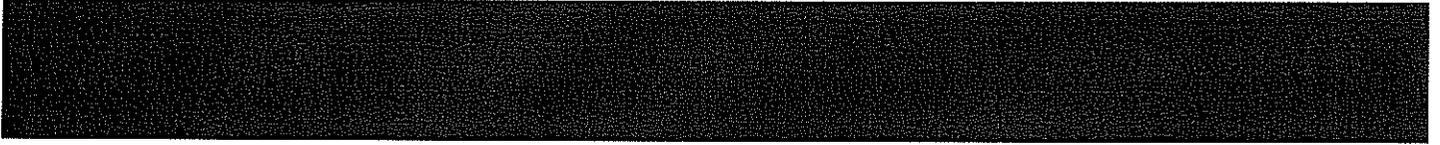
Electricity and Natural Gas

Currently, Newton electricity is served by Jersey Central Power and Light. Newton receives its natural gas supply from Elizabethtown Gas.

Telecommunications - Voice and Data Transmission

Newton is currently served by Embarq.

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SECTION 3.0

Definitions

Terms in this Redevelopment Plan shall be defined as follows:

Affordable Housing – Housing that meets the definition set forth by the New Jersey Council on Affordable Housing (COAH).

Area – Shall mean the district or neighborhood which generally surrounds and includes the area governed by this Plan (Plan Area).

Allowable Building Footprint - The total area which comprises the shape and orientation of the ground floor of a developed building space. The total building area, including on-site loading, is included in the allowable building footprint.

Buffer – A landscaped area used to physically separate or screen one property from another so as to visually shield or block noise, lights, or other nuisances.

Build-to-Line – A line parallel to the property line along which a minimum of 80% of the primary facade of a building must be located.

Building Height – The vertical distance defined in terms of story height of the finished floors of the proposed building, or the building height in feet from the mean front elevation to the highest point of the roof. Chimneys, mechanical equipment and architectural features, serving no other functions except that of decoration, shall be excluded for the purpose of taking heights.

Carbon Footprint - The total set of greenhouse gas emissions caused directly and indirectly by an individual, organization, event or product.

Cartway – The area within a street's right-of-way which accommodates vehicular movement. It is typically paved and includes both travel lanes and on-street parking areas.

Clerestory - A high wall with a band of narrow windows along the very top. The clerestory wall usually rises above adjoining roofs.

Context – The particular combination of elements that create a specific habitat. Context includes building use, density, height and setback, and other elements of the intended habitat, including those of the private lot and building, as well as those of the fronting public streetscape.

Corridor – A linear geographic area incorporating buildings, streets and the pedestrian realm in proper proportions to create a sense of street space.

Curb – The edge of the vehicular pavement detailed as a raised curb or flush to a swale. The curb usually incorporates the drainage system.

Developable Area – The developable area is the designated area on the specific parcel or block which a building and accessory uses can be located.

Design Professional – A practicing Urban Planner or Designer, or architect, that has experience with redevelopment plans and form-based zoning.

Design Speed – The velocity at which a thoroughfare tends to be driven without the constraints of signage or enforcement. There are four ranges of speed: Very Low (below 20 MPH); Low: (20-25 MPH); Moderate: (25-35 MPH); High (above 35 MPH). Lane width is determined by desired design speed.

Elevation – The exterior walls of a building. An elevation drawing includes material, rendered window and door openings, height and façade details. See Façade.

Encroachment – The distance beyond the build-to-line into which certain building elements can protrude. The encroachment distance is typically expressed in feet. Typical encroachments may include porches, stoops, overhangs, bow and bay windows, etc.

Façade – Any vertical, exterior face or wall of a building, typically containing windows and doors.

Floor-Area-Ratio – The gross floor area of all buildings or structures on a lot divided by the total lot area.

Form-Based Code – A combination of text, diagrams and illustrations that set forth the location, form, character, architectural and site plan requirements of the Plan Area. A form-based code typically contains standards for the thoroughfares, pedestrian circulation, land and building uses, building regulating diagrams and standards, landscape and parking standards, architectural and site standards as well as a design vocabulary.

Gable - The triangle formed by a sloping roof. A building may be front-gabled or side-gabled.

Green Areas - Places such as, but not limited to, courtyards,

parks, balconies, rooftops, semi-public edge or parking lots referred to herein as being “green”, which shall be planted with grasses, bushes and trees to the greatest extent possible in order to ease stormwater runoff, create shaded areas, provide fresh air and inspire a natural aesthetic.

Green Roof, Intensive – Green roofs greatly reduce stormwater runoff, decrease the cost of heating and cooling, and provide an additional amenity for units. An “intensive” green roof allows for major plantings such as grasses, bushes and trees. Because intensive green roofs allow for higher maintenance plantings, they require more structure and support than a standard roof.

Green Roof, Extensive – Green roofs greatly reduce stormwater runoff, decrease the cost of heating and cooling, and provide an additional amenity for units. An “extensive” green roof allows only for low level and low maintenance plantings and requires little to no additional structure.

Greywater - Non-industrial wastewater generated from domestic processes such as dish washing, laundry and bathing.

Internal Lane - A low-volume street to serve primarily as access to mid-block land uses for pedestrians and vehicles.

Landmarks - Buildings or features located at prominent locations in the streetscape or landscape.

Lintel - A horizontal block that spans the space between two supports.

Mandatory Standards – Sentences or phrases that include the following words: “must”, “shall”, “required” or “are specified.”

Mixed-Use - A building or structure which can accommodate two or more land-uses. Mixed-use buildings may contain ground floor commercial, retail or services with residential, offices, services and/or parking located on floors above.

Mullion - The large vertical member between two adjoining windows.

Muntin - The horizontal and vertical strips that hold the panes of glass together in a window sash.

Parapet - A low protective wall or railing along the edge of a raised structure such as a roof or balcony. It may serve as a decorative and/or functional feature of the building.

Plan – Shall mean this Merriam Gateway Redevelopment Plan.

Plan Area - Shall mean the area of the Rehabilitation Area which is governed by this Redevelopment Plan.

Potable Water Conservation Program - A mandatory program prepared by the developer by which stormwater is recaptured, stored and used for non-potable use within industrial, retail or commercial structures as well as landscape irrigation. Unless it can be demonstrated to the Town’s reasonable satisfaction that such a program is not feasible (see Redevelopment Goal #14 on page 8).

Principal Structure - A structure housing the main or principal use of the parcel on which the structure is situated.

Redevelopment (of a specific site or sites) – Means the re-planning, clearance, and construction of new buildings; the conservation and rehabilitation of any structure or improvement, the construction and provision for construction of residential, commercial, industrial, public or other structures and the grant or dedication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or other public purposes, including recreational and other facilities incidental or appurtenant thereto, in accordance with the Redevelopment Plan.

Rehabilitation (of a specific site or sites) – Means an undertaking, by means of extensive repair, reconstruction, renovation or expansion of existing structures, with or without the introduction of new construction or the enlargement of existing structures, in any area that has been determined to be in need of rehabilitation or redevelopment, to eliminate substandard conditions and arrest the deterioration of that area.

Right-of-Way (ROW) – Rights-of-way are publicly owned land that contains both the street and a strip of land on either side of the street that holds appurtenant facilities (sidewalks, sewers, storm drains, etc.).

Sedum - A plant genus containing several species suited for use in green roof construction. Sedum species are a common choice for rooftop applications because they have high water-retention capability, an ability to filter pollution, and are hearty in the climate zone which includes Newton.

Semi-Public Edge (or Space) – The yard area between the right-of-way line and building front, defined by a low fence

and/or gate through which a person must pass in order to gain access to the front primary entrance.

Setback—The allowable horizontal distance between the property line and the outer edge of the building wall, measured in feet.

Sidelight window—A vertically framed area of fixed glass, often subdivided into panes, flanking a door.

Sidewalk—The paved layer of the public frontage dedicated exclusively to pedestrian activity.

Signage, Directory - Signage which indicates or lists the occupants, businesses and/or departments found in a building. Typically found on the front facade of a building adjacent to the main entrance or inside the main entrance.

Signage, Identification - Commercial signage that identifies a building, structure or business. Typically found on the front facade, either hanging from or mounted to the building, or as a free-standing or monument sign.

Signage, Way-finding/Directional—Signage that directs people to and around a locale, an area and/or place of business, or that helps people to orient themselves in a locale, area or place of business. Way-finding signage typically includes street signs and other directional signage.

Soffit - The underside of the roof overhang.

Specific Plan—A Plan which illustrates the location of proposed buildings, sidewalks, parking areas, access ways and landscaping.

Stepback - The horizontal distance, at a given building story above the ground floor, that the building facade is stepped inward beyond the vertical plane of the ground floor facade. Stepbacks are used in order to allow buildings to have appropriate height while reducing the apparent bulk and obstruction of natural light onto the pedestrian realm. Stepbacks also provide outside space for uses on upper floors, for instance, outside patio space for residential units on upper floors.

Stormwater Detention/Retention—The management of stormwater to mitigate the effects of flooding and runoff primarily from impervious surfaces.

Stormwater Management Plan - Plan to mitigate the affects of stormwater runoff created by site development. Stormwater

management should include both site-wide and parcel specific management practices to mitigate runoff. Management practices may include detention and retention facilities, infiltration facilities, as well as capture and re-use of stormwater (see Potable Water Conservation Program and Redevelopment Goal #14 on page 12).

Story - That portion of a building between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use.

Street—A thoroughway that has emphasis on both vehicular and pedestrian movements.

Streetscape - A design term referring to all the elements that constitute the physical makeup of a street and that, as a group, define its character, including building frontage, street paving, textured strip, street furniture, landscaping and planting edge, including trees and other plantings, awnings and marquees, signs, and lighting.

Streetwall—The elevations of buildings that when seen from the street or sidewalks, form the space container. The portion of a building fronting, or visible from the street.

Suggestive Standards—Sentences or phrases that include the following words: "recommended", "may", "suggests", "should."

Textured Strip - The area between the curb and the sidewalk that is paved with a permeable material like cobblestone or brick that allows water to seep through.

Thoroughfares—Rights-of-way for vehicles and pedestrians including Boulevards, Avenues, Streets and Lanes.

Townscape - The landscaping system established in a town.

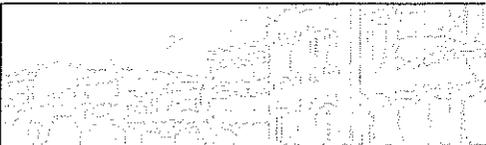
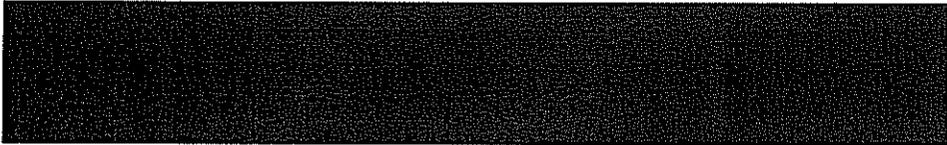
Transect Zones—Establish a graduated level of density from the dense center core of the Town to the preserved and natural areas at the edges of the town. Transects are referenced from T6 (dense center core) to T1 (preserved and natural areas at the edges of the town). The 2008 Town of Newton Master Plan further describes each Transect Zone.

Transom - The window above the transom bar (a horizontal element that subdivides an opening, usually between a door and window) of a door.

View Shed - The landscape visible from any point as one travels through an area.

Visual Termination - Locations in the view shed where the line of sight terminates for either pedestrians and/or vehicular traffic.

Void Area - windows and other openings in a building façade.





SECTION 4.0

In the event of any conflict or inconsistency between the provisions of this Plan and the provisions of the Town of Newton's Zoning Regulations, this Plan shall govern.

Specific application of the land use and development requirements of this Plan, as they affect existing uses, will be as follows:

1. Existing uses that are nonconforming with the current zoning provisions will remain nonconforming unless they are expressly permitted in this Redevelopment Plan.
2. Existing principal or accessory uses of properties, permitted by the use provisions of the Land Use Regulations in effect for the Area immediately prior to the effective date of this Plan, but which are not listed as permitted uses in this Plan, will become prior nonconforming uses at the time this Plan is effective. At that time and thereafter, any modification or expansion of these prior non-conforming uses that is not in conformance with the standards set forth in this Plan is prohibited and any new use, redevelopment or rehabilitation of such properties shall be subject to the provisions of this Plan.

Permitted Uses

The permitted uses for the Area are illustrated in the Land Use Plan. The uses indicated on these diagrams are defined as follows:

1. **Mixed-Use Commercial:** Ground floor commercial, retail or services, with commercial, office and/or services located on floors above. Bulk shall be limited as per the Building Regulating Plan found further in this Plan. Appropriate commercial uses include: general office, research & development, retail, personal services, restaurants, cafes, galleries, convenience groceries and delicatessens (excluding 'drive-through' retail establishments).
2. **Residential:** Includes premises available for long-term human habitation by means of ownership or rental; excludes all boarding houses and rooming houses. Residential uses allowed include single-family dwellings, duplexes, residential over retail/services, multi-family buildings, and live/work units.
3. **Mixed-use Parking:** Ground floor commercial, retail or services, with vehicular parking located on floors above. Bulk shall be limited as per the

Building Regulating Plan found further in this Plan. Appropriate ground floor uses include: retail, personal services, restaurants, cafes, galleries, convenience groceries and delicatessens (excluding 'drive-through' retail establishments).

4. **Open Spaces, Parks, Plazas and Playgrounds:** Open spaces which may be utilized by development in the Area and/or the public. These may include passive recreational facilities and pedestrian amenities including pedestrian-scaled lighting, benches, trash receptacles (wild-life proof), sidewalks, paths and playground equipment.

Accessory Structures

The following accessory uses are permitted incidental to a principal uses:

1. Engineered green roofing systems.
2. Off-street parking and garages.
3. Kiosks.
4. Decks.
5. Fences and walls.
6. Signs.
7. Photo-voltaic (solar energy) panels.
8. Gazebos and trellises.
9. Limited recreational facilities.
10. Mailboxes, lamp posts, flagpoles, driveways, paths, and sidewalks.

Interim Uses

Interim uses as approved by the Town of Newton Planning Board shall be permitted in the Area. The duration during which such uses may remain in place shall be determined by the Planning Board.

Interim uses are restricted to:

1. Surface parking facilities.
2. Construction staging area.

The Land Use Plan below represents a conceptual layout of the permitted land uses within the Plan Area. The intent of this development plan is to create a gateway into Newton as part of a new neighborhood center. The design of these structures should reflect the historic context of the surrounding area and the nature of the Town.

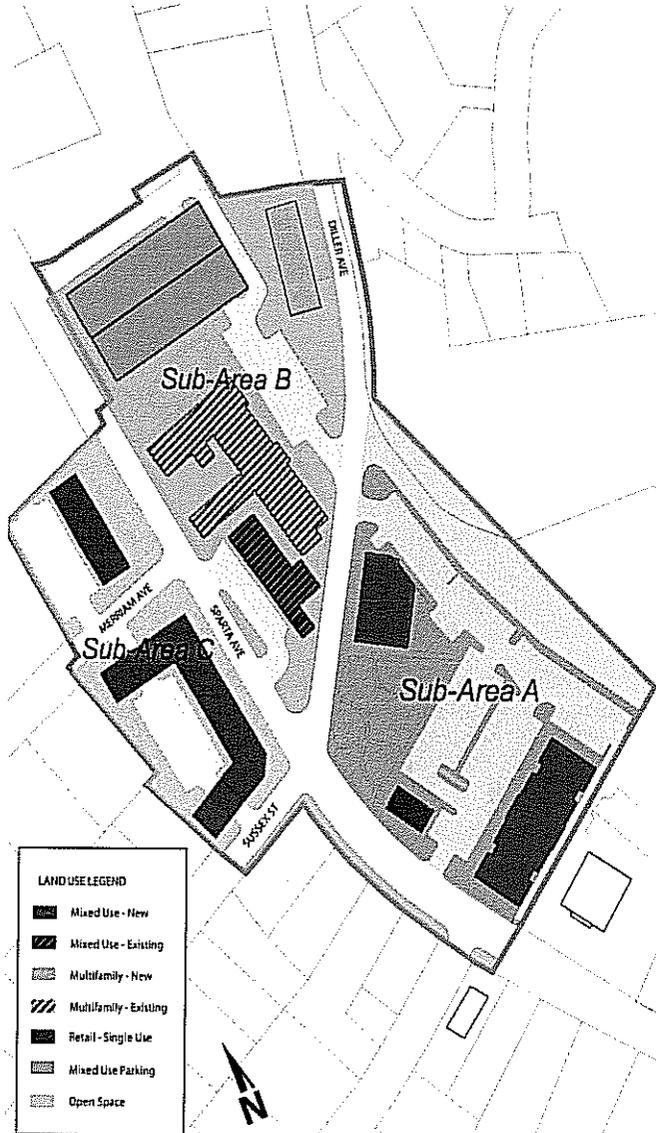
The Plan Area has a size of approximately 10.18 acres, excluding street rights-of-way. For the purpose of clarity within the Land Use Plan and Building Regulations of this Plan, the Plan Area is divided into three smaller sub-areas, Sub-Areas A, B and C (see map below). The parcels within Block 1308 comprise Sub-Area A, the parcels within Block 1301 comprise Sub-Area B, and the parcels within Blocks 1104 and 1209 comprise Sub-Area C. The regulations governing each sub-area will be further explained in Section 6 - Building Regulations.

The predominant land uses permitted by this Plan are mixed-use commercial development, indicated on the Land Use Plan in red, and multi-family residential development. Mixed-use buildings typically have ground floor retail or services with other uses, such as residential and or office space, located on the floors above. The mixed-use component allowed in this Plan forms one component of the new neighborhood center in the environs surrounding this Plan Area. Ground floor retail located in these mixed-use buildings is oriented towards Sparta Avenue, Diller Avenue, and or the open space located at the corner of Sparta and Diller Avenues. A smaller retail pad site is indicated on the Land Use Plan in purple, adjacent to Sparta Avenue and the green space at the corner of Sparta Avenue and Diller Avenues. The design of the mixed-use and retail pad site structures is to emulate the bulk, aesthetic qualities and building materials found in the Merriam Gateway residential and commercial complex located in Sub-Area B in the Plan Area (indicated on the Land Use Plan in orange cross-hatch and red cross-hatch).

Multi-family residential uses are indicated in orange and orange cross-hatch on the Land Use Plan. The orange crosshatch is the Merriam Gateway Apartments, a historic industrial facility converted into apartments. New multi-family development is proposed to be located "behind" the Merriam Gateway Apartments fronting on Diller Avenue, and behind mixed-use development fronting Sparta Avenue. The design of multi-family structures in this Area must also emulate the bulk, aesthetic qualities and building materials found in the Merriam Gateway residential and commercial complex.

A mixed-use parking facility is indicated on the Land Use Plan in blue. A mixed-use parking structure typically has ground floor retail or services with vehicular parking located on the floors above. The ground floor retail located in this facility must be oriented towards Sparta Avenue. The design of this structure is to emulate the bulk, aesthetic qualities and building materials found in the Merriam Gateway residential and commercial complex. As an alternative to the parking structure, the Sparta Avenue frontage may be a mixed-use liner building, with the parking structure located behind.

Green space throughout the Plan Area, both public



and private, is indicated in green on the Plan. A predominant feature of the Area will be a corner green located at the intersection of Sparta and Diller Avenues, and an extension of green space down the west side of Sparta Avenue. In addition, the existing surface parking on the northwest side of the Merriam Gateway Apartments would be converted to green space with replacement parking made available by construction of the mixed-use parking facility between Railroad Avenue and the Merriam Gateway Apartments, .

The configuration illustrated on the Land Use Map is conceptual and intended to represent possible land use and building configurations and allowable building envelopes. A final site plan showing the precise configurations of the Area, parcels, building types and buildings must be approved by the Planning Board of Newton.



SECTION 5.0

Thoroughfares are important public spaces. It is from thoroughfares that our primary perception of place is formed. Thoroughfares are the boulevards, avenues, streets and alleys for the movement of both vehicles and pedestrians. Thoroughfares have functional, aesthetic and perceptual characteristics that, when optimized and understood as a component of a townscape, produce places with highly perceived value. It is the organization of the thoroughfare network, spaces, vistas and landmarks that allows easy, legible and understandable movement of both vehicles and pedestrians. Streets must be designed to control vehicular speeds and accommodate the pedestrian. It is from the quality of streets that the perceived wealth and health of a community is determined, and thus, the quality of streets is a key factor of market appeal.

Thoroughfare Plans include the Vehicular and Pedestrian Circulation Plans for the Area along with proposed Thoroughfare Regulating Maps and Street Sections that are required for the implementation of this Plan. The Vehicular Circulation Plan illustrates the directional flow of traffic and the points of ingress and egress. The Thoroughfare Regulating Plan illustrates the location of the specific thoroughfare types within the Plan Area. The Thoroughfare Sections illustrate the characteristics across the various thoroughfares. Each section also contains a table of specific characteristics that apply to that thoroughfare or street type.

Improvements made to streets within the Merriam Gateway Area, including Sparta Avenue, Diller Avenue, Sussex Street and Railroad Place, are expected to be a public/private venture. These improvements could include sidewalks, crosswalks, street trees, street lights, curbs and paving, as well as improvements to municipal infrastructure.

Any Redeveloper(s) and/or property owners will be responsible for infrastructure hookups to buildings.

Streets form the integral public spaces for the Plan Area, functioning as the circulation for vehicles, bicycles, and pedestrians. The street network serves as the support system around the Plan Area. Streets should be functional, beautiful, and safe. Streets include not only the cartway and curb, but also the landscaping, streetscaping, sidewalks, and street edge. Because the perceived wealth and health of a community is

determined through the visual and spatial characteristics of the street network and streetscape, streets play a key factor in marketing the "curb" appeal.

The Mobility Regulating Plan includes the thoroughfare, pedestrian, and disposal regulations, the vehicular infrastructure layouts in the form of a Thoroughfare Regulating Plan, specific Thoroughfare Typologies illustrated with sections and tables, a Vehicular Circulation Plan, a Parking Plan and a Pedestrian Circulation Plan.

For the purpose of thorough communication, redundancies may exist in the text. If there are any conflicts between these Mobility Regulations and information contained elsewhere in this section, these Mobility Regulations will take precedence.

Deviations to internal circulation within the Plan Area shall be approved by the Planning Board. Deviations to streets within the Rehabilitation Area are anticipated and are allowed to accommodate the traffic improvements and flows or to accommodate new standards, but must be approved by the Town Engineer and County Engineering Department, as appropriate.

Thoroughfares

The Thoroughfare Regulations consist of lanes for vehicles and bicycles, as well as pedestrians. Sidewalks and landscaping along these thoroughfares are required. The following standards must apply.

1. The street configurations and locations shall be designed to meet the projected vehicular traffic, pedestrian volume and circulation needs of the Area. Where necessary, streets should visually terminate in specific locations in order to provide physical and visual access to public places.
2. Each thoroughfare type shall be dimensioned and specified as to right-of-way width, pavement width, sidewalk width, traffic lanes, parking lanes, planting treatment and other factors that may apply to both the functional and aesthetic character of the specific street, as specified in the attached thoroughfare sections.
3. All streets shall be open to the public in order to provide access to and through the Plan Area as appropriate. All streets shall be improved to finished specifications prior to the occupation of the buildings.
4. Pedestrian spaces must have continuous paving that extends across all streets and intersections and be of a paving material which differentiates it from the street surface.
5. Wherever appropriate, all streets shall provide on-street, curbside parking available to the public.
6. On-street parking spaces shall not be attached to any specific use or fulfill any specific parking requirement, but shall be used for additional parking needs.
7. The street improvements identified in this section include all infrastructure, paving base and surfaces, sidewalks, street trees, street lights, and curbs to meet Town and County standards.

8. The thoroughfare sections are mandatory, except for deviations to the Plan approved by the Town's Engineer, Newton Planning Board and County Engineering Department, as applicable.

Pedestrian Realm

The pedestrian realm is typically considered the area between the curb and right-of-way (ROW) edge/ property line, where pedestrians are most likely to be found.

1. Sidewalk areas must be provided along all streets, unless constrained by insufficient ROW widths or other physical constraints, and shall be properly sized for the safe and convenient movement of pedestrians through and around the Plan Area, taking into consideration such factors as: the volume of traffic on the adjacent street, the width of the roadway, and the adjoining land uses. The total combined width from the curb to the ROW edge shall be a minimum of ten (10) feet. The minimum unimpeded width of sidewalks located along Diller Avenue, Sussex Street, and Sparta Avenue east of the Diller Avenue intersection shall be 4' 6", and a minimum buffer area between the curb and sidewalk of 2' 6" along the streets. The remaining width, of at least three (3) feet, shall be located either between the sidewalk and ROW edge (in effect extending the front yards and semi-public edge), or between the curb and sidewalk. The total unimpeded width of sidewalks fronting mixed-use commercial buildings located on Sparta Avenue west of the Diller Avenue intersection, Railroad Place, Merriam Avenue, Sussex Street, and on internal lanes shall be a minimum of 10'. The thoroughfare diagrams illustrate and provide the particular dimensions for the sidewalk and semi-public edges of each thoroughfare type (See Thoroughfare Sections on pages 31 through 35).
2. Sidewalk areas must be attractively landscaped and durably paved in conformance with any minimum municipal standards and shall be provided with adequate lighting. Decorative paving materials and pedestrian scale lighting is required (See Landscape Requirements)
3. Traffic signage shall be consolidated and affixed onto lampposts to the maximum extent practical so as to reduce the number of poles, obstructions and visual clutter in the streetscape and pedestrian movement. All traffic signage must be in accordance with current MUTCD (Manual

- on Uniform Traffic Control Devices) guidelines.
4. All signal and light posts must be a consistent dark color.
 5. All sidewalks and intersections must be ADA compliant.
 6. Crosswalks are required at each intersection and curb-cut.
 7. Crosswalks must be a different texture, pattern and surface from roadways and sidewalks.
 8. The paving must be a continuous texture along all streets and sidewalks within the Plan Area. Crosswalks may be of a different texture than sidewalks.
 9. Sidewalks shall not be asphalt.
 10. The buffer area between the curb and sidewalk shall be of a different paving material and texture than sidewalks; the paving material shall be a textured material such as pavers, brick, and/or synthetic brick.

Disposal Requirements

In order for the Plan to be successful it is necessary to restrict the locations of garbage and recycling facilities. Because the Plan focuses on the pedestrian realm and activity on the street, exposed disposal facilities would lessen value. For those reasons there are four (4) stipulations:

1. Each structure shall be designed so as to accommodate easy, safe, and sanitary access to disposal facilities and recyclable containers.
2. Disposal and recycling pick-up shall be from a disposal facility, where accessible to a contracted hauler.
3. Disposal and recycling containers must be stored where they are not accessible to wildlife.
4. Disposal facilities shall be screened from the street and pedestrian realm.

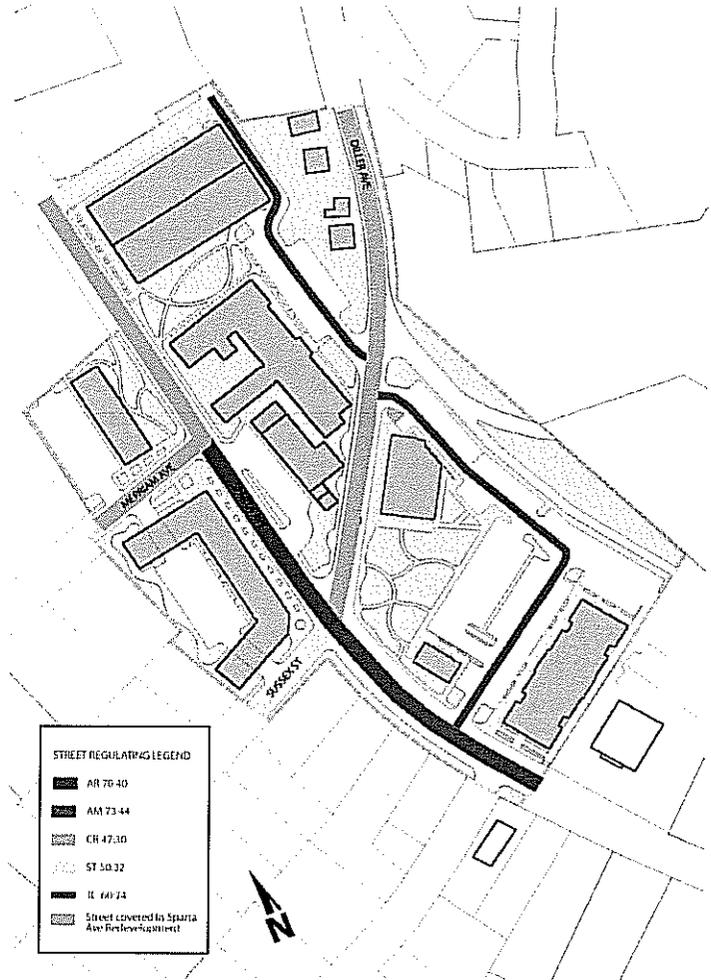
The proposed Thoroughfare Regulating Plan calls for a network of existing streets which service the Plan Area. Traffic traveling to, from and through the Plan Area will continue to use the existing street network with a number of recommended improvements. The existing street network provides several points of entry into the Plan Area, providing both pedestrians and drivers several routes through the Plan Area. The Thoroughfare Regulating Plan for the Plan Area primarily addresses the streetscape edges and aims to facilitate the most efficient pedestrian and vehicular access to and throughout the Plan Area.

The Thoroughfare Plan exhibits a hierarchical, interconnected network. The street typologies correspond with the function and form of each thoroughfare. The thoroughfare categories within the Plan includes two variations of an Arterial, a Collector, a Street, and an Internal Lane. The thoroughfare labels refer to specific street designs included in the Thoroughfare Standards. The following labels are used for the thoroughfares:

- Arterial - Urban (adjacent to T-5) - AR 70:40
- Arterial - Major (adjacent to T-4) - AM 73:44
- Collector - CR 47:30
- Street - ST 50:32
- Internal Lanes - IL 60:24

The labels indicate the right-of-way width and cartway width. For example, ST: 50:32 is a "Street" with a 50 foot right-of-way and a 32 foot cartway width from curb to curb. The various types of thoroughfares and their locations are indicated on the Thoroughfare Regulating Plan to the right. The street areas indicated in green on the Plan are governed by the Sparta Avenue Redevelopment Plan although they are within the boundaries of this Plan.

Sparta Avenue is the major thoroughfare serving the Plan Area and is treated as two street types within the Plan. It is treated more as an "urban" arterial (adjacent to the T-4 and T-5 Transect Zones) to the west of Diller Avenue, indicated in red on the Thoroughfare Plan, and more as a major arterial (adjacent to the T-3 and T-4 Transect Zones) to the east of Diller Avenue, indicated in brown on the Thoroughfare Plan. Diller Avenue also serves as a significant thoroughfare through the Plan Area, although it is less heavily utilized than Sparta Avenue. Diller Avenue is also constrained by the proximity of existing development to the west and a steep slope adjacent to the Area just to the east. Diller



Avenue is treated as a secondary arterial, or collector street, in this Plan, indicated in orange on the Thoroughfare Plan. Additional access to the Area will be by Merriam Avenue (although it is not governed by this Plan), Sussex Street and Railroad Avenue, treated as local streets and indicated in yellow on the Thoroughfare Plan. Internal Lanes in the Plan Area will serve primarily as access to interior development within a Block and internal parking areas.

Because of the existing volume of traffic and new traffic generated by the Plan Area's development, improvements are anticipated for the intersections of Sparta Avenue with Diller Avenue and Railroad Avenue, as well as other points of ingress/egress into various sections of the Plan Area.

The streetscapes of the various street types are discussed in the Landscape Section of this Redevelopment Plan.

There are five (5) thoroughfare types in the Merriam Gateway Redevelopment Plan. The thoroughfares serving the proposed Plan Area have a recommended range of lanes, turning movements, and parking arrangements. Each typology is illustrated and codified in the Thoroughfare Sections. The specific design and geometries of the improvements should be designed by the developer(s) and must be approved by the Town's Engineer. The developer(s) must work with the County Engineer to determine the most appropriate ingress and egress into the various sections of the Plan Area.

Each typology has a set of applicable standards and corresponds to the Thoroughfare Section Plan. Each type has a set of standards including travel and parking lane direction and width, curb radius, vehicular design speed, sidewalk width, street lighting, and street type.

The location of the various thoroughfare typologies are designated on the Plan (See previous page). The thoroughfare is contained within the right-of-way and contains the cartway, curbs, planting area for street trees, location of street lights, and sidewalks. Each has been notated by type, dimension of the right-of-way width and the cartway (distance between the curbs). The thoroughfares are designated as follows:

- Arterial - Urban - AR 70:40
- Arterial - Major - AM 73:44
- Collector - CR 47:30
- Street - ST 50:32
- Internal Lanes - IL 60:24

The Major Arterial and Urban Arterial will serve as the primary connection of the Plan Area to the surrounding street network. The primary arterial through the Plan Area is Sparta Avenue, treated as an Urban Arterial to the west of Diller Avenue and as a Major Arterial to the east of the Diller Avenue. Because it serves as a primary linkage and forms the "spine" of the neighborhood center, as designated in the 2008 Master Plan and Newton Urban Design Plan, it must also accommodate pedestrians while facilitating traffic flow. Where Sparta Avenue is treated as an Urban Arterial it can accommodate on-street parallel parking, however where it is treated as a Major Arterial it will not accommodate parallel parking. While the County has impending plans to improve the Sparta and Diller Avenue intersection, it is likely that with redevelopment within the Area and its impact on traffic movements, all intersections within the Area will require improvements. The scope of the improvements

necessary must be coordinated with the Town's Engineer and, because Sparta Avenue is a County Road, the County Engineer, and should be reflected in the final Plan submitted by a designated Redeveloper(s). The Collector serves as a secondary connection of the Plan Area to the surrounding street network. This secondary arterial through the Plan Area is Diller Avenue, treated as a Collector through the Plan Area. Diller Avenue functions as a bypass around the downtown for traffic heading east and north of the Town. Because it tends to have heavy traffic volumes throughout the day and is constrained in width, it will not accommodate parallel parking.

Streets provide access into the Plan Area as well as connect the Plan Area to the surrounding street network. The two streets within the Plan Area are Sussex Street and Railroad Place. Because the streets are lower volume thoroughfares and lack the visibility of Sparta Avenue, they are not primary commercial streets. Streets governed in this Plan are to be traditional, bi-directional, two-lane streets with on-street, parallel parking allowed. Because they are lower-volume, and a residential street in the case of Sussex Street, they are pedestrian-oriented in design, with the street edge buffered with landscaping, decorative lampposts, and street trees to enhance pedestrian circulation.

Internal Lanes are allowed to provide pedestrian and vehicular access to various land uses and development inside the Plan Area. Off-street parking facilities including parking stalls and parking structures, and municipal services, such as waste disposal and recycling pick-up, could also be accessed from an internal lane. Internal lanes must have the characteristics of traditional streets and streetscapes, including sidewalks, street lighting and street trees, to lessen the emphasis on the vehicle.

The standards for each thoroughfare type in the Plan Area are illustrated on the following pages.

Arterial - Urban (AR 70:40)

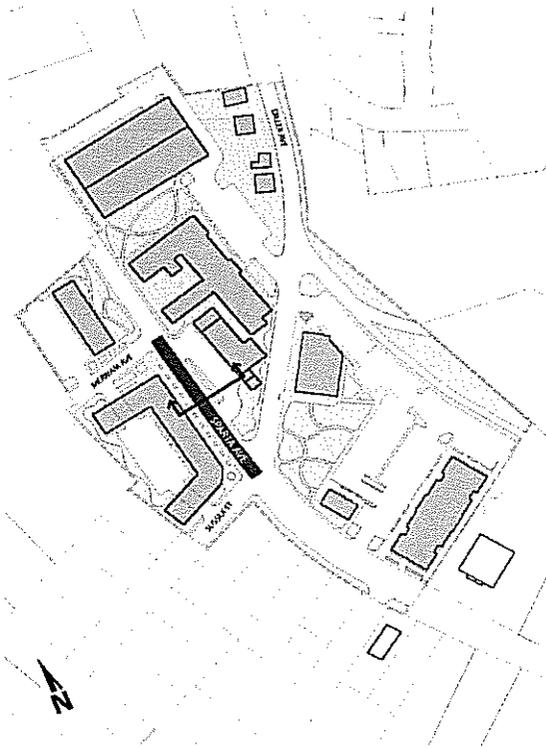
The Urban Arterial is designed for higher traffic volumes with surrounding mixed-use development in a higher development density setting. The Urban Arterial in the Plan Area (Sparta Avenue) is a heavily travelled County Route, lined with a mixture of land uses including multi-family apartments and mixed-use development.

Depending on the final configuration of development in the Plan Area, the urban arterial will include one travel

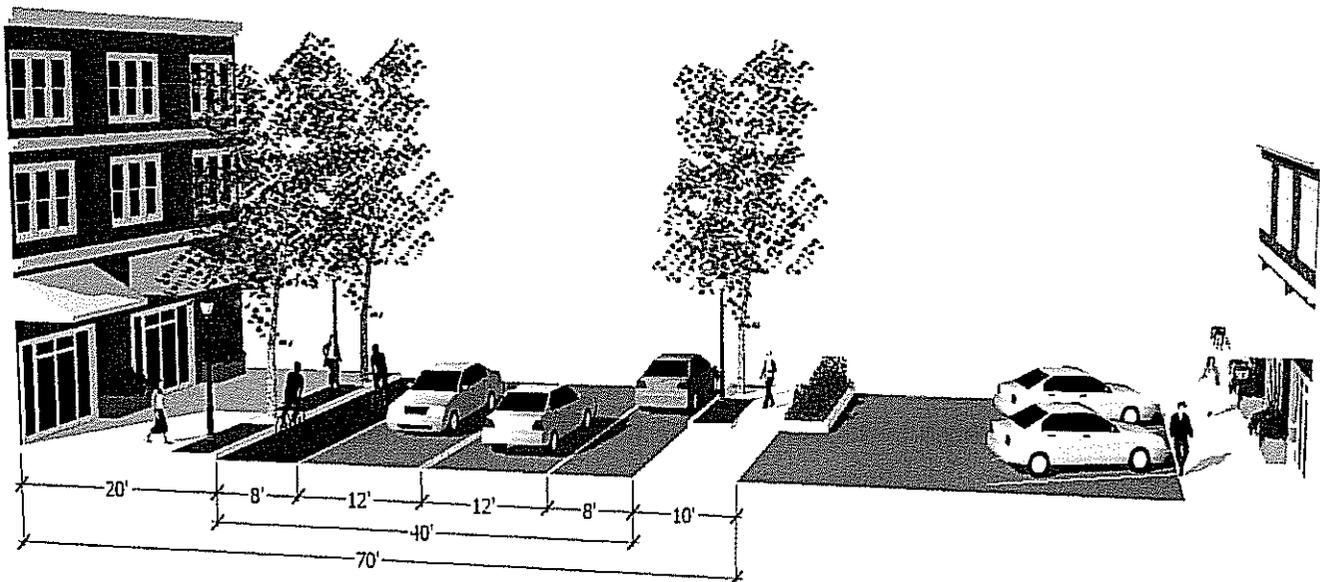
lane in each direction, with parallel parking on each side. A center turn lane or median along this section of Sparta Avenue is also possible if parallel parking is only provided on one side of the street.

The Urban Arterial, which is the western section of Sparta Avenue, is indicated with the red line on the Thoroughfare Map below.

The standards for an Urban Arterial are illustrated graphically below:



AR 70:40	
Travel Lanes	2
Travel Direction	Bi-Directional
Design Speed	30 MPH
Cartway Width	40 Feet
Lane Width	12 Feet
Curb Radius	10 Feet
On-Street Parking	One side - 8' Width
Sidewalk (commercial frontage)	10' (minimum width)
Sidewalk (neighborhood frontage)	4' 6" (minimum)
Textured Strip Width	2' 6" (minimum)
Bike Path/Lane	Two sides - 4' (min width)
Lighting Height	12 - 14 Feet
Light Type	Pole Mounted
Light Spacing	40 Feet (Maximum)
Street Tree Spacing	25 Feet (Maximum)
Street Tree Canopy Size	25 Feet
Street Tree Type	Varies



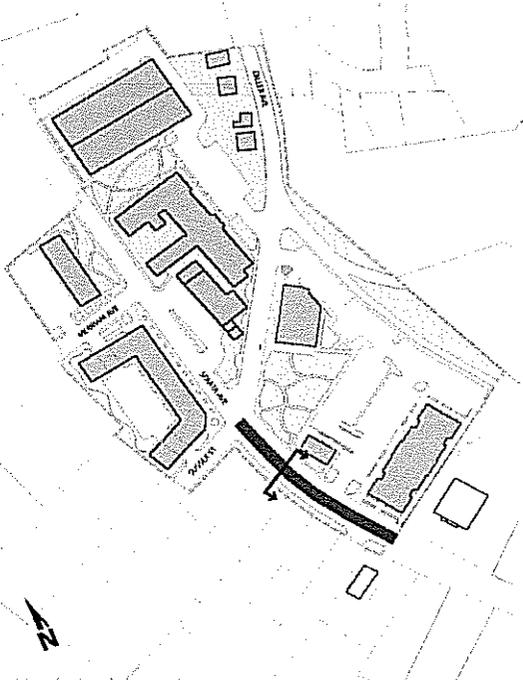
Arterial - Major (AM 73:44)

The Major Arterial is designed for higher volume traffic with surrounding single-family residential development, open space and possible mixed-use development. The Major Arterial (Sparta Avenue) within the Plan Area is currently a heavily travelled County Route, lined with a mixture of land uses including single-family and multi-family residential, and pad commercial retail. Depending on the final configuration of redevelopment in the Area, the major arterial will include one travel lane in each direction, a right turn lane onto Diller Avenue and shoulders on both

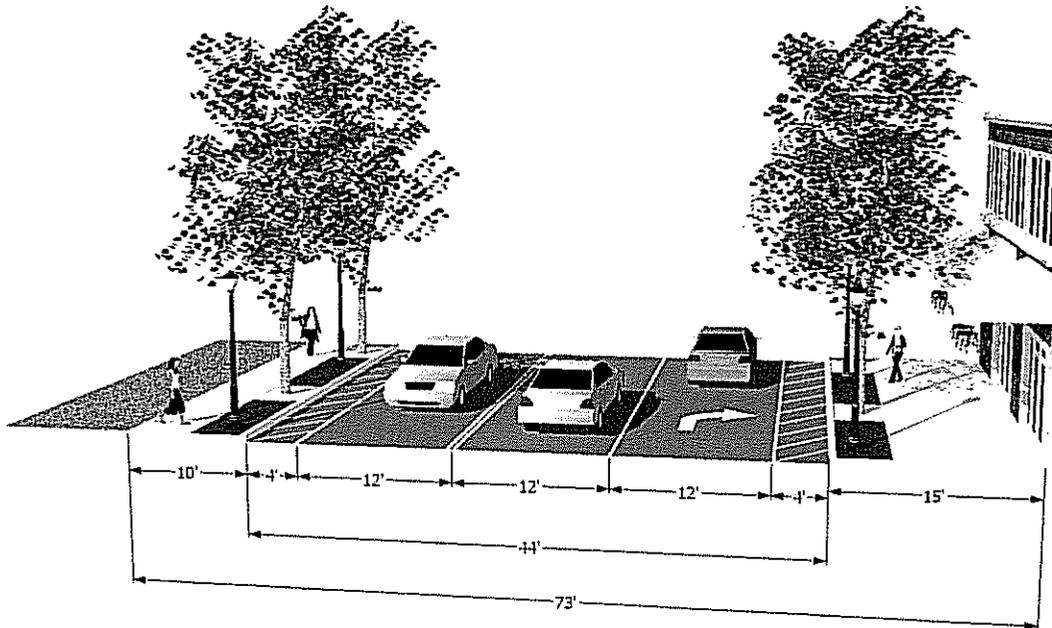
sides of the street. Adjacent land uses will include single-family residential on the west side with a combination of open space and mixed-use development on the east side.

The Major Arterial, which is the eastern section of Sparta Avenue, is indicated on the Thoroughfare Map with the brown color.

The standards for a Major Arterial are illustrated graphically below:



AM 73:44	
Travel Lanes	2
Travel Direction	Bi-Directional
Design Speed	30 MPH
Cartway Width	44 Feet
Lane Width	12 Feet
Curb Radius	10 Feet
On-Street Parking	N/A
Shoulder Width	4' (Minimum)
Sidewalk Width	4' 6" (Minimum)
Textured Strip Width	2' 6" (Minimum)
Lighting Height	12 - 14 Feet
Light Type	Pole Mounted
Light Spacing	40 Feet (Maximum)
Street Tree Spacing	25 Feet (Maximum)
Street Tree Canopy Size	25 Feet
Street Tree Type	Varies



Collector (CR 47:30)

The Collector, like the Major Arterial, is designed for higher volume traffic, with surrounding land uses including single-family residential development, multi-family apartments and possible mixed-use development. The Collector within the Plan Area (Diller Avenue) is currently a heavily travelled bypass route around the downtown, lined with a combination of land uses including single-family and multi-family residential, and pad commercial and mixed-use retail. Within the Area this thoroughfare is constrained by existing development to the west and a steep slope to the east.

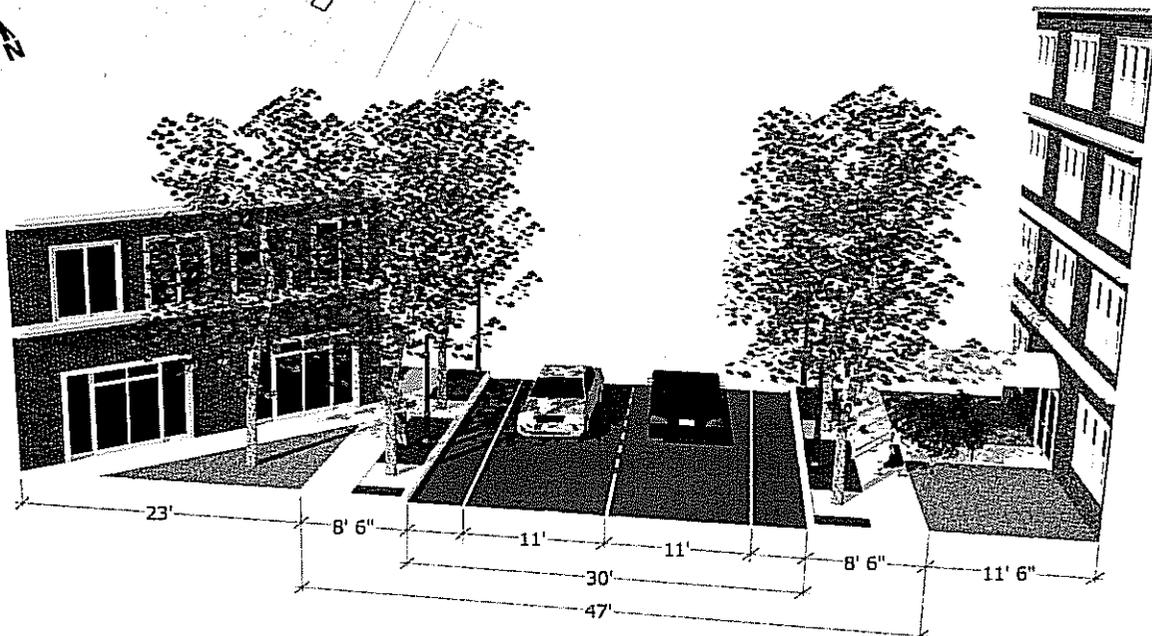
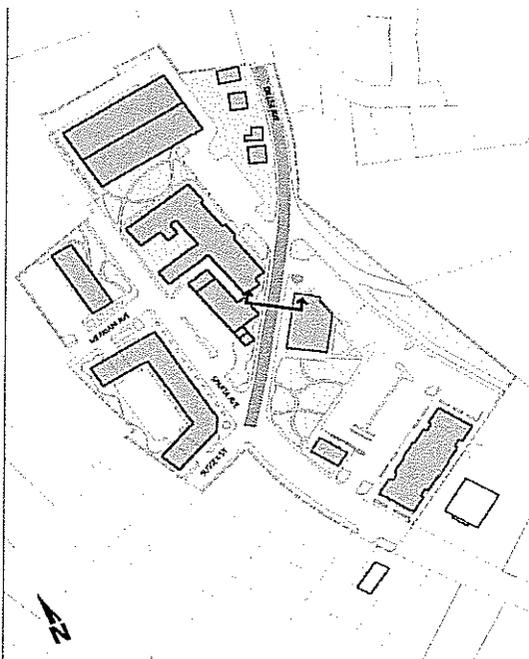
each direction, shoulders on both sides of the street, and textured strips planted with street trees between the curb and right-of-way edge. Adjacent land uses will include single-family residential on the northwest edge, multi-family residential development on the west side with a combination of open space and mixed-use development on the east side.

The Collector is indicated on the Thoroughfare Map with the orange color.

The standards for the Collector are illustrated graphically below:

Depending on the final configuration of development in the Plan Area, the collector will include one travel lane in

CR 47:30	
Travel Lanes	2
Travel Direction	Bi-Directional
Design Speed	25 MPH
Cartway Width	30 Feet
Travel Lane Width	11 Feet
Curb Radius	10 Feet
On-Street Parking	N/A
Shoulder Width	4 Feet each side
Textured Strip Width	2' 6" (Minimum)
Sidewalk Width	4' 6" (Minimum)
Lighting Height	12 - 14 Feet
Light Type	Pole Mounted
Light Spacing	40 Feet (Maximum)
Street Tree Spacing	25 Feet (Maximum)
Street Tree Canopy Size	25 Feet
Street Tree Type	Varies



Street (ST 50:32)

Streets are designed for moderate to low volume uses and serve to connect the Plan Area to the surrounding neighborhoods, as well as provide access into various sections of the Plan Area.

The street typology illustrated in this Plan differs from a typical street by the configuration of the area between the curb and right-of-way boundary, or pedestrian realm. The width of this pedestrian realm along streets in the Area

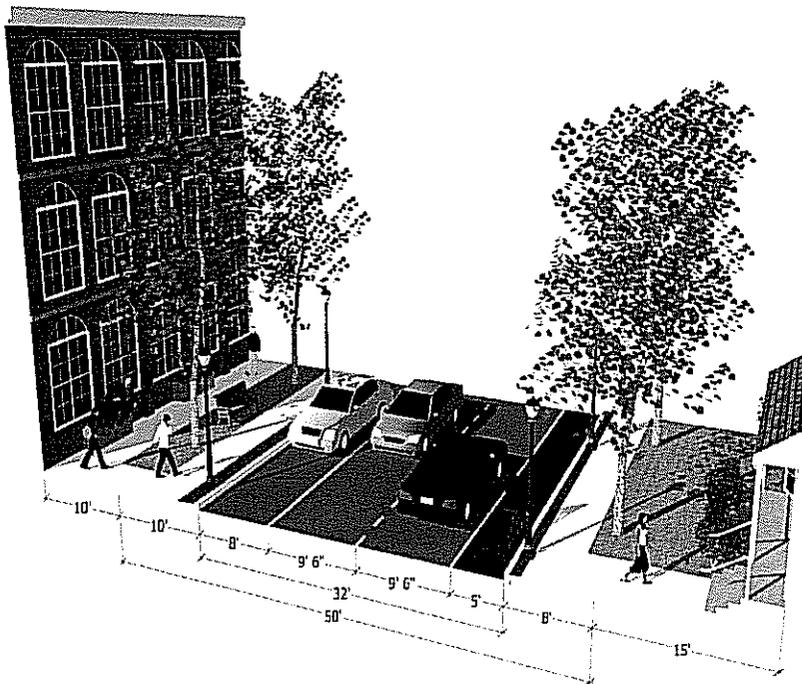
must be a minimum of 10 feet, with a minimum sidewalk width of 4' 6". The narrow strip between the curb and sidewalk must be a minimum of 2' in width and should be a permeable, textured pavement (pavers, brick and/or synthetic brick). This treatment will mitigate the negative effects of winter snow plowing, which typically causes grass die-off of the area along the curb.

The remaining 3' 6" feet of the ROW will be between the sidewalk and ROW edge/property line. This area is where street trees are to be planted and will serve to 'extend' the semi-public edge within the Area. Streets will be one travel lane in each direction with on-street parallel parking on one side and a bike lane on the other side.

Streets located in the Area, which include Sussex Street and Railroad Place, are indicated on the Thoroughfare Map with the yellow color.

The standards for Streets with the pedestrian realm alternative described above are illustrated graphically below:

ST 50:32	
Travel Lanes	2
Travel Direction	Bi-Directional
Design Speed	15 MPH
Cartway Width	32 Feet
Lane Width (w/ dedicated bike lane)	8'6"
Lane Width (shared bike lane)	12 Feet
Curb Radius	10 Feet
On-Street Parking	One Side -adjacent to Area
Parking Width (w/ dedicated bike lane)	7' (Minimum)
Parking Width (shared bike lane)	8' (Minimum)
Textured Strip Width	2' (Minimum)
Sidewalk Width	4' 6" (Minimum)
Lighting Height	12 - 14 Feet
Light Type	Pole Mounted
Light Spacing	40 Feet (Maximum)
Street Tree Spacing	25 Feet (Maximum)
Street Tree Canopy Size	25 Feet
Street Tree Type	Varies
Bike Lane (dedicated)	Two sides - 4' Width Min
Bike Lane (shared w/ travel lane)	12' Shared Width



Internal Lane (IL 60:24)

Internal Lanes are designed for low-volume vehicular traffic and serve as access to mid-block retail and residential development for both vehicles and pedestrians.

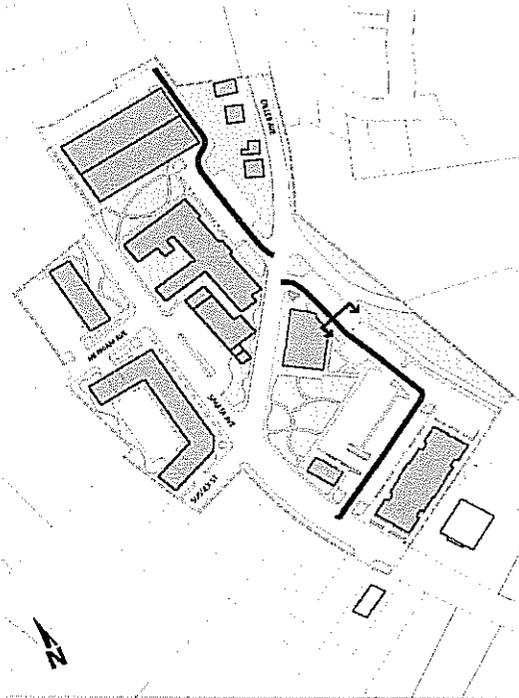
Off-street surface parking and structured parking facilities may be accessed from an internal lane. In addition, off-street surface parking may be incorporated into the internal lane to provide adjacent parking to retail and residential uses within the interior of the block.

Internal lanes must have the features of traditional streetscapes to lessen the emphasis on the vehicle. Internal Lanes must have a landscaped pedestrian realm including sidewalks, street and pedestrian-scaled lighting, street trees and landscaping. Sidewalks must be located on both sides of an internal lane and crosswalks must be provided at intersections and across the lane where appropriate to connect sidewalks.

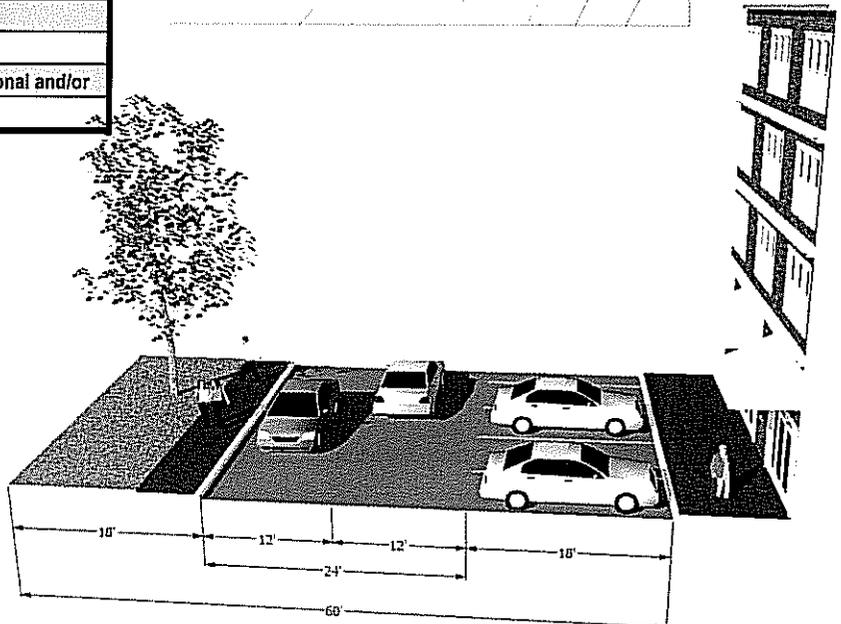
Depending on the final configuration of redevelopment in the Area, internal lanes will include one travel lane in each direction, sidewalks on both sides of the lane, and textured strips planted with street trees between the curb and right-of-way edge. Adjacent land uses will include some combination of mixed-use development, multi-family residential development and green space.

Suggested locations of internal lanes are indicated on the Thoroughfare Map below in the blue color.

The standards for an Internal Lane are illustrated graphically below:



IL 60:24	
Travel Lanes	2
Travel Direction	Bi-Directional
Design Speed	10 MPH
Travel Lane Width	12 Feet
Curb Radius	10 Feet
Textured Strip Width	2' (minimum)
Sidewalk (commercial frontage)	10' (minimum width)
Sidewalk (neighborhood frontage)	4' 6" (minimum)
Lighting Height	12 - 14 Feet
Light Type	Pole Mounted
Light Spacing	40 Feet (maximum)
Street Tree Spacing	36 Feet (maximum)
Street Tree Canopy Size	25 Feet
Street Tree Type	Varies
Parking	Perpendicular, Diagonal and/or Parallel



5.6 VEHICULAR CIRCULATION PLAN

Vehicular circulation and the directional flow of traffic throughout the Plan Area is illustrated on the Vehicular Circulation Plan below. The configuration of the street network is designed to disperse vehicular traffic around the Plan Area while limiting access points into certain sections of the Plan Area, and to provide ease of pedestrian access through the Plan Area. Traffic from east of the Plan Area will likely arrive via Sparta Avenue and disperse via Sparta Avenue and Diller Avenue. Traffic from the North will likely arrive via both Sparta Avenue and Diller Avenue where it concentrates at their intersection. Traffic from the south and west will likely arrive via Merriam Avenue, Sussex Street and Sparta Avenue, via Paterson Avenue and Woodside Avenue.

Given the traffic volumes found on Sparta Avenue, direct vehicular access to development is directed away from Sparta Avenue where possible onto Diller Avenue, Merriam Avenue, Sussex Street and Railroad Avenue. In addition, turning movements will be limited at various points of ingress and egress into sections of the Plan Area. Appropriate turning movements at the various ingress and egress points are to be determined by the Town Engineer and County Engineering Department, as appropriate.

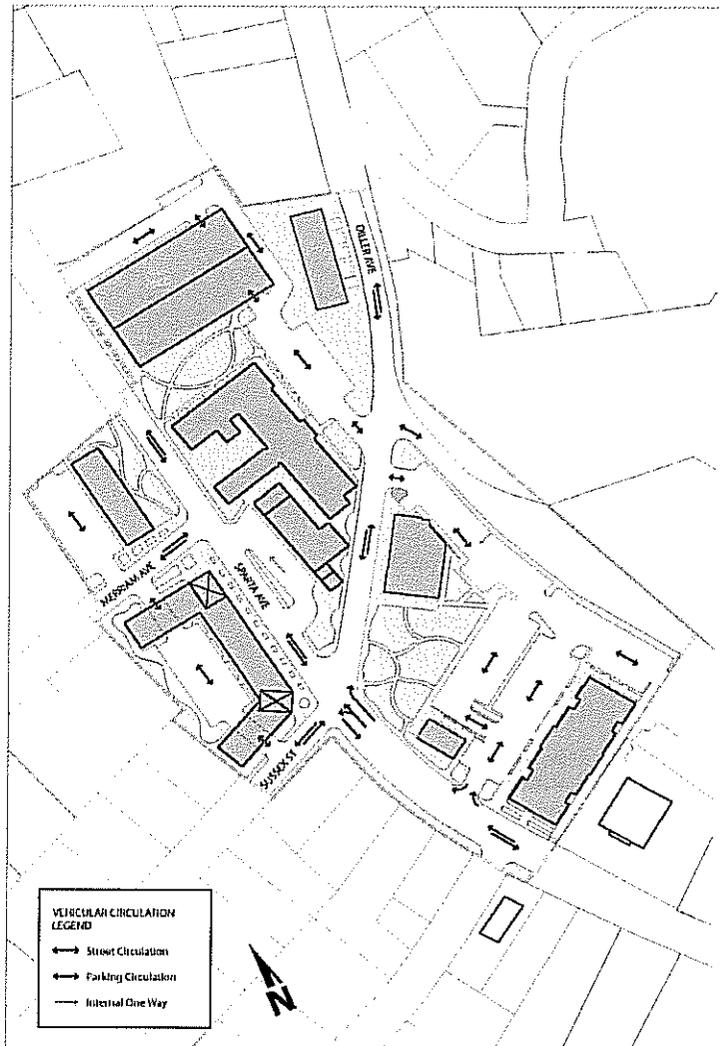
Because of traffic volumes on Sparta Avenue and congestion at the intersection of Sparta and Diller Avenues, primary vehicular ingress and egress from the section of the Plan Area to the east of Diller Avenue will be from Diller Avenue. Vehicular access from Sparta Avenue into this portion of the Plan Area will be limited to right turn in- right turn out traffic patterns. Vehicular ingress and egress from development to the west of Sparta Avenue will be from Merriam Avenue and Sussex Street. Traffic generated by this development will disperse between Merriam Avenue and Sussex Street to Sparta Avenue to the northeast and disperse to points south and west via Pine Street.

Vehicular ingress and egress from existing multi-family development (Merriam Gateway Apartments) and new development to the west of Diller will be from Diller Avenue and Railroad Avenue. Traffic generated by this development will likely disperse between Diller Avenue and Sparta Avenue, depending on the trip origin or destination.

Because of projected increases in traffic volume, the intersections of Sparta Avenue with Diller Avenue/ Sussex

Street, Merriam Avenue and Railroad Avenue will become more congested with various turning movements. Whether this requires signalization of and/or additional turning lanes at these intersections is a matter to be determined by the Town Engineer and the County Engineering Department, as appropriate.

Internal circulation is anticipated to be bi-directional in most instances and is indicated on the Vehicular Circulation Plan below with the blue color. One-way internal circulation is indicated on the Vehicular Circulation Plan below in the green color and includes an existing parking area fronting the Merriam Gateway Plaza with access from Sparta Avenue. Ingress and egress into internal lanes (which include parking areas) is to be determined by the Town Engineer and the County Engineering Department, as appropriate.



Provisions must be made for both on-street and off street parking. The Plan allows for off-street surface parking, on-street curb edge parking, and structured parking. Calculations for parking are based on an average parking area of 300 square feet per parking space. The final parking calculations and layout of parking areas within the various sections of the Plan Area will be done as part of the site plan approval process and may vary given consideration of alternatives to surface parking, including structured parking and shared parking.

Below are the requirements for parking, based on the adjacent land-use:

1. Restaurants: One(1) space for every three (3) seats.
2. Retail: One (1) space for the first 500 sq. ft. and one space for each additional 300 sq. ft.
3. Commercial/ Office/ R&D: Three (3) spaces for each 1000 sq. ft. These requirements may be reduced if parking studies of similar style facilities and/or actual usage illustrates that less parking spaces are required. Said

parking studies must be approved by the Town Engineer and the Planning Board.

4. Residential: One and one half (1.5) spaces per dwelling unit.

Shared Parking

In order to promote more efficient use of parking facilities, a parking space may be counted towards the parking requirement for two or more different uses, provided that:

1. The applicant demonstrates to the Planning Board's satisfaction that demand for shared parking spaces by each use, based on time of day, will not significantly overlap; and
2. No more than 75 percent of the parking spaces counted toward any use are considered as shared spaces.

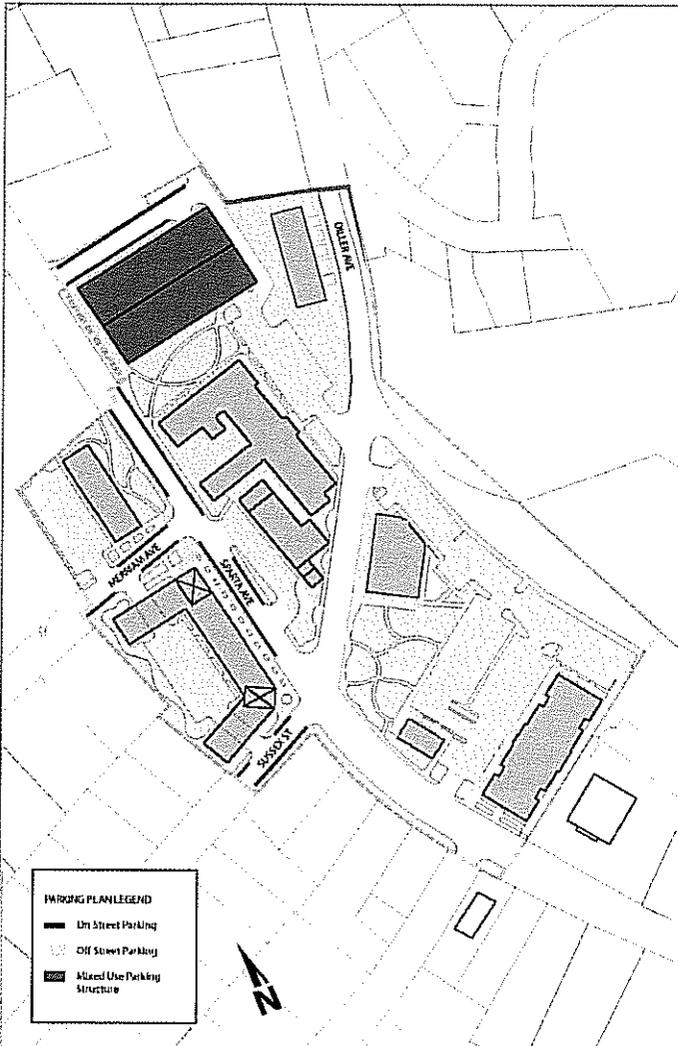
Surface Parking

1. Surface parking areas shall be located to the rear of any building having a primary street frontage, with the exception of the existing parking area of the Merriam Gateway Plaza fronting on Sparta Avenue. Surface parking areas must be screened from visual access by the street or sidewalk (See Page 39 for a design standards for surface parking areas).

2. Surface parking may front buildings which have their primary facade facing away from the street and fronting on an internal lane. In this instance, the surface parking must be integrated into the streetscape of the internal lane. In such an instance, said parking configuration must conform to the standards of the Internal Lane (see Section 5.5.5 Thoroughfare Sections - Internal Lane)

3. Parking lot layout, landscaping, buffering, and screening shall be provided to minimize direct views of parked vehicles from the street right-of-way and sidewalks, and to avoid spill-over light, glare, noise or exhaust fumes onto adjacent properties. Parking lots exposed to view from any adjacent street shall be screened by a minimum of a three and a half (3.5) foot decorative wall or landscape feature.

4. Interiors of surface lots shall be landscaped with trees with minimum caliper size of three (3) inches. One tree shall be planted for every five (5) parking spaces and may be planted in tree wells with a diamond configuration to allow for the use of adjacent parking spaces. Appropriate growth areas for roots shall be provided. Their absorption



shall be integrated into the surface drainage system of the Area.

5. Surface parking shall be screened from adjacent lots via wood board-on-board privacy fencing, or other fencing as deemed appropriate by the Planning Board, at least six (6) feet in height and not exceeding eight (8) feet in height, or a row of plantings that forms a vegetative wall at least six (6) feet in height which provides an impervious view from adjacent lots throughout the year, or a low masonry planter of two (2) to four (4) feet with shrubs providing an impervious screen up to at least six (6) feet. Other viable options may be utilized with approval from the Planning Board.

6. To accommodate the above requirements, a ten (10) foot minimum buffered planter strip is required between any surface parking lot and the adjacent property line.

7. Parking lot layout should take into consideration pedestrian movement and pedestrian crossings shall be installed where deemed necessary by the Town Engineer.

8. For parking oriented perpendicular to the access aisles, all required parking spaces shall be a minimum of nine (9) feet wide by eighteen (18) feet deep. All aisles shall be a minimum of twenty-four (24) feet wide. 25% of parking stalls may be compact, a minimum of 8 feet wide by sixteen (16) feet deep. Handicapped parking must be provided according to minimum parking standards.

9. In furtherance of Plan and any necessary modifications to the Plan, parking may be reconfigured upon review and approval by Planning Board.

Lighting Requirements for Interior Surface Parking

1. A uniform standard for surface parking lighting within the Plan Area must be used. The lighting fixtures shall compliment the street lighting that will be utilized as part of the overall development. Final approval of the lighting fixtures, pole type, and locations will be made by the Planning Board.

2. All surface parking lighting shall be designed to shine downward to minimize illumination of the night sky and to minimize or reduce glare as seen from neighboring properties.

3. All surface parking areas shall have pole mounted lamps that are not more than 20 feet in height as measured from

the finished parking surface to the height of the lighting fixture.

4. Metal Halide (or comparable light quality) lamps are suggested for their efficiency and light quality. Mercury Vapor and high pressure sodium lighting shall not be allowed.

5. A comprehensive Lighting Plan shall be prepared by the redeveloper(s) and submitted for approval to the Planning Board. The Lighting Plan must provide sufficient detail to illustrate that proper illumination is provided. The plan should illustrate all parking ares, all attached building lights, types of fixtures, lighting intensities, lighting patterns, filament type, shape of lens, and direction of illumination.

6. All surface parking lighting shall have illumination and uniformity ratios which do not exceed the recommendations of the Illuminating Engineering Society of North America (IESNA). All sidewalks adjacent to surface parking shall maintain a minimum 0.2 footcandle coverage.

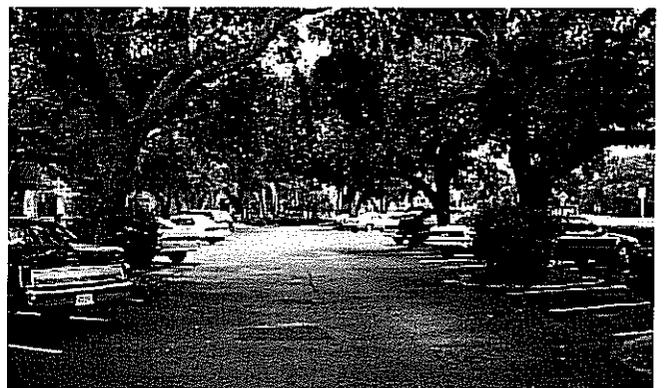
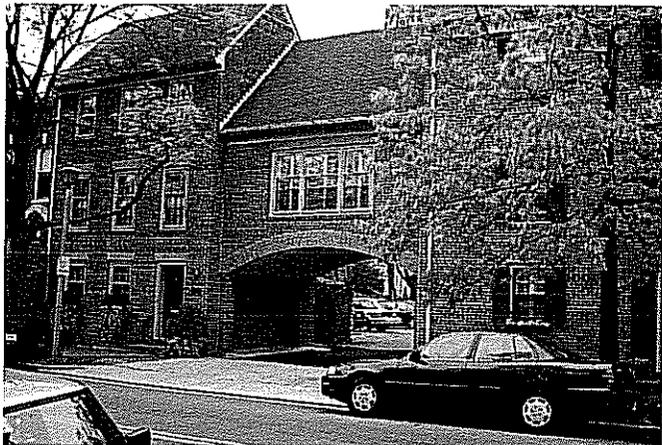
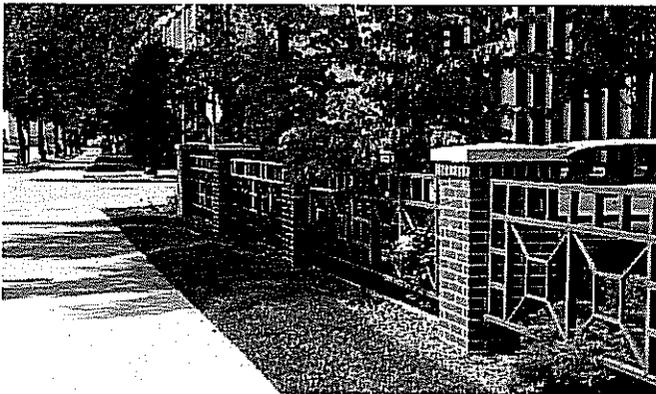
7. Adequate exterior lighting shall be provided for safety while not casting light onto adjacent properties, streets or driveways in a manner as to interfere with or distract driver vision.

8. All surface parking lighting shall use shielded lighting fixtures to prevent misdirected or excessive artificial light and maximize energy effciently.

9. The use of floodlight-type style fixtures attached to buildings shall be prohibited.

Images in this section illustrate a range of design characteristics which are appropriate for surface parking areas within the Plan Area. Surface parking areas are allowed within the Plan Area to provide off-street parking to adjacent land uses, but must be screened from the streetscape and adjacent properties by either fencing, landscaping or a liner building where appropriate (see below left image). Parking areas must have internal landscaping, including walkways and crosswalks for pedestrians where appropriate, planting beds and/or tree wells for trees and shrubs and internal lighting (see right images). More detailed parking standards are found in Sections 5.7 Parking Plan and 7.0 Landscape Plan.

5.7.1 PARKING - SURFACE PARKING DESIGN STANDARDS



The images on this page illustrate a range of design characteristics considered appropriate for surface parking areas. While none of the photographs are an ideal, the individual characteristics can be generally applied to surface parking in the Plan Area. Surface parking must be screened from the streetscape with either vegetation, walls, fencing or a liner building.

5.7.2 PARKING - STRUCTURED PARKING DESIGN STANDARDS

A mixed-use structured parking facility is proposed within the Plan Area adjacent to Railroad Place and the Merriam Gateway Apartments. This facility would provide additional parking to uses both within the Plan Area and the surrounding neighborhood without using additional land area. Such a facility would have ground floor commercial retail frontage on Sparta Avenue.

Access to the parking facilities would be from the eastern end of Railroad Place and the internal parking area serving the Merriam Gateway Apartments. This configuration takes advantage of the natural incline heading east from Sparta Avenue to Railroad Place. This section of the Plan Area is such that a parking facility could accommodate two bays of parking.

The architectural and facade design of this parking facility must emulate the historical context and design characteristics of the surrounding neighborhood, specifically the Merriam Gateway Apartments, with the use of traditional materials. Parking bays along street frontages must be screened to resemble office or commercial uses with cut-outs to resemble windows.

An alternative design for this structure would have a mixed-use liner building along the Sparta Avenue frontage with parking bays located behind (see example image below). The same design standards would apply for this building configuration as for a mixed-use parking structure as described above.



The images on this page illustrate a range of design characteristics considered appropriate for structured parking. While none of the photographs are an ideal in totality, individual characteristics can be applied to the Plan Area. Facades of structured parking must resemble buildings by using traditional materials such as brick and cut-outs which resemble windows. Any street frontage of structured parking must also be landscaped.

Streets have both vehicular and pedestrian circulation components. The indicators of a successful streetscape are the presence of pedestrians walking on the sidewalks, the type and quality of the walking experience and the landscape treatment of the pedestrian realm. The Pedestrian & Bicycle Circulation Plan, illustrated to the lower right, is designed to encourage walkability throughout both the Plan Area as well as beyond, to facilitate pedestrian connectivity between residential, commercial and recreational uses, provide opportunities for biking with bike lanes and paths, and to connect the Plan Area into the existing sidewalk and walking-biking path network in Newton.

People will utilize pedestrian spaces if they are pleasant and engaging places to walk. Because much of the Plan Area is within an area designated as a neighborhood center in both the Newton Urban Design Plan and 2008 Master Plan, sidewalks are classified as either "Urban" or "Neighborhood" in this Plan. "Urban" sidewalks, indicated on the Plan in the brown color, must be a minimum of 10 feet in width in front of commercial buildings, namely those fronting on the designated Urban Arterial and Internal Lanes in the Plan. These wider sidewalks would allow for multiple pedestrians to interact and pass on retail sidewalks at one time. Urban sidewalks would also allow for the extension of retail into the pedestrian realm, namely restaurant and cafe service and other storefront activities.

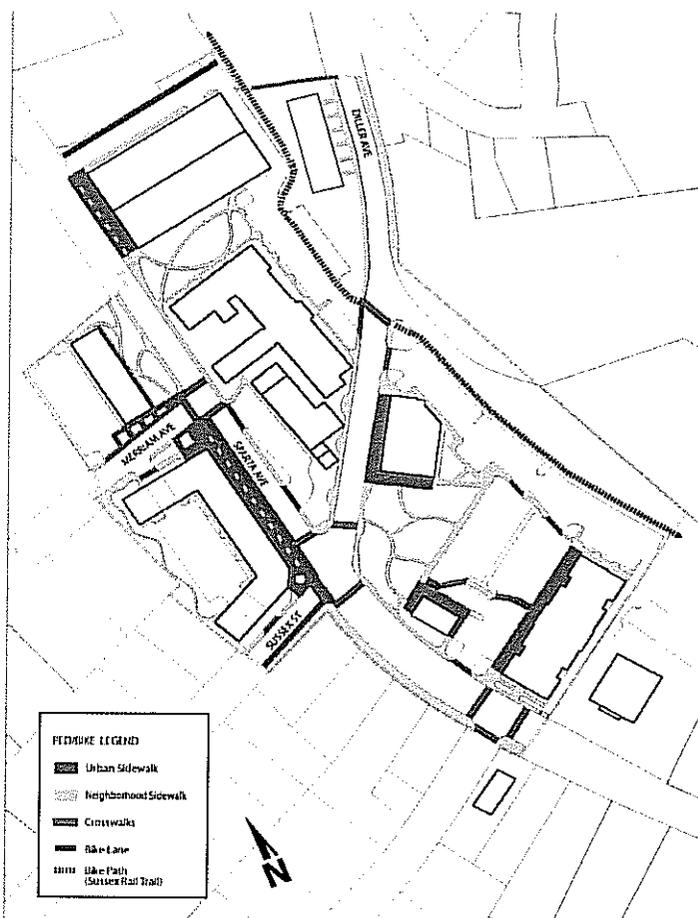
Neighborhood sidewalks, indicated on the Plan in the yellow color, must be a minimum of 4' 6" in width along the designated Major Arterial, Corridor and Streets in the Thoroughfare Plan, namely Sparta Avenue east of Diller Avenue, Diller Avenue, Sussex Street and Railroad Place. Pedestrian activity is likely to be less intensive along these sidewalks, however, a textured strip is required to separate the street edge from the sidewalk.

Crosswalks, indicated on the Plan with the pink color, must be provided at each intersection within the Plan Area and must have a different texture and surface from roadways. For instance,, crosswalks at the intersection of Sparta Avenue with Merriam Avenue must be textured. It is also highly recommended as a traffic-calming measure that the pavement within and defined by the crosswalks should also be textured. Stamped concrete or real Belgian blocks in the intersection is the preferred treatment of the interior intersection. To provide increased pedestrian protection along Sparta Avenue, and specifically at the intersection of Diller

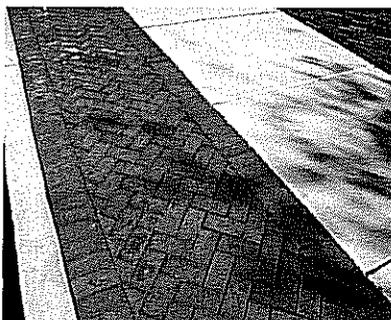
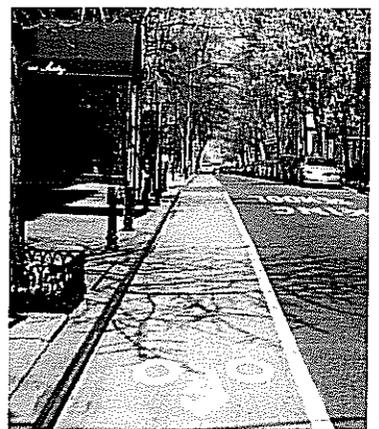
Avenue and Sussex Street, bollards should be installed within the textured strip leading up to and surrounding the intersection (See lower right image on page 42).

To accommodate and increase opportunities for bicycle ridership into and through the Plan Area, bicycle lanes, indicated on the Plan below in the blue color, have been incorporated into the street network along Sussex Street and Railroad Place. This provides greater connectivity between the surrounding neighborhoods and the Plan Area, as well as to the neighborhood center, of which the Plan Area is a part. The bicycle lanes will cross Sparta Avenue at the various intersections and connect to the Sussex Rail Trail, indicated on the Plan in the green dashed line, a regional walking and bicycle path which crosses through the Plan Area.

Several traffic calming tools could be implemented to increase pedestrian safety along the streets surrounding the Plan Area. Bump-outs are suggested at all intersections within the Plan Area, thus providing greater safety for pedestrians crossing streets. All traffic calming features, crosswalks and paving patterns must be approved by the Town Engineer and the County Engineering Department, as applicable.



The images on this page illustrate a range of design characteristics considered appropriate for the various pedestrian realms within the Plan Area. While none of the photographs are an ideal in totality, many of the individual characteristics can be applied to the Plan Area. A variety of sidewalk pavement textures are desirable, and crosswalks must be of a distinctly different textured paving material than the roadway.





SECTION 6.0

6.1 INTRODUCTION

A place is defined not only by the character of its streetscape, but also by the quality of its buildings. In order to assure quality architecture and building character, standards must be set for building types and architectural requirements.

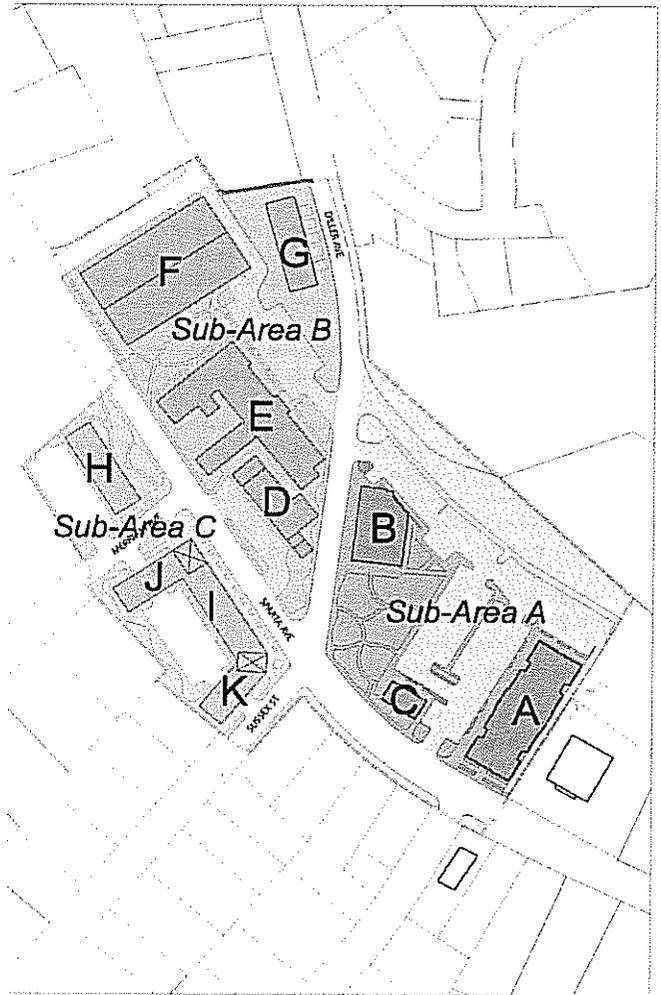
The building standards refine the land uses set forth in Section 4.0 and set forth the characteristics for development of the Plan Area including building mass, height, encroachments and sustainable design standards. The architectural standards set forth the design characteristics for the totality of the Plan Area and ensure development of the Plan Area fits into the context of the surrounding community. The architectural design vocabulary includes facades, materials, roof types, windows, signage, fencing and sustainable design standards.

Throughout this section a design vocabulary of photographs is used to illustrate the visual and spatial characteristics of buildings and structures and architectural regulations for the Plan Area as a whole. While all the characteristics illustrated in each image may not appropriately reflect the standards expected within the Plan Area, the images and the characteristics found within should be seen as illustrative of the general architectural styles recommended for this Plan.

The Area has been divided into three smaller sub-areas to adequately address the complexities of development in the Plan Area (See map to the right). The parcels within Block 1308 comprise Sub-Area A, the parcels within Block 1301 comprise Sub-Area B, and the parcels within Blocks 1104 and 1209 comprise Sub-Area C. Redevelopment efforts will be most intensive in Sub-Area A and Sub-Area C. Redevelopment efforts in Sub-Area B will be limited to the commercial parcel at the corner of Sparta Avenue and Railroad Place, along with portions of surface parking areas within the sub-area.

The building locations, land uses contained within each building, and the intensities of development, generate the basic bulk found within each block. Two land uses currently dominate in the Plan Area, multi-family and mixed-use commercial, with several existing single-family residential properties located on Block 1301 (see lots 10 through 13 on the Block and Lot Map on page 4). Most of the proposed new development in the Area will be mixed-use, having ground floor retail with residential and/or services, or parking, on floors above. The following set of regulations and illustrations provide direction and generate ideas from which design professionals can find inspiration.

For the purpose of thorough communication, redundancies may exist within the text of this document. If there are conflicts between these Architectural Regulations and information contained elsewhere in this Plan, these regulations will take precedence.



Density: The density of Sub-areas A and C must not exceed 15 dwelling units per net acre, based on the total buildable area of each sub-area. The density of Sub-area B must not exceed 15 dwelling units per net acre, excluding Block 1301, Lots 14 and 15.

Setbacks: Setbacks are the distance between the property line and the outer edge of the building wall, expressed in feet. Setbacks are required for all structures. For descriptions of the different building types, see page 46.

Sub-area A (Block 1308):

- Front yard setback:**
 Multi-family: 10' min/ 20' max
 Mixed-use: 10' min/ 20' max
 Landmark: 5' min/ 15' max
- Side yard setback:**
 Multi-family: 15' minimum
 Mixed-use: 15' minimum
- Rear yard setback:**
 Multi-family: 15' minimum
 Mixed-use: 15' minimum

Sub-area B (Block 1301):

- Front yard setback:**
Front yard setback:
 Multi-family: 10' min/ 20' max
 Mixed-use: 10' min/ 20' max
 Landmark: 5' min/ 15' max
- Side yard setback:**
 Multi-family: 15' minimum
 Mixed-use: 15' minimum
- Rear yard setback:**
 Multi-family: 15' minimum
 Mixed-use: 15' minimum

Sub-area C (Blocks 1104 & 1209):

- Front yard setback:**
 Multi-family: 10' min/ 20' max
 Mixed-use (Block 1104): 40' min/ 50' max
 Mixed-use (Block 1209): 10' min/ 20' max
 Landmark: 15' minimum
- Side yard setback:**
 Multi-family: 15' minimum
 Mixed-use: 15' minimum
- Rear yard setback:**
 Multi-family: 15' minimum
 Mixed-use: 15' minimum

Encroachments: Encroachment is the distance beyond the setback lines that certain building elements can protrude, expressed in feet. Building elements which may encroach include, but are not necessarily limited to: overhangs, steps, porches, balconies, bow, bay and box windows, decks, etc. No encroachment of more than four (4) feet is allowed.

Allowable Building Envelope: In order to accommodate the setbacks as required above, and maximize open space within the Area, the allowable building footprint for each new building is as follows (See map on preceding page for building location):

Sub-Area A (Block 1308)

- Building A: 190 feet wide by 70 feet deep
- Building B: 110 feet wide by 60 feet deep
- Building C: 80 feet wide by 60 feet deep

Sub-Area B (Block 1301)

- Building D: Existing Structure
- Building E: Existing Structure
- Building F: 120 feet wide by 200 feet deep
- Building G: 130 feet wide by 40 feet deep

Sub-Area C (Blocks 1104 & 1209)

- Building H: 130 feet wide by 40 feet deep
- Building I: 190 feet wide by 40 feet deep
- Building J: 80 feet wide by 40 feet deep
- Building K: 50 feet wide by 40 feet deep

Building height is expressed in the number of stories, with the range of feet per story from floor to floor determined by building type.

Mixed-use

Minimum 2.0 floors

Maximum 4.0 floors or 55 feet (measured from the mean front elevation to the highest point of the roof).

The massing of mixed-use buildings is determined by a combination of the aforementioned design regulations, the buildable area and the proposed height, along with items specifically stated in the following sections of this Plan. For the purposes of establishing the appropriate visual-spatial character, the proposed buildings shall exhibit characteristics of height and mass that are consistent with the parameters set forth in this section, and/or specified for each building type/land use.

Multi-family Residential

Minimum 2.0 floors

Maximum 4.0 floors or 55 feet (measured from the mean front elevation to the highest point of the roof).

The massing of multi-family residential buildings is determined by a combination of the aforementioned design regulations, the buildable area and the proposed height, along with items specifically stated in the following sections of this Plan. The massing of the building must take into account the adjacent land uses and building massing. For the purposes of establishing the appropriate visual-spatial character, the proposed buildings shall exhibit characteristics of height and mass that are consistent with the parameters set forth in this section, and/or specified for each parcel.

Mixed-use Parking

Minimum 2.0 floors

Maximum 5.0 floors or 65 feet (measured from the mean front elevation to the highest point of the roof).

The massing of mixed-use parking buildings is determined by a combination of the aforementioned design regulations, the buildable area and the proposed height, along with items specifically stated in the following sections of this Plan. For the purposes of establishing the appropriate visual-spatial character, the proposed buildings shall exhibit characteristics of height and mass that are consistent with the parameters set forth in this section, and/or specified for each building type/land use.

Landmark (Mixed-use or Multi-family)

Minimum 1.0 floor

Maximum 5.0 floors or 65 feet (measured from the mean front elevation to the highest point of the roof).

The massing of landmark buildings is determined by a combination of the aforementioned design regulations, the buildable area and the proposed height, along with items specifically stated in the following sections of this Plan. For the purposes of establishing the appropriate visual-spatial character, the proposed buildings shall exhibit characteristics of height and mass that are consistent with the parameters set forth in this section, and/or specified for each building type/land use.

1. **Review Process:** To assure the visual and spatial character of the totality of the Area, all building façades shall be reviewed prior to being heard by the Planning Board by the design review professionals retained by the Planning Board in accordance with the Development Review Process, set forth below in Section 8, Legal Provisions, of this Plan. Each building must be reviewed in sketch and preliminary form using plans, elevations and renderings as necessary. The design review professionals shall submit to the Planning Board comments and recommendations as to each façade concerning the façade(s), materials, colors, and landscaping of the semi-public edge. Building footprints and façade design shall conform to the standards outlined in this Plan.
2. **Design Regulations:** All buildings and façades shall be designed by registered architects who have experience in this scale and character of building design.
3. **Architectural Styles:** The architectural styles in each building shall reflect the historic vernaculars as expressed in the images included in the Design Vocabulary located on the following pages. Each building should also clearly evoke a "green" and environmentally sensitive character to the project.
4. **Building Design:** Buildings shall be designed with equal detailing, materials form, and colors along all facades of a building.
5. **Story Heights:** Floor heights shall be a minimum of 8 feet.

6.5 ARCHITECTURAL STYLES

1. Façade Materials: The primary façade materials shall be stone/masonry, real stucco, brick and/or glass. Street facades must be brick and/or stone. Interior facades may be concrete block, EIFS, or of a similar material, although minimal use of EIFS is preferred.

Accents such as projecting, bow, bay and boxed windows should be in metal. Metal used on any façade shall only include aluminum, coated steel, copper, zinc and painted wrought iron.

2. Façade Colors: It is recommended that a color palette be developed for the Plan with allowable facade and complementary accent colors.

3. Accent Colors: A color palette should be developed for accent and trim colors for the Plan. Accent colors must be based on and complement the primary facade colors.

4. Soffit Emphasis: In buildings with a soffit, the underside of the overhang is often more visible than the roof and should be articulated. The soffit should therefore receive a greater emphasis and budget than is typically afforded.

5. Soffits: All building soffits and overhangs shall be designed to provide shade in the summer and allow sunlight to enter the building in the winter. As such, it is recommended that southern and western exposures feature exaggerated (wider) soffits.

6. Mechanical structures shall be fully integrated with the architectural and structural design of all buildings in order to minimize the negative aesthetic impact upon the viewer, both from street level and as may be viewed from adjacent properties. All parts and components of cellular phone antennas, satellite dishes, television and radio antennas shall be designed to be in harmony with the architectural context and shall not be visible from the front street or sidewalk.

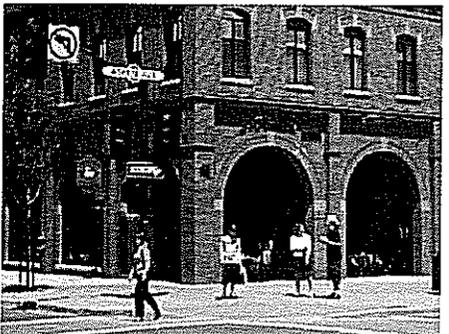
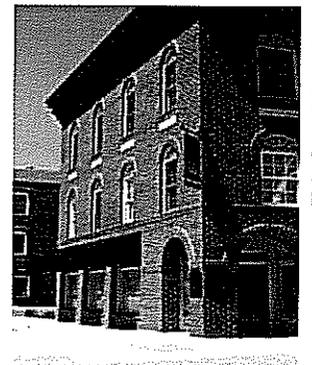
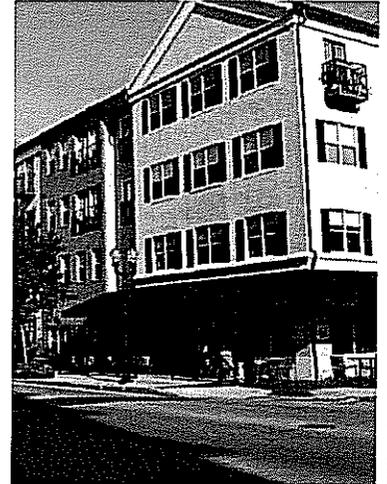
7. Utilities: All utilities shall be underground. Machinery and the mechanical controls for same, including but not limited to transformers, junction boxes, electrical meters and condensers shall be located to the side or rear of buildings and/or otherwise screened from frontages by building elements in a manner consistent with the design of the building.

8. Night security gates, grids or any other security covering of windows are prohibited.

9. Rain Gutters: Storm water from roofs should be collected on site and reused for irrigation and other uses that require nonpotable water. Rain gutters are permitted.

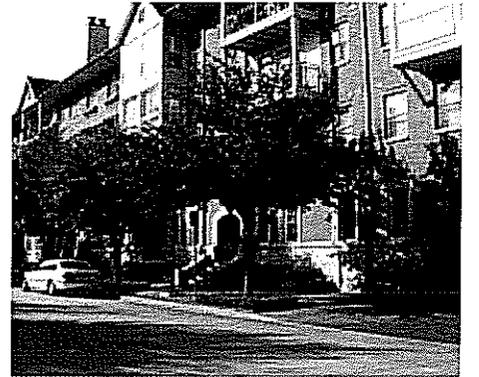
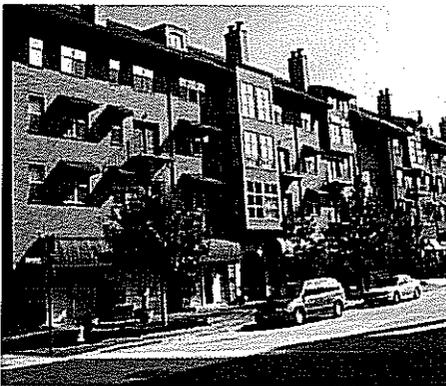
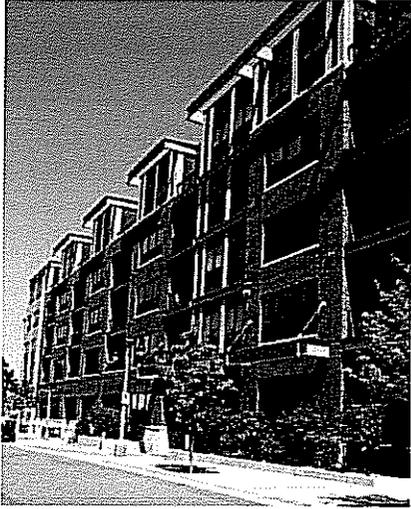
10. Any ground level commercial facades must be of at least 60% void area (windows and other openings).

6.5.1 ARCHITECTURAL STYLE: MIXED-USE



The photographs on this page illustrate the design characteristics considered appropriate for mixed-use development within the Plan Area. Mixed-use development in the Plan Area should emulate the design vocabulary found in these images, including materials and bulk standards.

6.5.2 ARCHITECTURAL STYLE: MULTI-FAMILY BUILDING



The photographs on this page illustrate the design characteristics and vocabulary considered appropriate for multi-family development in the Plan Area. Multi-family development in the Plan Area should emulate the design vocabulary found in these images, including materials and bulk standards.

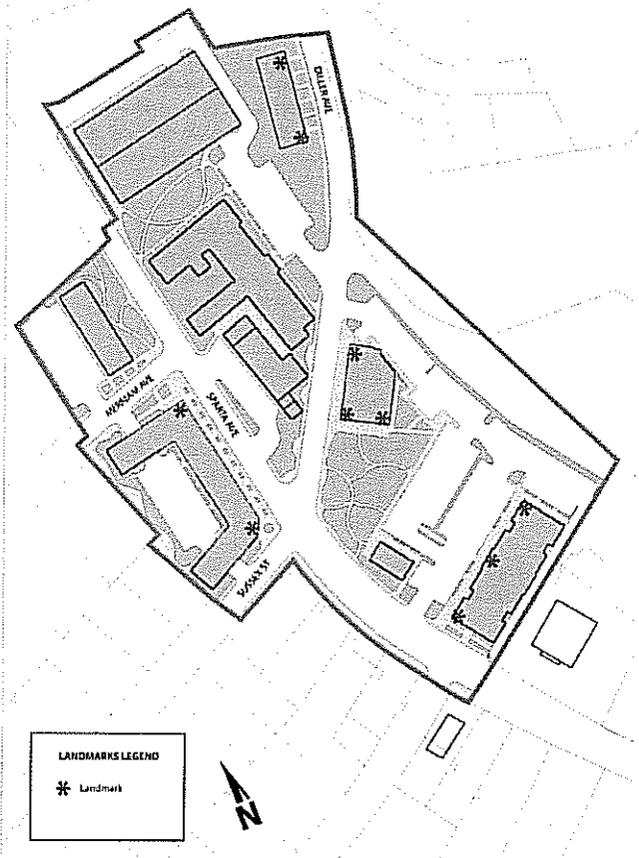
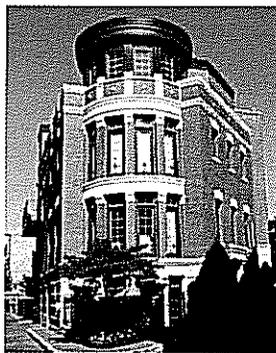
1. Upper floors may step back from the ground floor facade to provide roof-top decks and balconies (See Section 6.5.1: top, middle image). Where they are incorporated into the building design, step backs must occur either above the first floor or second floor. Step backs may be staggered along the building facade and where utilized must be a minimum of 5 feet and maximum of 10 feet from the ground floor facade.
2. Facades must be continuous.
3. Windows: All windows shall be operable windows to ensure natural ventilation and air circulation. However, a permitted exception to this rule is clerestory, transom, side light, and skylights, which may be non-operable, as well as windows which must remain inoperable for safety and/or security reasons.
4. Windows should be vertical in orientation, being longer in height than in width.
5. The ground floor windows may be taller than the upper story windows on any street façade. Ground floor window sills should be a minimum three feet above the ground plane of the front facade of sidewalk.
6. Window Type: Window mullions and muntins, if used, should be colors that complement the primary facades. Tinting of window glass is not permitted unless energy efficient coatings that tint glass are used, in which case the coating closest to clear must be chosen which still meets energy criteria. Mirror finishes and colored glass shall not be permitted for window glass. Stained glass windows are permitted.
7. Window Sill Emphasis: Window sills and headers should be emphasized.
8. Roofs: Roofs may be either 1) pitched roofs, 2) flat roofs or 3) pitched or flat, green engineered roofing systems. The roof color, if not vegetated, shall complement the siding and the selected trim and door colors. Roofing materials for pitched roofs should be dimensioned shingles, synthetic slate or standing seam metal. Engineered roofing systems may be either intensive or extensive systems but must support vegetation.
9. Flat and/or green engineered roofs shall have parapets or approved decorative barriers or fencing, at a minimum of 3' 6" high and maximum of 4' high, to form protective walls/parapets. The use of trellises, or other forms of permeable roofing, to form a shade-protected area is encouraged. Parapets and other approved protective walls shall not be included in the measured building height.
10. Decorative trim shall be used to articulate all window and frame edges.

6.7 VISUAL TERMINATIONS AND LANDMARK BUILDINGS

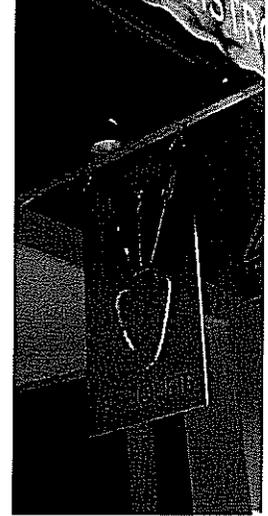
Visual terminations are locations in the view shed, the landscape visible from any point as one travels through the Town, where the line of sight terminates for either pedestrians and vehicular traffic. Visual terminations are created by topographic variations, as well as by variations in roadway alignment, and as such often occur at curves in the street and at "T" intersections, where one street ends at its intersection with another street. Locations of visual terminations, and the characteristics of place found in those locations, should have aesthetic merit, being marked by some type of landmark feature, which could be a building, such as a tower, a plaza, a water feature, or any other feature which defines the visual termination of a space.

Visual terminations must be marked by landmark buildings. Landmark buildings must have features and or detailing which make them stand out from the surrounding architectural vernacular. A landmark building may be of a different style, of different materials, and may be taller than surrounding buildings (see images below). Landmark buildings should be appropriately lit, especially at night. The Landmark Map below illustrates the suggested locations for landmark buildings within the Plan Area, due to either their prominence within the Plan Area and/or due to topography and street alignment.

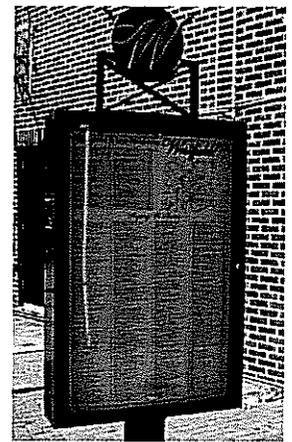
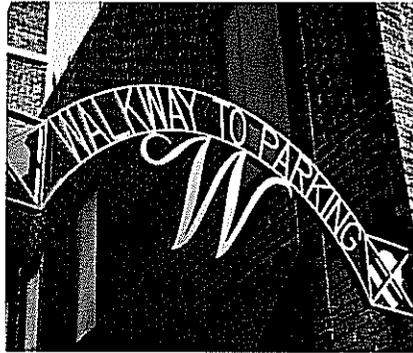
One recommended location for a landmark building at a visual termination is at the intersection of Sparta Avenue with Diller Avenue and Sussex Street. This intersection serves as a gateway into Newton, and as such should have a prominent "gateway" feature. The western corner of this intersection is a prominent location for a landmark feature in part because it is a visual termination due to a curve in Sparta Avenue as traffic approaches from the East.



1. Comprehensive Public Signage Plan: In order to regulate signage within the Area, the designated Redeveloper shall submit a Comprehensive Signage Plan to the Planning Board. The signage package shall address the design and size limitations for all signage within the Area. This shall include: way-finding and directional signage; building number signage; commercial identification signage for the overall project; and street signs.



2. Way-finding and directional signage shall be limited to a maximum size of four (4) square feet. Way-finding and directional signage may be free-standing.

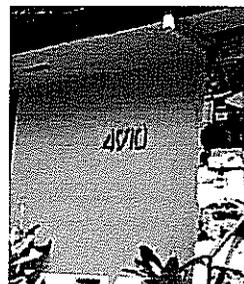


3. Identification signage shall be limited to a maximum size of twenty (20) square feet. Identification signage must be mounted on the front facade of the building or be a hanging sign on the front building facade, perpendicular to the facade plane.



4. Directory signage shall be no larger in size than twelve (12) square feet. Directory signage may be mounted on the building facade adjacent to the main entrance, or inside the main entrance doors.

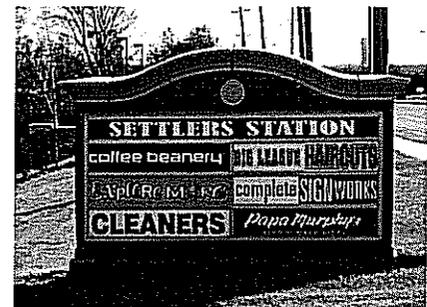
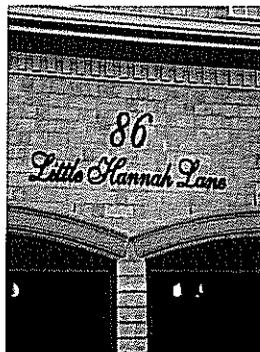
5. Building Numbers: All buildings shall display the numbered street address of the building such that it is clearly visible from the adjoining street right-of-way (see left bottom images).



7. Signage shall not be neon or neon in appearance.

8. Landmark buildings shall be up-lit above the ground floor. Appropriate hours of illumination are to be determined by the Planning Board.

9. Monument signage shall be no larger than 32 square feet and no higher than four (4) feet. Monument signage shall be of a finish, style, and character appropriate to the architecture and details of the building/project.



1. LEED Certification: To the extent possible, all buildings must strive for the U.S. Green Building Council's (USGBC) leadership In Energy Efficient Design (LEED) certification.

2. Energy Efficiency: New construction must strive for maximum efficiency of energy usage. Educational, technical assistance and financial assistance programs such as ENERGY STAR and New Jersey Board of Public Utilities (NJBPU). New Jersey's Clean Energy Program must be utilized to the maximum extent feasible.

3. Renewable Energy Programs: Several options exist to allow for the incorporation of renewable energy in the operation of new buildings and must be considered for the development of new construction. Such options range from the construction of on-site solar voltaics and solar hot water heater, small wind generators, large operable windows, energy saving light bulbs, regulated flow showerheads and toilets, to the purchase of renewable source energy through the existing power utility. New Jersey's Clean Energy Program from NJBPU must be consulted for information on various informational, technical and financial support programs.

4. Stormwater Detention and Reuse: In order to mitigate the impact of storm water on the existing infrastructure and limited potable water resources, new development must incorporate a Potable Water Conservation Program for storm water detention, collection, and re-use unless the developer receives a waiver from the Planning Board. Such a collection system must consist, at a minimum, of the placement of cisterns buried within the Area to be used collectively. In addition to mitigating the impact and amount of stormwater runoff produced by this development, storm water collected within cisterns will be used for non-potable uses, such as irrigation or flushing toilets, to reduce the demand on the allocation of potable water sources available to, and therefore from, the Town.

5. Resources: Multiple informational, technical assistance and financial assistance resources are available to encourage and promote the practice of green building and must be considered for the development of new construction. Several of these resources can be accessed via the New Jersey Board of Public Utilities' (NJBPU), New Jersey's Clean Energy Program, and Cool Cities Program, as well as through the New Jersey Department of Environmental Protection's (NJDEP) New Jersey Environmentally Sustainable Communities Initiative.

6. Green Roofs: In order to mitigate stormwater runoff and detention requirements, green roofs are recommended on all structures. A green roof can be flat with a minimum pitch for

drainage with an accented cornice and/or parapet or may be pitched at a 2:1 ratio.

Also termed eco-roofs, rooftop gardens, and vegetated rooftops, green roofs go beyond the traditional rooftop gardens that utilize containers and planters to house vegetation and plantings. Green roofs shall be comprised of an engineered roofing system that enables the growth of vegetation. The engineered rooftop is typically comprised of the following components: an insulation layer, a waterproof membrane, a root barrier, a drainage layer, a geotextile or filter mat, and a growing medium. Green roofs should only be irrigated (if necessary) with water obtained from a rainwater collection system integrated into the building and/or block.

Green roofs may be either intensive or extensive in type. Intensive green roofs are considerably more substantial in terms of the amount and type of vegetation supported and also in terms of cost and maintenance required. They can be thought of as true rooftop gardens. Intensive green roofs can support planting depths up to 8 inches but require higher load bearing structural roofs. Extensive green roofs can be considered rooftop meadows versus rooftop gardens. They are covered with grasses, sedums, and wildflowers within a planting bed between 2 inches and 6 inches deep. Maintenance is minimal and little irrigation is required beyond rainfall.

Currently, initiatives exist to promote the widespread use of green roofs. Further, several agencies and organizations exist to help educate and provide technical support to architects, designers, and contractors seeking to build green roofs. Ideally a green roof strategy should be incorporated into the Sparta Avenue Stormwater Management Plan.

7. Wastewater: Reduction of potable water use for building sewage conveyance by 50% is mandatory through the use of water-conserving fixtures or nonpotable water, recycled greywater, and on-site or municipally treated wastewater.

8. Water Reduction: Mandatory reduction of 20% less water than the water use baseline calculated for the building (not including irrigation) after meeting the Energy Policy Act of 1992 fixture performance requirements. Reuse of stormwater and greywater for non-potable applications such as toilet and urinal flushing and custodial uses per a Potable Water Conservation Program is mandatory.

9. Heat Island Effect: Consideration must be given to installing vegetated roofs for at least 50% of the Area or installing roofing materials which reflect solar energy.

10. Energy Performance: Consideration must be given to designing the building envelope, HVAC, lighting, and other systems to maximize energy performance.

11. On-site Renewable Energy: Consideration must be given to assessing the project for non-polluting and renewable energy potential including solar, wind, geothermal, low impact hydro, biomass, and bio-gas strategies. When applying these strategies, advantage should be taken of net metering with the local utility.

12. Green Power: Encouragement must be given to the development and use of grid-source, renewable energy technologies on a net zero pollution basis.

13. Storage and Collection of Recyclables: A coordinated program of collection services for glass, plastic, paper products, newspaper, cardboard, and organic wastes to maximize the effectiveness of the services is mandatory. All buildings must have individual collection bins to further enhance the recycling program.

14. Construction Waste Management: A coordinated program for recovery of recycling cardboard, metal, brick, acoustical tile, concrete, plastic, clean wood, glass, gypsum wallboard, carpet, and insulation is mandatory.

15. Material Reuse: Opportunities must be identified to incorporate 5% of salvaged materials into building design and potential material suppliers should be researched. Consideration must be given to salvaged materials such as beams and posts, flooring, paneling, doors and frames, cabinetry and furniture, brick and decorative items.

16. Recycled Content: Consideration must be given to using materials with recycled content such that the sum of post-consumer recycled content plus one-half of the pre-consumer content constitutes 20% (based on cost) of the total value of the materials in the project.

17. Regional Materials: Consideration must be given to using materials or products that have been extracted, harvested or recovered, as well as manufactured, within 500 miles of the project site for a minimum of 10% of the total materials value.

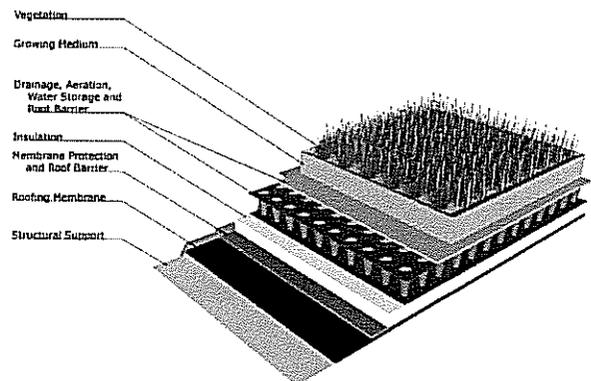
18. Rapidly Renewable Materials: Consideration must be

given to using rapidly renewable materials (made from plants that are typically harvested within a ten year cycle or shorter) such as bamboo, wool, cotton insulation, agrifi ber, linoleum, wheatboard, and strawboard.

19. Low-emitting Materials: Consideration must be given to specifying low-VOC materials for adhesives, flooring adhesives, fire-stopping sealants, caulking, duct sealants, plumbing adhesives, and cove base adhesives.

20. Controllability of Lighting Systems: Consideration must be given to providing a high level of lighting system control by individual occupants to promote the productivity, comfort, and well-being of building occupants.

21. Façade Composition: Passive solar equipment featuring louvers are recommended on the secondary façades or roofs.



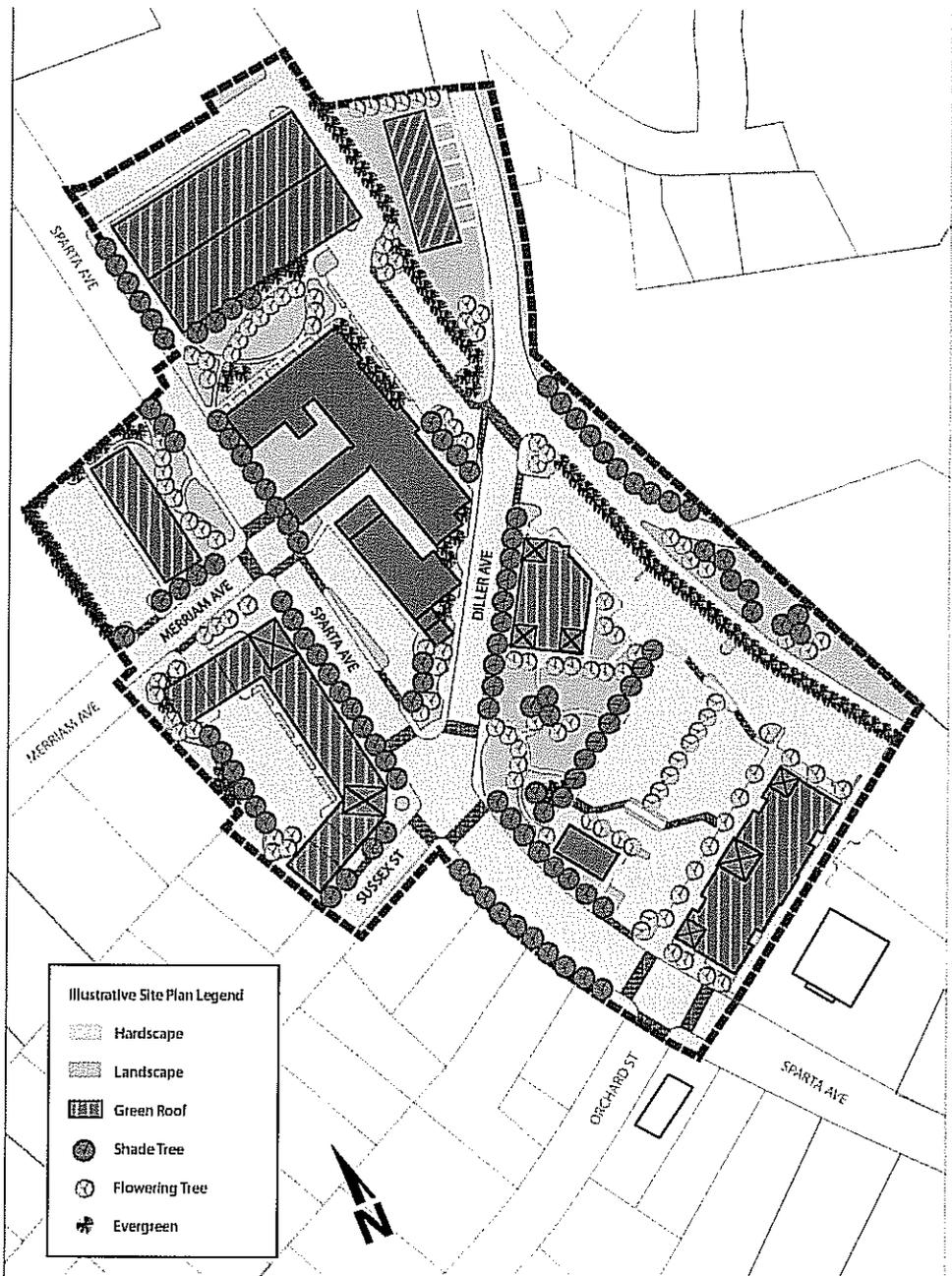


SECTION 7.0

7.1 INTRODUCTION

Landscaping and streetscape greatly affect the quality of a place. The purpose and intent of this Section is to provide landscape development and buffering requirements in order to maintain and protect property values both within the Area and in the surrounding neighborhoods. The goal is to enhance the appearance of the development, protect the aesthetic assets of the community, reduce erosion and storm water run off, reduce the urban heat island effect, and provide screening where necessary. The landscape requirements of this Section are minimum standards; additional landscaping is encouraged.

An overall conceptual Landscape Plan is shown below:

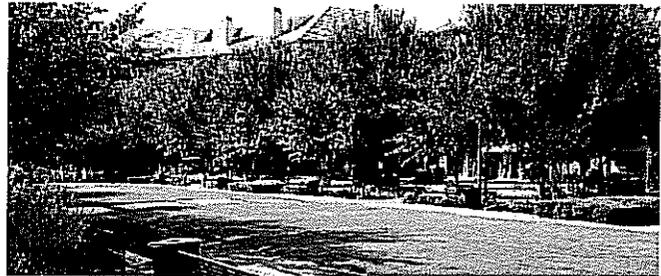


The Landscape Plan shall be subject to approval by the Planning Board as part of the site plan approval process. The Planning Board may forward the proposed Landscape Plan to the Town Engineer for review and comment. The Landscape Plan shall conform to the following requirements and guidelines:

1. A detailed Landscape Plan in accordance with the unified Streetscape Plan shall be prepared by a certified landscape architect for all Site Plan proposals.
2. The Landscape Plan shall include quality materials and, at minimum, specify type and color of pavers and other hardscape materials, type and quality of decorative lighting fixtures, specific color and material of decorative site furnishings, as well as locations and quantities of each. The Landscape Plan shall also include species, sizes, and planting plans for all vegetation.
3. All street tree types shall be recommended by a local arborist, nurseryman, or Landscape Architect acceptable to the Planning Board and shall be a type suitable for the Plan Area's environment. Lists of suitable trees are available from the Community Forestry Council, a division of the New Jersey Division of Parks & Forestry, or the New Jersey Nursery & Landscape Association.
4. Native plants should be used before other alternatives. A list of examples is provided at the end of this section.
5. All landscape materials planted by the developer must have a two year maintenance guarantee. If any planting materials die within two (2) years of planting, they must be replaced during the following planting season.
6. The Landscape Plan should strive to include the highest and best quality decorative materials possible and specify, at minimum, architectural pavers, decorative lighting, tree species, and any other Area-appropriate decorative site furnishings, including all specific color and material selections.
7. Within an overall Landscape Plan, a Streetscape Plan shall be required. The Streetscape Plan shall be submitted to the Newton Planning Board for its review and approval in conjunction with the project Site Plan application and implemented contemporaneously with the construction of the redevelopment project. The Streetscape Plan shall include all street frontages, existing and proposed.
8. Sidewalks should enhance the pedestrian experience. Toward that end, the following must be included within the landscaping plan:
 - a. Barrier-free access to all pedestrian space
 - b. Use of pedestrian-scaled lighting
 - c. Use of pedestrian-scaled signage

9. All open areas not covered by buildings, paving, and sidewalks shall be graded and landscaped.
10. Three (3) small open space pockets as shown on the map to the left shall be developed to be publically accessible open space:
 - 1) the corner of Sparta Ave and Merriam Ave
 - 2) the corner of Sparta Ave and Diller Ave
 - 3) along Sparta Avenue between the new mixed use parking facility and the existing residential
11. Rainwater management shall be integrated into the site design. Rain water should be captured and stored for non-potable uses wherever possible.
12. All landscaped areas must be well maintained, cleared, clipped and pruned to provide a positive healthy visual character.

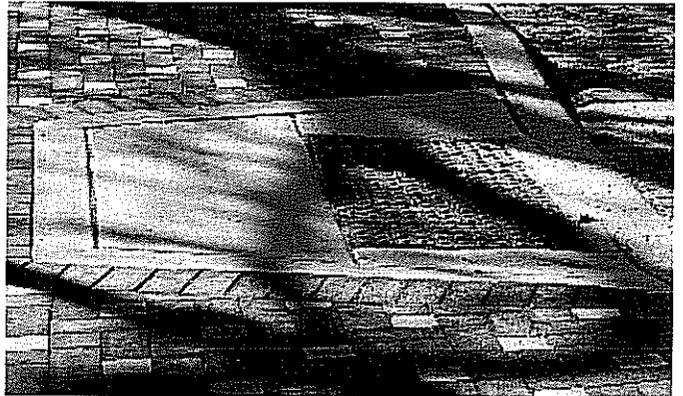
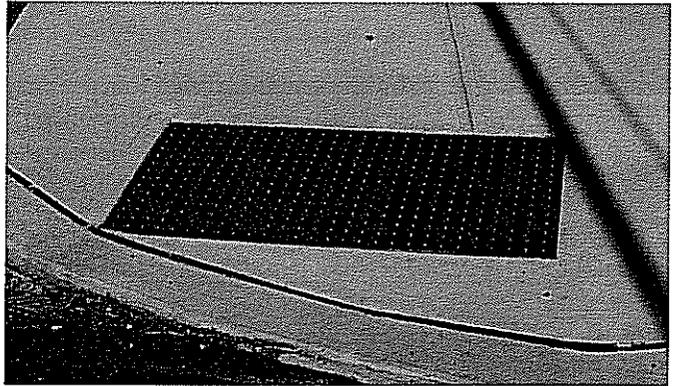
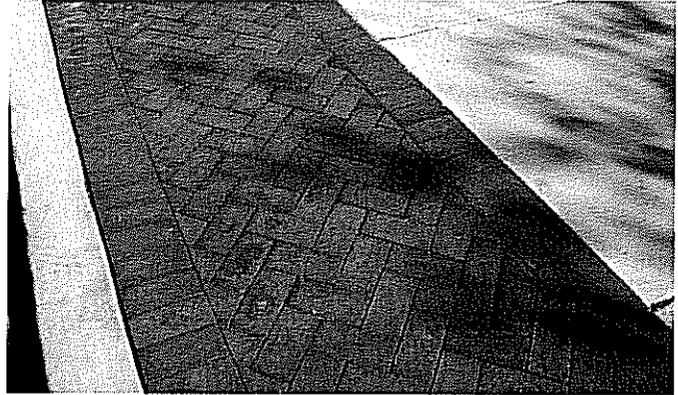
The pictures below illustrate the character of the proposed Green Space



The standards set forth in this section shall be binding for streetscape development. The exact construction material and sections to be utilized within each right-of-way shall be made by the Town Engineer.

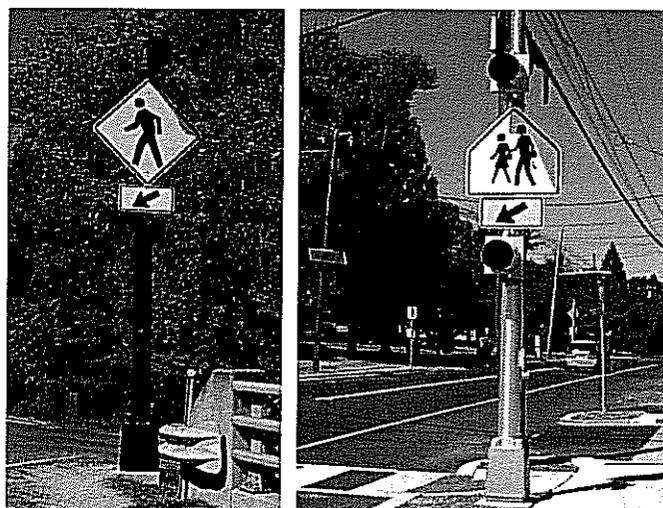
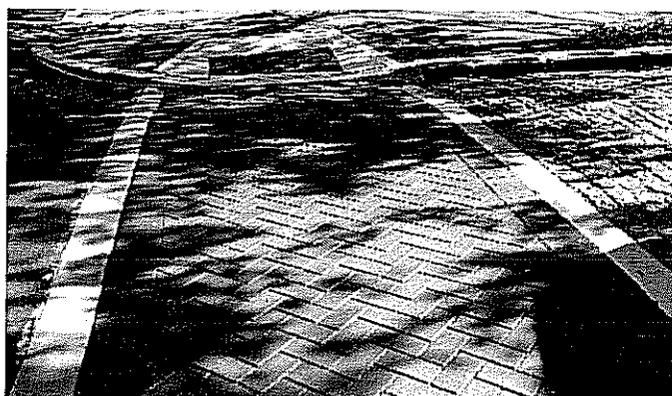
Hardscape Requirements for Streetscape

1. Barrier-free access to all pedestrian spaces is required.
2. Vehicular travel lanes shall be constructed of asphalt. Textured pavement such as brick, synthetic brick, cobblestone, pavers, and/or stamped concrete, shall be used on all crosswalks, to act as a traffic-calming device, and on internal lanes where feasible.
3. All curbing should be granite, or a poured, brushed concrete. Asphalt curbing is expressly forbidden. Curbs shall be 6 inches in height from the final top height of the pavement.
4. Sidewalks shall be constructed of scored concrete with brick edges and dividers or textured paving materials. The paver strip along the curb edge must be brick, synthetic brick or another approved paver. The strip shall be a minimum of 2' wide; the concrete sidewalk must be a minimum of 6" wide. Street trees shall be located on the outside of the sidewalk, between the sidewalk and ROW edge.
5. Utilities shall not be located within the planting strip.
6. Sidewalk areas shall be continuous across any driveway, including any decorative paving elements.
7. Access to any driveway shall be via a dropped curb and sloped apron. Said access shall not be provided by the use of radius curbing and an extension of the street pavement.
8. Driveway widths and curb cuts shall be kept to the minimum width necessary.



Crosswalk Requirements for Streetscape

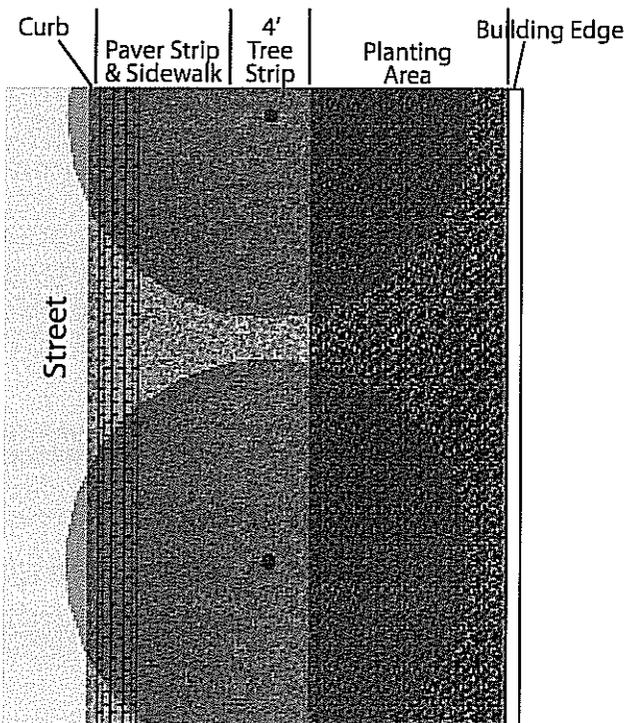
1. Crosswalks shall be of similar material and color as paved sidewalks or textured strips and be in conformance with the street typology and pedestrian plan. Crosswalks must be of a different paving material than the roadway surface.
2. Crosswalks located across an Urban Arterial, Major Arterial and/or Collector shall be a width of ten (10) feet on center and crosswalks located across Streets and internal Lanes shall be a width of eight (8) feet on center.
3. The transverse lines marking the outside edges of a crosswalk shall be a width of 12 inches and white in color, regardless of the material.
4. Crosswalks at all non-signalized or uncontrolled intersections should have In-street Pedestrian Crossing Signs on both sides to remind motorists to yield to pedestrians (see bottom image below). Signs should be on the centerline of the street within six (6) feet of the crosswalk.
5. The mid-block crosswalk located on Diller Avenue (serving the Sussex Branch Rail Trail) must include overhead lighting and pedestrian/bicyclist activated signals or warning lights (see bottom three images to the right) to remind motorists to yield to pedestrians and bicyclists.



*Data provided by Harold E. Pellaw & Associates, Inc.

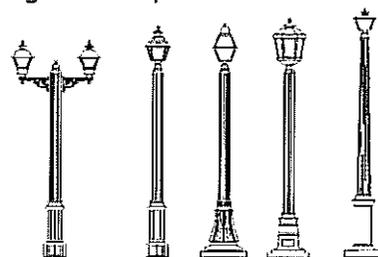
Planting Requirements for Streetscape

1. All trees shall be a minimum of 3 inches in caliper measured at 6 inches from ground level and have a minimum branch height of 6 feet at time of planting for yard trees, 10 feet minimum branch height for street trees.
2. At minimum, street trees shall be spaced every 25' on center along streets and park edges.
3. Trees shall be planted where specified in the Thoroughfare Standards. (in the designated 4' strip on the building side of the sidewalk as shown below - this 4' strip includes the 3' planting strip within the ROW and a 1' area within the building setback).
4. Street tree planting should be strategically phased to ensure procurement of large quantities of uniform and consistently sized specimens of specifically selected species.
5. Trees should only be planted during appropriate spring and fall planting seasons to the highest arboricultural industry standards; appropriate root barriers shall be installed at the time of planting.
6. Native tree species with proven success shall be thoroughly searched by a plant broker before consideration of alternate species. (Suggested native tree species can be found at the end of this Section).
7. Street trees shall not be planted within the clear sight triangle of each intersection.



Lighting Requirements for Streetscape

1. A unified standard for street lighting within the area must be used. The use of a similar style to the fixtures used throughout the downtown of Newton is required to maintain continuity throughout the Town. The light fixtures used by the Town consist of a Spring City "Edgewater" cast iron post with a Spring City "William and Mary" luminaire. Final approval of the fixture, pole type, and location will be made by the Planning Board.
2. Street lighting shall be placed in the textured strip between the curb and sidewalk.
3. All street lighting and exterior building lighting shall be designed to shine downward to minimize illumination of the night sky and to minimize or reduce glare as seen from neighboring properties.
4. All streets shall have decorative, pole-mounted lamps that are 12-14 feet in height, spaced a maximum of 40 feet on center.
5. Metal Halide (or comparable light quality) lamps are suggested for their efficiency and light quality. Mercury Vapor and high pressure sodium lighting shall not be allowed.
6. A comprehensive Lighting Plan must be provided with sufficient detail to illustrate that proper illumination is provided. The plan should illustrate all streets, all attached building lights, types of fixtures, lighting intensities, lighting patterns, filament type, shape of lens, and direction of illumination.
7. All street lights shall have illumination and uniformity ratios which do not exceed the recommendations of the Illuminating Engineering Society of North America (IESNA). All sidewalks adjacent to roadways shall maintain a minimum 0.2 footcandle coverage.
8. Adequate exterior lighting shall be provided for safety while not casting light onto adjacent properties or shine onto streets or driveways in such a manner as to interfere with or distract driver vision.
9. All lighting shall use shielded light fixtures to prevent misdirected or excessive artificial light and maximize energy efficiently.
10. The use of floodlight-type style fixtures attached to buildings shall be prohibited.



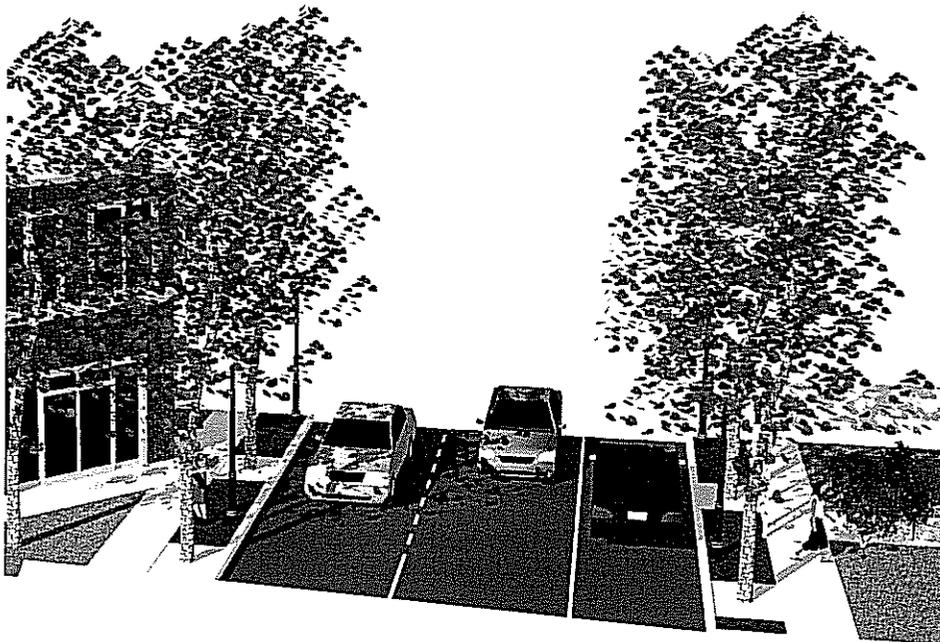
*Data provided by Harold E. Pellow & Associates, Inc.

Semi Public Edge Requirements

1. No asphalt paving or wood decking is allowed between the build to line and the curb edge. Any paved area including walkways, etc. shall have equal or greater detail than the adjacent sidewalk.
2. Every building shall have direct access from the sidewalk to the primary pedestrian ingress and egress of a building by way of a walkway separate from driveways. Materials of the walkway shall compliment the color and design of the building and the sidewalks.
3. All building frontages must be landscaped with appropriate vegetation (shrubs must measure at least 30" in height and 30" in width at the time of planting and be planted at the minimum spacing standard).
4. Fencing along all street frontages/semi-public edges shall not exceed three (3) feet in height.
5. Only decorative style fences, such as tubular steel or wrought iron type fences, are permitted along street frontages and along semi-public edges. The design of the fencing shall complement the architectural style of the building. Fencing made of vinyl or any other plastic-based material is prohibited.
6. The use of native shrubs and grasses is encouraged; a list of examples can be found at the end of this section.
7. Shade trees, flowering trees, and evergreens must be maintained and be kept properly pruned.



7.4 SEMI-PUBLIC EDGE REQUIREMENTS



The Plan shall meet Town of Newton and New Jersey Department of Environmental Protection stormwater management requirements.

Stormwater management measures incorporated into the plans should emphasize to maximum extent practical, natural nonstructural strategies to control stormwater runoff. The nonstructural strategies to be used include:

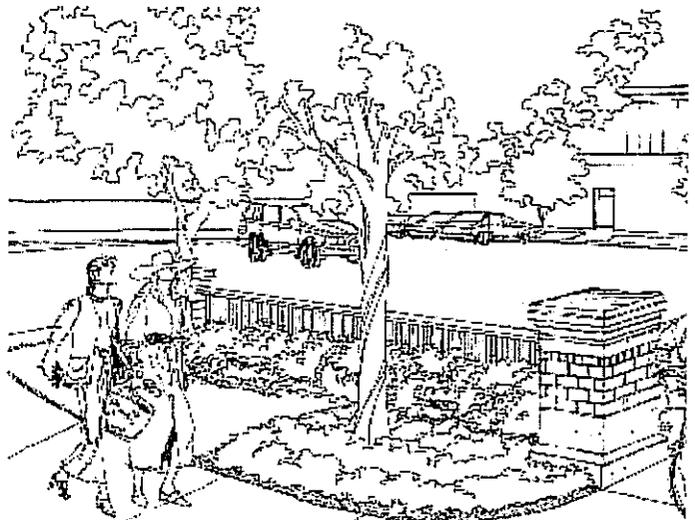
1. Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss.
2. Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces.
3. Maximize the protection of natural drainage features and vegetation.
4. Minimize the decrease in pre-construction "time of concentration".
5. Minimize land disturbance including clearing and grading.
6. Minimize soil compaction.
7. Provide low maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of fertilizers and pesticides.

Sustainable techniques to minimize stormwater runoff must be included in the Plan (unless the developer receives a waiver from the Newton Planning Board). These techniques would include the construction of green roofs, water cisterns and the use of stored water for irrigation and other non-potable uses. Such techniques would mitigate the effects of stormwater runoff and lessen the volume needed in stormwater detention facilities, but significantly, would mitigate the demands on the allocation of limited potable water resources from the Town.

Stormwater Detention Facilities are required to meet the Town of Newton's stormwater management regulations. The sizing of these detention facilities should take in consideration non-structural strategies, green roofs, as well as other technologies and methods proposed to capture stormwater runoff. Detention facilities must be underground and tie back to re-use.

Parking Requirements

1. All Parking areas must be appropriately screened along the periphery on all sides as required.
2. Fifty percent of paved parking lots surface shall be shaded by tree canopies within fifteen years of planting. Trees shall also be planted in the required landscaped areas along the periphery of the development in order to shade and enhance adjacent property and public right-of-ways.
3. Minimum Planter size between tiers of parking shall be as follows:
 - Standard Parking Stall – (6-8')
 - Compact Parking Stall – (4-6')
 - Along Periphery – (10')
4. Green parking lots reduce runoff that is discharged into local water bodies by using natural drainage landscapes. Where possible bioengineered planting strips, bioswales, and rain gardens must be incorporated to reduce environmental impact of development.

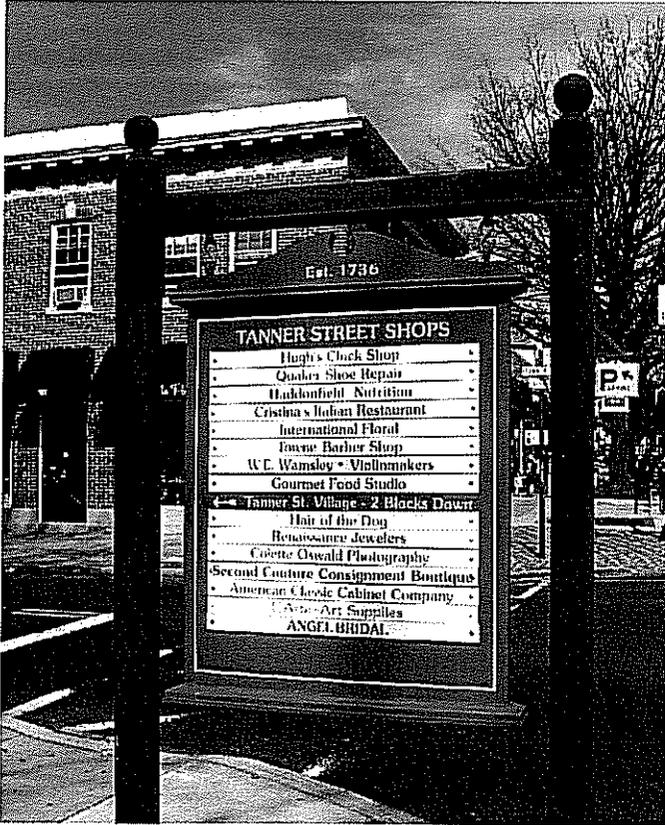


1. Water supply: in accordance with State of New Jersey codes and Town of Newton Regulations as applicable, except where pre-developed site conditions such as collection and/or recycling of rain water allows for an offset in water supply requirements. Provision for rain water collection and recycling must be factored into the water supply management program, and are required unless the developer receives a waiver from the Newton Planning Board.
 2. Sanitary sewers: in accordance with State of New Jersey codes and Town of Newton Regulations as applicable.
 3. Storm water management: in accordance with State of New Jersey codes and Town of Newton Regulations as applicable, except where pre-developed site conditions such as impervious coverage allow for an offset in stormwater management requirements. Provisions for the recycling of rain water must be factored into the stormwater management program, and are required unless the developer receives a waiver from the Newton Planning Board. If green roofs and water gardens are utilized they also must be factored into the stormwater management program.
 4. Lighting: Non-corrosive ornamental lighting shall be provided and shielded to direct illumination downward for streets, residential lanes and sidewalks sufficient to ensure safe and convenient night time use.
 5. Recycling and solid waste removal: Adequate facilities as determined by the Planning Board shall be provided for the collection and removal of recyclables and solid waste. The solid waste and recyclables shall be picked up at designated locations in the rear of the building. Recycling facilities must be screened with materials in a manner consistent with the adjacent building architecture.
2. If it becomes evident to the Planning Board and the Town Engineer during the implementation of this development that a long term utility and infrastructure plan is needed and desired, a Utility Plan which shall include the on-tract and off-tract infrastructure improvements needed to serve the development, shall be provided by the designated developer.
 3. No development of any parcel in the Area that results in an increase in wastewater from that parcel shall be permitted until the planned project wastewater piping systems for the removal of effluent and stormwater are approved by the Town Engineer and the Newton Utility Advisory Board; and the municipal wastewater piping systems for the removal of effluent and stormwater are certified by the Town Engineer and the Newton Utility Advisory Board as being of sufficient capacity and good condition to accommodate uses that will occupy said parcel. Such approval may be contingent upon requisite improvements to the drainage system in the street, as determined by the Planning Board, Town Engineer and the Newton Utility Advisory Board.
 4. All utilities, with the exception of stormwater, shall be located underground, placed under the sidewalk or any Internal Lanes.

All locations related to utilities, infrastructure, stormwater management, water, sewer, and wireless proposed for this Area shall be subject to approval by the relevant Town authority. In addition, the following requirements shall be met by any proposed Plan for the Area.

The designated developers shall satisfy Town requirements, by which the provision for the necessary utilities is accomplished in a way that advances the health, safety, and welfare of the general public.

1. All utility distribution lines and utility service connections from such lines to the Project Area's individual uses shall be located underground, including utility boxes. Utility appliances, regulators,



Public Signage

Wherever possible, public signage should be consolidated and affixed to lampposts.

Freestanding Signage

Freestanding signs are prohibited with the exception of way-finding, directional and monument signage installed with the approval of the relevant Town authority.

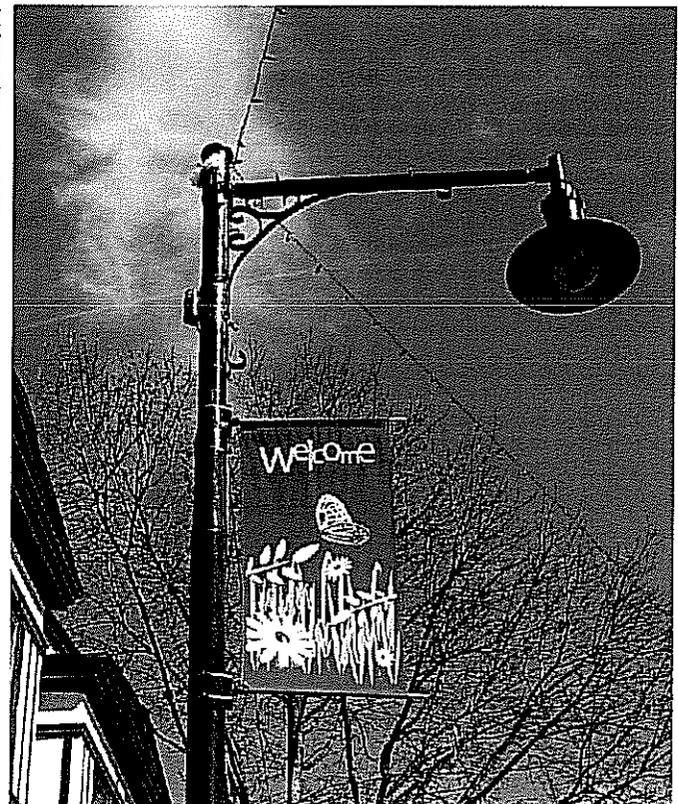
Construction Signage

During construction, one (1) sign for each project or development phase may be displayed indicating the name of the project, developer, design professionals, general contractor, sub-contractors, financing institution, and/or public agency officials (as applicable and appropriate). Construction signage must not exceed 25 square feet.

Construction signage must be removed as soon as the Certificate of Completion is approved.

Prohibited Signage

Fluorescent-lit signage or signage with glowing paint, rooftop-mounted advertising signage, signage above the second floor.

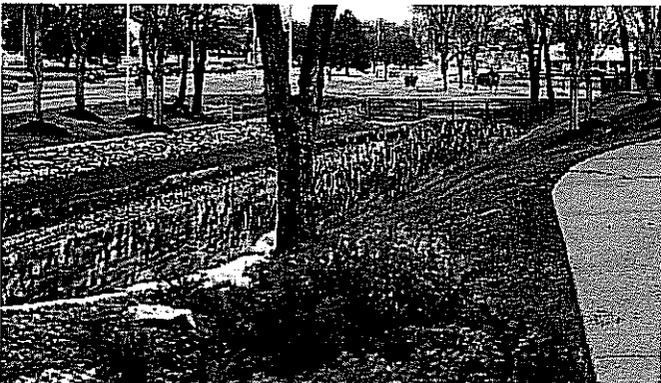


Planting Guidelines

1. All plants shall be drought tolerant in order to reduce the need for irrigation.
2. All plants within rooftop gardens can experience a high evaporation rate due to the drying effects of wind and sun. Irrigation, mulches and moisture-holding soil additives shall be added to help reduce this moisture loss.
3. Site grading and permeable surfaces shall promote maximum return of clean rainwater within public green spaces, with flat areas graded to a 2% minimum. Rain gardens are encouraged where appropriate.
4. All trees shall be monitored and treated annually by the building owner for potential disease or decline in physical condition.
5. Fertilization shall be yearly with a balanced, full spectrum inorganic commercial fertilizer applied at a rate adjusted to remedy deficiencies identified by soil testing reports.
6. Green Ash, American Hornbeam, Red Maple, and Hackberry have been suggested as street trees in large part because they are native species.
7. River Birch, Serviceberry, Eastern Redbud, and Flowering Dogwood have been suggested as small trees for green spaces. These trees are native species with multiple season interest.
8. Suggested shrubs and grasses should be used in conjunction with other native, non-invasive, vegetation.
9. The stormwater detention area and other green space should be graded appropriately to allow for native grasses and wildflowers to grow with annual mowing. Regular edge maintenance of these areas is needed to keep these open spaces tidy.

Soil Handling and Soil Compaction

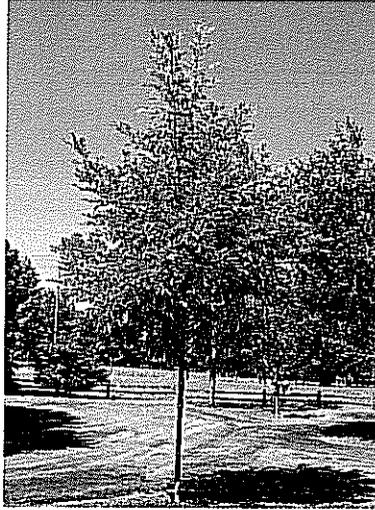
1. Continuous 4-foot deep (minimum) trenches of high quality topsoil for planting of street trees along streets to widths as specified between municipal curb and sidewalk should be provided in lieu of individual tree pits.
2. All areas to be landscaped should receive topsoil that is friable, fertile, natural loam, free of subsoil, stones, roots, noxious plants and extraneous matter to a depth of 5 feet from finished grade as a subsoil cap and new planting root growth zone.
3. Soil must be loosely compacted and protected from heavy compaction by equipment and stockpiling of materials by barriers during construction.



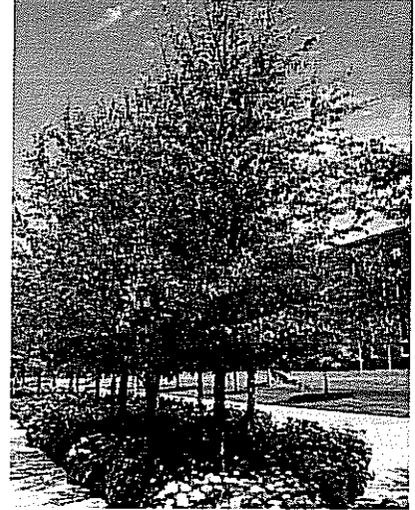
Shade and Flowering Trees

1. *Fraxinus pennsylvanica*, Green Ash
2. *Betula nigra*, River Birch
3. *Carpinus caroliniana*, American Hornbeam
4. *Acer rubrum*, Red Maple
5. *Celtis occidentalis*, Hackberry
6. *Amelanchier canadensis*, Serviceberry
7. *Cercis canadensis*, Eastern Red Bud
8. *Cornus florida*, Flowering Dogwood

1. Green Ash



2. River Birch



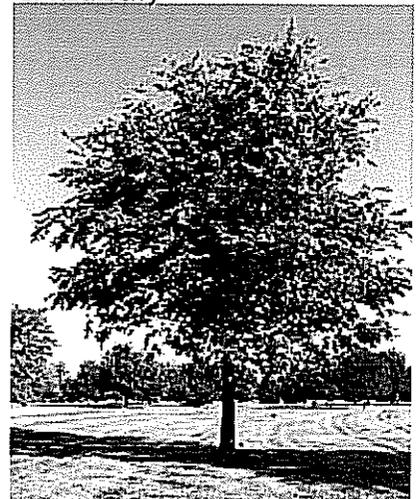
3. American Hornbeam



4. Red Maple



5. Hackberry



6. Serviceberry



7. Eastern Red Bud



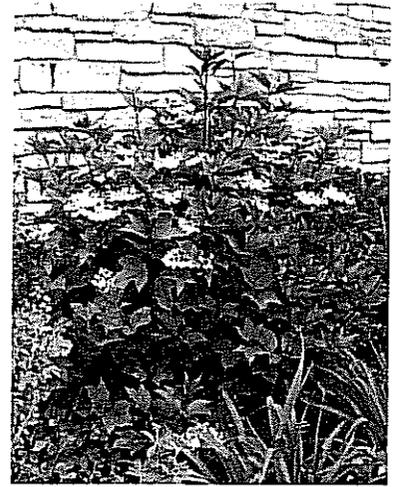
8. Flowering Dogwood



Shrubs and Grasses

(see pictures on following pages)

- 9. *Viburnum trilobum*, Cranberry Bush
- 10. *Viburnum acerifolium*, Maple Leaf Viburnum
- 11. *Viburnum nudum*, Possumhaw Viburnum
- 12. *Viburnum prunifolium*, Black Haw
- 13. *Illex opaca*, American Holly
- 14. *Calamagrostis canadensis*, Blue Joint Grass
- 15. *Schizachyrium scoparium*, Little Blue Stem Grass
- 16. *Panicum virgatum*, Switch Grass
- 17. *Spiraea tomentosa*, Steeplebush
- 18. *Gaultheria procumbens*, Wintergreen
- 19. *Ilex verticillata*, Winter Berry
- 20. *Aronia melanocarpa*, Black Chokeberry



9. Cranberry Bush



10. Maple Leaf Viburnum



11. Possumhaw Viburnum



12. Black Haw



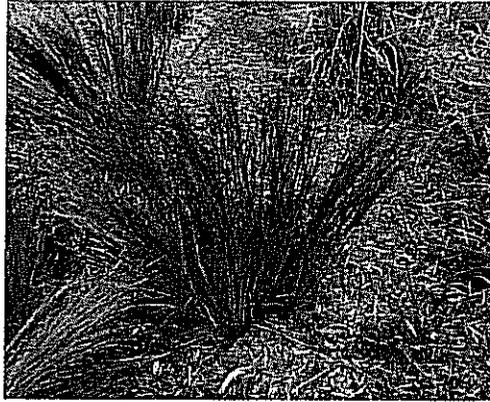
13. American Holly



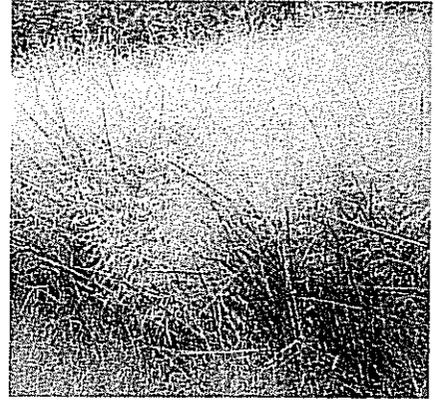
14. Blue Joint Grass



17. Steeplebush



15. Little Blue Stem Grass



16. Switch Grass



18. Wintergreen



19. Winter Berry



19. Winter Berry (Winter)



20. Black Chokeberry Flower



20. Black Chokeberry (Fall)



SECTION 8.0

Legal Provisions

Validity of the Plan

If any section, subsection, paragraph, division, subdivision, clause or provision of this Plan shall be deemed by a court of competent jurisdiction to be invalid, such adjudication shall only apply to the particular section, subsection, paragraph, division, subdivision, clause or provision in question, and the balance of the Plan shall be adjudged valid and effective.

Zoning Map Revisions

Upon final adoption of this Redevelopment Plan by the Town Council, the Zoning Map of the Town of Newton is hereby amended and shall be revised to show the boundaries of the Merriam Gateway Zoning District and identify the district as the "Merriam Gateway Zoning District ". In addition, the Zoning Map of the Town of Newton is hereby amended and shall be revised to show the boundaries of the Merriam Gateway Zoning District and all provisions of this Plan shall apply. Upon final adoption of this Redevelopment Plan by the Town Council, this Redevelopment Plan shall supersede all provisions of the Newton Zoning Ordinance for the Area, and all underlying zoning shall be voided. Any zoning-related issue that is not addressed herein shall refer to the Newton Zoning Ordinance for guidance. No variance from the requirements herein shall be cognizable by the Zoning Board of Adjustment. The Planning Board alone shall have the authority to grant deviations from the requirements of this Plan, as provided herein.

Amendment to Merriam Gateway Redevelopment Plan

The Merriam Gateway Redevelopment Plan may be amended from time to time in compliance with the requirements of the Local Redevelopment & Housing Law.

As development occurs within the Area, development priorities and market demands may change. This Plan should have the adaptability to meet the changing needs of market demand, the Town of Newton and its citizens. Amendments may be required in order to accommodate these changes.

Variations in Site Plan Design

Modifications from standards which are expressly stated to be "mandatory" under the Land Use Regulations of this Plan, may be approved by the Planning Board only by formal grant of a deviation as provided.

Deviations

The Planning Board may grant deviations from the

regulations contained within this Plan, where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions, pre-existing structures or physical features uniquely affecting a specific piece of property, the strict application of any area, yard, bulk or design objective or regulation adopted pursuant to this Plan, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property. The Planning Board may also grant a deviation from the regulations contained within this Plan related to a specific piece of property where the purposes of this Plan would be advanced by such deviation from the strict application of the requirements of this Plan; and the benefits of granting the deviation would outweigh any detriments. The Planning Board may grant exceptions or waivers from design standards, from the requirements for site plan or subdivision approval as may be reasonable and within the general purpose and intent of the provisions for site plan review and/or subdivision approval within this Plan, if the literal enforcement of one or more provisions of the Plan is impracticable or would exact undue hardship because of peculiar conditions pertaining to the site. No deviations may be granted under the terms of this section unless such deviations can be granted without resulting in substantial detriment to the public good and will not substantially impair the intent and purpose of this Plan.

An application requesting a deviation from the requirements of this Plan shall provide public notice of such application in accordance with the public notice requirements set forth in NJSA 40:55D-12.a. & b.

No deviations may be granted which will result in permitting:

1. A use or principal structure in a district restricted against such use or principal structure.
2. An expansion of a non-conforming use.
3. An increase in height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district.

In addition, no deviations shall be granted which have any one of the following effects:

1. Exceeding the maximum development capacity of either square footage or dwelling units, as required according to this Redevelopment Plan.
2. Varying the minimum or maximum number of stories or their location as such story limitations are outlined, and other requirements as outlined in this Plan.
3. Increasing or decreasing story height from that which is specifically permitted in the Section 6 - Building Regulating Plan.
4. Varying in anyway from the permitted and prohibited uses as set forth in this Plan.
5. Non-completion of minimum open space, parks, or other type of phased improvements required to be implemented.

In accordance with N.J.S.A. 40A:12A-7, entitled "Adoption of Redevelopment Plan", this Plan will include any significant relationship of the Redevelopment Plan to (a) the Master Plans of contiguous municipalities, (b) the Master Plan of the county in which the municipality is located, and (c) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," P.L. 1985, c.398 (C.52.18A-196 et al).

In accordance with N.J.S.A. 40:12A-1 et seq., Chapter 79, Laws of New Jersey 1992, known as the "Local Redevelopment and Housing Law", the following statements are made:

- A. The Plan herein has delineated a definite relationship to local objectives as to the appropriate land uses, density of population and improved traffic and public transportation, public utilities, recreation and community facilities, and other public improvements using general regulations and the specific form based codes required in this Plan.
- B. The Plan has laid out various strategies needed to be implemented in order to carry out the objectives of the Plan.
- C. The Plan has set forth proposed thoroughfare layouts and standards, land uses and building requirements for the Redevelopment Plan.

Relationship to the Master Plan of the Town of Newton, Sussex County

The most recent Newton Master Plan Update was adopted by the Newton Planning Board in August 2008. This area is recognized in the Master Plan as a combination of T-5 and T-4 Zoning in the Transected Land Use Plan. The Master Plan also recognizes this Area as one in need of rehabilitation and development activities given the context of the Area and its surrounding environs, distinguished by an incompatible and obsolete mix of uses, and the designation of the Area and its environs as an Area in Need of Rehabilitation.

Based on the above and other reviews, the Plan is in compliance with the Newton Master Plan.

Consistency of the Redevelopment Plan with the New Jersey State Development and Redevelopment Plan

On March, 2001, the State Planning Commission ("SPC") adopted the new State Development and Redevelopment Plan ("SDRP"). The SDRP establishes a proposed statewide planning framework that is designed to maintain and revitalize existing cities and towns and organizing new growth in "Centers" – compact, mixed-use communities

that provide a variety of choices in housing, employment opportunities, entertainment, services, transportation and social interaction. The Town of Newton is divided into the Rural/Environmentally Sensitive Planning Area (PA4B) and Environmentally Sensitive Planning Area (PA5). However, the entirety of Newton is within the Regional Center boundary as designated by the SDRP. According to the State Plan, the intent of the PA4B and PA5 Planning Areas is to:

- Guide development and redevelopment into designated Centers;
- Provide for a full range of housing choices (primarily in Centers);
- Promote economic activities within Centers that complement and support rural communities;
- Minimize potential conflicts between development, agricultural practices and sensitive environmental resources.

The State Plan recommends adopting the principles of Smart Growth and maximizing sustainability. The Redevelopment Plan is consistent with the intent of the Metropolitan Planning Area as enunciated in the SDRP. The Redevelopment Plan will advance the SDRP's objectives for physical and economic redevelopment, environmental sensitivity and improved quality of life. Therefore, the Redevelopment Plan is consistent with the goals and objectives of the SDRP.

Relationship to Zoning Ordinance

In the 1996 Master Plan, most of the Area was within the C-4 General Commercial District, with four parcels in the R-2 Low and Medium Density District and two parcels in the R-3 Medium Density Residential District. According to the 2008 Master Plan the Area is currently a combination of T-4 (Neighborhood Services), T-5 (Town Core Support Area/ Neighborhood Cores), and SD-4 (Industrial-Manufacturing District).

Consistency of the Redevelopment Plan with Master Plans of Municipalities Adjacent to Newton

No conflict is determined to exist between this Redevelopment Plan and the Master Plans of Andover Township, Fredon Township or Hampton Township.

Project Plan

All redevelopers shall submit a Project Plan to the Planning Board identifying their specific project area within the overall Redevelopment Plan. The specific project submission for review and approval must identify bulk distribution, open spaces and parks, street improvements, building elevations, typical floor plans, and a program of uses. Utility location and capacity, detention, and landscape plans must also be presented. The Planning Board must be satisfied that the project meets the requirements and the goals and objectives of this Plan and the specific form based standards, providing for a satisfactory diversity of type, size and use, height of buildings, designated landscape features and other amenities and the projected timing of same.

40A:12A-15. Implementation of Redevelopment Plan

In accordance with the provisions of a Redevelopment Plan adopted pursuant to N.J.S.A. 40A:12A-7, a Municipality or Redevelopment Entity may proceed with clearance, re-planning, conservation, development, redevelopment and rehabilitation of an Area in Need of Rehabilitation. With respect to a project in an Area in Need of Rehabilitation, the Municipality or Redevelopment Entity, upon the adoption of a Redevelopment Plan for the Plan Area, may utilize any of the powers set forth in N.J.S.A. 40A:12A-1 et seq.

Redevelopment Agreement

No project shall be undertaken within the Area except pursuant to a Redevelopment Agreement approved by the Redevelopment Entity. The Agreements will be undertaken on a project by project basis. This requirement may be waived at the Redevelopment Entity's discretion for minor projects.

Development Review Process

Preliminary Design Review

All projects in the Area shall be submitted to the Town Planner for a preliminary design review prior to submission of an application to the Planning Board. Applicants may be required to attend a workshop meeting with the Town Planner or the Planning Board's designated Design Review Professionals. The meeting(s) will be used to determine if the proposed redevelopment project is consistent with the Redevelopment Plan and conforms to the core design concepts, building requirements, and architectural design guidelines of the Redevelopment Plan and to provide an opportunity for comment and recommendations on the proposed project by the Redevelopment Entity and its professionals. Preliminary design review shall focus on how the proposed project relates to and coordinates other elements and phases of the Redevelopment Plan and how the open spaces, building uses and typologies

are integrated with and contribute to the quality and function of the layout and design as presented in the Redevelopment Plan. Prior to the approval of all or a portion of the redevelopment project by the Planning Board, the Town Planner and any other Design Review Professionals designated by the Planning Board shall provide recommendations to the Planning Board regarding the extent to which the proposed project is consistent with the Redevelopment Plan and adequately addresses the design guidelines contained in the Plan.

Planning Board Review

Pursuant to N.J.S.A. 40A:12A-13, all development applications for development of sites governed by the Redevelopment Plan shall be submitted to the Planning Board of Newton for review and approval. The following provisions shall govern review of any proposed redevelopment and rehabilitation projects for these sites:

1. Prior to the commencement of: (a) any new construction; (b) reconstruction; (c) rehabilitation; or (d) any change in the use of any structure or parcel, a site plan for such shall be submitted to the Planning Board for review and site plan approval. No temporary or permanent Building Permit shall be issued for any work associated with (a) through (d), above, without site plan review and approval of such work by the Planning Board.
2. The Planning Board shall conduct site plan and subdivision review, if applicable, pursuant to N.J.S.A. 40:55D-1 et seq., the Town's Land Development Ordinance, and this Redevelopment Plan.
3. As part of the site plan approval, the Planning Board may require the redeveloper to furnish performance guarantees for on-tract street improvements and appurtenant utility improvements pursuant to N.J.S.A. 40:55D-53. The performance guarantees shall be in favor of the Town of Newton and the Town Engineer shall determine the amount of any performance guarantees.
4. Any subdivision of lots or parcels of land within the Redevelopment Plan shall be in compliance with the Redevelopment Plan and reviewed by the Planning Board pursuant to the Local Redevelopment and Housing Law (LRHL) and N.J.S.A. 40:55D-1 et seq.

5. Once a property has been redeveloped in accordance with the Redevelopment Plan, it may not be converted to any use not expressly permitted in this Redevelopment Plan. A use or structure not conforming to the requirements of this Redevelopment Plan may not be reconstructed in the event of its destruction. The Planning Board shall determine the issue of whether the non-conforming use or building structure has been "destroyed."
6. No variances, deviations, or waivers may be granted by the Planning Board which will result in permitting a use prohibited or not expressly permitted within this Redevelopment Plan.
7. The regulations and controls of this Redevelopment Plan shall be implemented, where applicable, by appropriate covenants, or other provisions, or through agreements for land disposition and conveyance between the redeveloper and municipality pursuant to Local Redevelopment and Housing Law.
8. Any and all definitions contained within the Redevelopment Plans shall prevail. In the absence of a definition, the definition found within the Town's Land Development Ordinance shall prevail. Any and all definitions inconsistent with N.J.S.A. 40A:12-3 shall be invalid, and the statutory definitions shall control.
9. A redeveloper shall be required to pay all applicable escrow fees and other required charges in accordance with applicable provisions of the Town's Land Development Ordinance and New Jersey law. Additionally, a redeveloper shall be required to pay for their proportional share of the cost of any studies, plans, reports, or analysis prepared by the Town or its design professionals as part of the Redevelopment Plan review. Any such payments are required to reimburse the Town or the Redevelopment Entity.
10. The cost of infrastructure improvements generated by the project, including any related off-tract improvements, shall be borne by the project, either through a direct payment from the redeveloper, or through payments in lieu of tax generated by the project.

All Site Plans will be provided by the developer to the Sussex County Planning Board for their information. Pursuant to N.J.S.A. 40:27-6.2, any subdivision application relating to this Redevelopment Plan shall be provided by the developer to the Sussex County Planning Board for its review and comment.

Schedule for Performance

Any site plan executed for purposes of implementing this Redevelopment Plan shall contain a schedule for performance for the construction of the improvements. In addition to a schedule for commencement of improvements, such Plans shall include a schedule that indicates the approximate time period for property acquisition, development approvals, construction permits, relocation, etc. required prior to construction as well as a projected date for project completion. The Plan shall also set forth the interim uses for the property and the duration of the period during which such interim uses will be in place.

Duration of the Plan

The provisions of this Plan specifying the redevelopment of the project Area and the requirements and restriction with respect thereto shall be in effect for a period of twenty (20) years from the date of approval of this Plan by Town Council of the Town of Newton or until such a time that a Certificate of Completion is issued, as described below.

Phasing

The Planning Board shall have the discretion to require a suitable mechanism to insure a balanced development of planned open space, commercial services and infrastructure to service the Area.

A. Phasing Plan:

Any applicant(s) seeking to develop within this Area shall be required to provide a Phasing Plan for review and approval by the Newton Planning Board, which shall establish the parameters under which public improvements which are the subject of the application for site plan approval shall be constructed in conjunction with each phase of development. "Public Improvement" includes, but is not necessarily limited to, any and all of the following: 1) the mandatory improvements identified in Landscape Plan; and 2) the mandatory improvements identified in the Mobility Plan. The Plan shall set a schedule for completion of Public Improvements within the property owned or controlled by the applicant in which the percentage of completion of public improvements is approximately equal to or greater than the percentage of completion of all other development on property owned or controlled by the applicant.

B. Additional Requirements:

The Public open space improvements shall be constructed contemporaneously with any development of the surrounding blocks.

Certificates of Completion and Compliance

Upon the inspection and verification by the Redevelopment Entity that the redevelopment of a parcel has been completed, a Certificate of Completion and Compliance shall be issued to the Redeveloper as such parcel shall be deemed no longer in need of redevelopment. At the discretion of the Redevelopment Entity, the Redeveloper may submit a final Certificate of Occupancy for approval by the Redevelopment Entity to serve as the Certificate of Completion.

The Redevelopment Plan, as it may be amended from time to time, shall be in full force and effect upon its adoption by ordinance by the Town Council of the Town of Newton. The Redeveloper Agreement may include provisions for a Certificate of Project Completion in accordance with the Redevelopment Plan.

Non-Discrimination Provision

No covenant, lease, conveyance or other instrument shall be effected or executed by the Town Council of the Town of Newton or by a developer or any of its successors or assigns, whereby land within the Area is restricted by the Town Council of the Town of Newton, or the developer, upon the basis of race, creed, color, or national origin in the sale, lease, use or occupancy thereof. There shall be no restrictions of occupancy or use if any part of the Redevelopment Area on the basis of race, creed, color or national origin.

Affordable Housing

The site must meet all current New Jersey Council on Affordable Housing (COAH) standards as are related to this Area at the time of Site Plan application.

Pursuant to Section 4 of P.L.1985, c.222 (C.52:27D-304), all redevelopment plans must include an inventory of all housing units affordable to low and moderate income households present within the Area that are to be removed as a result of implementation of the redevelopment plan, whether as a result of subsidies or market conditions, listed by affordability level, number of bedrooms, and tenure.

In addition, a plan must be prepared for the provision, through new construction or substantial rehabilitation of one comparable, affordable replacement housing unit for each affordable housing unit if present in the Area, that has been occupied at any time within the last 18 months, that is subject to affordability controls and that is identified as to be removed as a result of implementation of the redevelopment plan. Any displaced residents of existing housing units within the Area, provided under any State or federal housing subsidy program, or pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), provided they are deemed to be eligible, shall have first priority for those replacement units provided under the plan; provided that any such replacement unit shall not be credited against a prospective municipal obligation under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), if the housing unit which is removed had previously been credited toward satisfying the municipal fair share obligation.

The Merriam Gateway Redevelopment Area contains

two sites that are designated for affordable housing. The Merriam Gateway apartments include 6 existing units that are deed restricted and were counted in the Town's Round 2 certification. These units will remain affordable after redevelopment of the area pursuant to this Plan. The redevelopment area also contains a proposed inclusionary zone, including Block 130, Lots 1, 1.01, 1.02, 10, 11, 12, 13 and 14, to address the Town's third round obligation for COAH. The required set-aside for affordable housing in the inclusionary zone is 20% of the gross density for residential on the site. At the currently anticipated build out of 48 units in the inclusionary zone (the site is approximately 2 acres and is currently proposed for 24 units per acre), approximately 9 affordable units would result. These units are expected to be rental units.

If applicable, to the extent reasonably feasible, replacement housing of any existing housing shall be provided within or in close proximity to the Area. The municipality shall report annually to the Department of Community Affairs on its progress in implementing the plan for provision of comparable, affordable replacement housing required pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).

There are no residential units that will be displaced in connection with the implementation of this Redevelopment Plan.

Environmental Standards

The site must meet all current New Jersey Department of Environmental Protection standards as are related to this Area at the time of site plan application.

Project Signs and Advertising

In order to facilitate the overall redevelopment of the Area, and to encourage further investment in the surrounding area and the Town of Newton in general, all advertising, signage, renderings and other promotion of the development and redevelopment of the Area shall contain references to the proposed project's location in Newton, so as to promote the positive aspects of the project, the Redevelopment Plan and the Town of Newton.



SECTION 9.0

Acknowledgements

Newton Mayor:

Kristen Becker Mayor

Town Council:

Helen Le Frois Deputy Mayor

E. Kevin Elvidge Councilman

Joseph Ricciardo Councilman

Sandra Diglio Councilwoman

Newton Planning Board:

Marge Lake McCabe Chairperson

Newton Professional Staff:

Thomas S. Russo, Jr. Town Manager

Debra Lockwood Millikin Deputy Town Manager/
Community Development Director

Jessica C. Caldwell P.P., A.I.C.P., Planner

Cory L. Stoner P.E., C.M.E., Engineer

Redevelopment Planner/Designer:

RES*Design*, L.L.C.

Ross Sheasley, MCRP, P.P. Principal

Kelley Sander, A.I.C.P. Former ANA Colleague

Liz Naskret, A.I.C.P. Former ANA Colleague

Andrew Svekla Former ANA Colleague

Redevelopment Counsel:

McManimon & Scotland, L.L.C.

Glenn F. Scotland, Esq.

Andrea L. Kahn, Esq.

Jennifer L. Credidio, Esq.



TOWN OF NEWTON

RESOLUTION #174-2010

September 27, 2010

"Approve Bills and Vouchers for Payment"

BE IT RESOLVED by the Town Council of the Town of Newton that payment is hereby approved for all vouchers that have been properly authenticated and presented for payment, representing expenditures for which appropriations were duly made in the 2009 and 2010 Budgets adopted by this local Governing Body, including any emergency appropriations, and where unexpended balances exist in said appropriation accounts for the payment of such vouchers.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, September 27, 2010.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #175-2010

September 27, 2010

"A Resolution Providing for a Meeting Not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12"

WHEREAS, the Town Council of the Town of Newton is subject to certain requirements of the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq.; and

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-12, provides that an Executive Session, not open to the public, may be held for certain specific purposes when authorized by Resolution; and

WHEREAS, it is necessary for the Town Council of the Town of Newton to discuss in a session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12b and designated below:

(1) Personnel

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Newton, assembled in public session on September 27, 2010, that an Executive Session closed to the public shall be held on September 27, 2010, at _____ PM in the Town of Newton Municipal Building, 39 Trinity Street, Newton, NJ, for the discussion of matters relating to the specific item designated above.

It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Town Council that the public interest will no longer be served by such confidentiality.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a public meeting of said Governing Body conducted on September 27, 2010.

Lorraine A. Read, RMC
Municipal Clerk