



**AGENDA
NEWTON TOWN COUNCIL**

AUGUST 8, 2011

8:00 P.M.

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL

III. OPEN PUBLIC MEETINGS ACT STATEMENT

IV. APPROVAL OF MINUTES - NONE

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. PROCLAMATION

- a. SENIOR CITIZEN OF THE YEAR – JACK PHLEGAR

VII. COUNCIL & MANAGER REPORTS

- a. SPRING STREET PROMOTIONS

VIII. ORDINANCES

- a. 2ND READING AND PUBLIC HEARING

ORDINANCE 2011-15

AN ORDINANCE AUTHORIZING THE TOWN OF NEWTON TO IMPLEMENT THE FIVE-YEAR EXEMPTION AND ABATEMENT LAW, GRANTING TAX EXEMPTIONS FOR CERTAIN IMPROVEMENTS TO AND CONSTRUCTION OF RESIDENTIAL DWELLINGS, CERTAIN IMPROVEMENTS TO INDUSTRIAL STRUCTURES AND CERTAIN IMPROVEMENTS TO COMMERCIAL STRUCTURES, ALL WITHIN THE DOWNTOWN HISTORIC DISTRICT, AND SUPERSEDING ANY OTHER ORDINANCE GRANTING SUCH EXEMPTIONS

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

b. INTRODUCTION

ORDINANCE 2011-14

AN ORDINANCE REPEALING AND REPLACING CHAPTER 14 FLOOD DAMAGE PREVENTION ORDINANCE OF THE TOWN OF NEWTON REVISED GENERAL ORDINANCES WITH AN UPDATED FLOOD DAMAGE ORDINANCE

ORDINANCE 2011-16

AN ORDINANCE ESTABLISHING THAT A BUSINESS ENTITY WHICH MAKES POLITICAL CONTRIBUTIONS TO MUNICIPAL CANDIDATES AND MUNICIPAL AND COUNTY POLITICAL PARTIES IN EXCESS OF CERTAIN THRESHOLDS SHALL BE LIMITED IN ITS ABILITY TO RECEIVE PUBLIC CONTRACTS FROM THE TOWN OF NEWTON IN THE COUNTY OF SUSSEX

ORDINANCE 2011-17

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

ORDINANCE 2011-18

PATERSON AVE PLAN AMENDMENT

IX. OLD BUSINESS

X. 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 #170-2011* PAVING FORMER LOT 9 (NOW A PORTION OF LOT 8) IN BLOCK 713 ON THE TOWN OF NEWTON TAX MAP
- b.** RESOLUTION #171-2011* AUTHORIZE EXTENSION FOR PAYMENT OF REAL ESTATE TAXES
- c.** RESOLUTION #172-2011* AFFIRM THE ISSUANCE OF A BOND ANTICIPATION NOTE
- d.** RESOLUTION #173-2011* AUTHORIZE REFUND OF REDEMPTION MONIES TO OUTSIDE LIEN HOLDER FOR BLOCK 1309, LOT 33
- e.** RESOLUTION #174-2011* AWARD BID FOR PROPOSED SIDEWALK REPLACEMENT ON VARIOUS STREETS PROJECT
- f.** RESOLUTION #175-2011* APPROVE BILLS AND VOUCHERS FOR PAYMENT

g. RESOLUTION #176-2011*

REQUESTING CORRECTION OF THE HAZARDOUS DRAINAGE PROBLEM ON ROUTE 206 AT THE MERRIAM AVENUE INTERSECTION BY THE NEW JERSEY DEPARTMENT OF TRANSPORTATION (NJDOT)

XI. INTERMISSION

XII. DISCUSSION

XIII. OPEN TO THE PUBLIC

XIV. COUNCIL & MANAGER COMMENTS

XV. ADJOURNMENT

Office of the Mayor

Newton, New Jersey

Proclamation

Jack Phlegar

WHEREAS, Jack Phlegar, born in January 1929, moved to the Town of Newton at the age of three with his parents John T. and Dorothy Elizabeth; and

WHEREAS, after attending the Newton school system, Jack joined the Navy where he proudly served his country for 8 years; and

WHEREAS, at the age of 21, Jack married his childhood sweetheart Joyce at the Newton Presbyterian Church on High Street where he continues to be an ongoing member, serving on both the Board of Trustees and two terms as a Deacon; and

WHEREAS, through the years, Jack held several positions, from work with Sussex Printers and Dyers to his years at Picatinny Arsenal; and

WHEREAS, Jack takes pride in being a father to his five children, as well as being a grandfather and great-grandfather to their children; and

WHEREAS, Jack's commitment to community service was further proven when he joined the Newton Fire Department in 1958 and continues to serve as a life member. He currently donates his time every Thursday, Friday and Saturday to the Newton Fire Museum giving tours and brief history lessons on the Town and Department he is so proud to serve; and

WHEREAS, over the years, Jack has unselfishly dedicated his life to helping his community, from volunteering at the Newton Presbyterian Church, serving in the Newton Volunteer Fire Department to being a member of the Prime Time Seniors, he continues to set an example to all those who know and love him;

NOW, THEREFORE, We, the Mayor and Town Council of the Town of Newton hereby proclaim our appreciation and gratitude to Jack Phlegar for exemplifying the vital role that senior citizens play within their community. In recognition of his volunteer efforts, we commend Jack for his spirit and dedication to our Town and hereby name Jack Phlegar:

2011 "Newton Senior Citizen of the Year"

*In witness whereof I have hereunto set my
Hand and caused this seal to be affixed.*

Attest: _____

Date: _____ August 8, 2011

**TOWN OF NEWTON
ORDINANCE 2011-15**

AN ORDINANCE AUTHORIZING THE TOWN OF NEWTON TO IMPLEMENT THE FIVE-YEAR EXEMPTION AND ABATEMENT LAW, GRANTING TAX EXEMPTIONS FOR CERTAIN IMPROVEMENTS TO AND CONSTRUCTION OF RESIDENTIAL DWELLINGS, CERTAIN IMPROVEMENTS TO MULTIPLE DWELLINGS, CERTAIN IMPROVEMENTS TO INDUSTRIAL STRUCTURES AND CERTAIN IMPROVEMENTS TO COMMERCIAL STRUCTURES, ALL WITHIN THE DOWNTOWN HISTORIC DISTRICT, AND SUPERSEDING ANY OTHER ORDINANCE GRANTING SUCH EXEMPTIONS

WHEREAS, the Five-Year Exemption and Abatement Law, *N.J.S.A. 40A:21-1 et seq.* (the “Act”) enables municipalities which contain an area that has been designated as an area in need of rehabilitation pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “Redevelopment Law”) to provide for the short term exemption or abatement of local property taxes imposed upon eligible dwellings, commercial and industrial structures within such rehabilitation area; 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 Redevelopment Law (the “Rehabilitation Area”); and

WHEREAS, Section 20A-1 *et seq.* of the Newton Municipal Code (the “Historic Preservation Ordinance”) provides that the Town may create one or more historic districts; and

WHEREAS, the Historic Preservation Ordinance further provides that proposed construction, improvements, relocation or renovation of properties lying within such historic districts may be subject to review by the Newton Historic Preservation Advisory Commission under certain circumstances, in addition to review by the Town Planning Board, where appropriate; and

WHEREAS, at this time, the Town has designated one historic district within its boundaries (as set forth at Exhibit A, attached hereto, as may be thereafter amended or supplemented, the “Downtown Historic District”); and

WHEREAS, the Downtown Historic District is wholly within the Rehabilitation Area; and

WHEREAS, the Town believes that the historic preservation of the properties within the Downtown Historic District is of great importance to the Town as a whole; and

WHEREAS, the Town acknowledges that improvements to or construction of properties within the Downtown Historic District to historic standards may be more costly than such improvements or construction would be otherwise; and

WHEREAS, the Town wishes to encourage investment in the Downtown Historic District by alleviating a portion of the costs of such improvements or construction in certain circumstances,

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

Section 1. General. The recitals set forth above are incorporated herein as if set forth at length.

Section 2. Definitions. All terms utilized in this ordinance not specifically defined herein shall conform to the meanings set forth in the Act. For ease of reference, the definitions set forth in the Act as of the date of the adoption of this Ordinance are attached hereto as Exhibit B. However, if the definitions set forth in the Act shall be subsequently amended, then the Act, and not Exhibit B, shall control.

Section 3. Statement of Purpose. The Town hereby determines to utilize the authority granted under Article VIII, Section I, paragraph 6 of the New Jersey Constitution to establish the eligibility of certain dwellings, commercial structures and industrial structures for exemptions, as provided in this ordinance and as permitted by the Act, throughout the Downtown Historic District.

Section 4. Exemptions Authorized to be Implemented by Tax Assessor. The Town hereby determines to provide for the exemption from taxation of certain improvements and certain new construction occurring within the Downtown Historic District. To the extent that a property owner shall apply to the Tax Assessor within the time period prescribed by the New Jersey Department of Treasury in accordance with the Act, which currently requires submission within thirty (30) calendar days following completion of the improvements or construction for which the exemption is sought, and shall provide documentation to the Tax Assessor, in a form and manner acceptable to the Tax Assessor and consistent with the Act, of compliance with this section, such property owner shall be entitled to the relevant exemption enumerated herein without any need for action by the Town Council.

(a) Residential – Improvements. The Town hereby determines to provide for the exemption from taxation of certain improvements made to dwellings, on the following terms and conditions:

1. The term “dwelling”, for purposes of this Section 4(a), shall include condominium residential units but not cooperative type residential properties.
2. The term “dwelling”, for purposes of this Section 4(a), shall not include “multiple dwellings”, as defined by the Act.
3. Only dwellings that are more than twenty (20) years old shall be eligible for exemption.
4. The term “improvements”, for purposes of this subsection, shall mean a modernization, rehabilitation, renovation, alteration or repair which produces a physical change in an existing building or structure that improves the safety, sanitation, decency or attractiveness of the structure as a place for human habitation, and which does not change its permitted use.

5. To the extent that a dwelling shall comply with the requirements set forth at subsections (1) through (5), above, in determining the value of real property for each dwelling unit, the Town shall regard the first \$15,000 in the assessor's full and true value of improvements for each dwelling unit primarily and directly affected by the improvements as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements are made is increased thereby. During the exemption period, the assessment on any property pursuant to this paragraph shall not be less than the assessment thereon existing immediately prior to the improvements, except if there is damage to the dwelling through action of the elements sufficient to warrant a reduction.

(b) Residential – New Construction. The Town hereby determines to provide for an exemption of 30% of the assessor's full and true value for a period of five years following construction of new dwellings. The term “dwelling”, for purposes of this Section 4(b), shall include condominium residential units but not cooperative type residential units, and shall not include multiple dwellings. This exemption is to be granted notwithstanding that the value of the property upon which the construction occurs is increased thereby.

(c) Residential – Multiple Dwellings – Improvements. (1) The Town hereby determines to provide for an exemption of 100% of the assessor's full and true value for a period of five years following the construction of improvements to multiple dwellings. The term “multiple dwelling” shall have that meaning ascribed to it by the Act. The definition of “multiple dwelling” set forth in the Act as of the date of adoption of this ordinance is set forth at Exhibit B, attached hereto.

(2) This exemption is to be granted notwithstanding that the value of the property upon which the construction occurs is increased thereby. During the exemption period, the assessment on any property pursuant to this Section 4(c) shall not be less than the assessment thereon existing immediately prior to the improvements, except if there is damage to the multiple dwelling through action of the elements sufficient to warrant a reduction.

(d) Commercial – Improvements. The Town hereby determines to provide for the exemption from taxation of certain improvements made to commercial structures, on the following terms and conditions:

1. For purposes of this ordinance, the term commercial structure relates to office, retail and like uses, but does not include multiple dwellings.
2. For purposes of this ordinance, the term commercial structure shall include a structure which contains both residential units and some other commercial use (for example, retail), provided that the structure is not part of a condominium or cooperative regime and further provided that the structure does not qualify as a multiple dwelling under the Act.
3. To the extent that improvements to a commercial structure shall comply with the requirements set forth at subsections (1) and (2), above, the Town hereby determines to provide for an exemption of 100% of the assessor's full and true value for a period of five years following the construction of the improvements. This exemption is to be granted notwithstanding that the value of the property upon which the construction of the improvement occurs is increased thereby.

(e) Industrial – Improvements. The Town hereby determines to provide for the exemption from taxation of certain improvements made to industrial structures, on the following terms and conditions:

1. Improvements must be made to both the interior and exterior of a structure in order to qualify for exemption under this section.
2. Only improvements with a cost of less than \$1,000,000 shall be eligible for exemption under this section.
3. No less than twenty-five percent of the improvement cost shall be attributable to the exterior improvements.
4. To the extent that improvements to an industrial structure shall comply with the requirements set forth at subsections (1) through (3), above, the Town hereby determines to provide for an exemption of 100% of the assessor's full and true value for a period of five years following the construction of the improvements. This exemption is to be granted notwithstanding that the value of the property upon which the construction of the improvement occurs is increased thereby.
5. To the extent that improvements to a commercial structure do not comply with one or more of subsections (1) through (3), above, a property owner is not eligible for exemption under this section but may apply to the Town for consideration of the proposed exemption in accordance with Section 5 hereof.

Section 5. Exemptions Requiring Application to the Town Council. (a) Exemptions for Which Application is Required. The Town hereby determines that any property owner seeking exemption from taxation with respect to industrial improvements which do not meet the requirements of Section 4(e)(1) through Section 4(e)(3), respectively, shall make application to the Town Council in accordance with this section, within the time period prescribed by the New Jersey Department of Treasury in accordance with the Act, which currently requires submission within thirty (30) calendar days following completion of the improvements or construction for which the exemption is sought. However, nothing in this ordinance shall prohibit a property owner who has made more than \$1,000,000 in industrial improvements which otherwise comply with the applicable requirements of Section 4 from foregoing exemption of the improvements in excess of \$1,000,000 and seeking instead an as of right exemption from the Assessor to the limits permitted by Section 4, above.

(b) Contents of Application. Applicants for an exemption under this section shall provide the Town Council and the Assessor with the following information:

- 1.A general description of the project for which exemption is sought, and an estimated schedule of completion for the project;
- 2.A legal description of all real estate necessary for the project;
- 3.Plans, drawings and other documents as may be required by the Town Council to demonstrate the structure and design of the project;
- 4.A description of the number, classes and type of employees to be employed at the project site within two years of completion of the project;

5. A statement of the reasons for seeking an exemption on the project, and a description of the benefits to be realized by the Town and the property owner if an exemption is granted;
6. Estimates of the cost of completing the project;
7. A statement showing (i) the real property taxes currently being assessed at the project site; (ii) estimated tax payments that would be made annually by the property owner with respect to the project during the period of the exemption, and (iii) estimated tax payments that would be made by the property owner with respect to the project during the first full year following the termination of the exemption;
8. A description of any lease agreements between the property owners and proposed users of the project, and a history and description of the users' businesses;
9. A certification by the property owner listing (i) all properties within the Town owned by the property owner or in which the property owner has an interest and (ii) all agreements with the Town to which the property owner is a party; and
10. Such other pertinent information as the Town may require.

(c) Review and Recommendation by Assessor. Within thirty (30) days of receipt of the information set forth at Section 5(b), above, the Assessor shall review the information provided and shall provide written recommendations to the Town Council with respect to same.

(d) Action by Town Council. Within sixty (60) days of receipt of the Assessor's recommendations, the Town Council shall consider the application for exemption, and shall by resolution either: disapprove the exemption; or approve an exemption of 100% of the value of the improvements for a five year period following the completion of construction.

Section 6. Additional Exemptions When Property Already Subject to Exemption. The Town hereby determines that an additional improvement or construction completed on a property already granted a previous exemption pursuant to this ordinance during the period in which the previous exemption is in effect, shall be eligible to qualify for an additional exemption under the standards identified in this ordinance. The additional improvement or construction shall be considered as separate for purposes of calculating the exemption, except that the assessed value of any previous improvement or construction shall be added to the assessed valuation as it was prior to that improvement or construction for the purpose of determining the assessed value of the property for which any additional exemption is to be subtracted.

Section 7. Tax Delinquency. No exemption shall be granted pursuant to this ordinance with respect to any property for which real estate taxes or other municipal charges are delinquent or remain unpaid, or for which penalties and interest for non-payment of taxes are due.

Section 8. Revaluation During Exemption Period. In the event that the Town implements a revaluation or reassessment during the exemption period for any property, any exemptions granted hereunder shall continue to apply but at a valuation level consistent with the revaluation or reassessment.

Section 9. Revision of Base Assessment During Exemption Period. The granting of an exemption for a particular property shall not prejudice the right of the Town to appropriately examine and revise the assessment during the five-year exemption period in the event the base assessment is found to be improperly valued and assessed.

Section 10. Effective Date; Sunset Provision. Upon final passage and publication as provided by law, this ordinance shall take effect on October 1, 2011 and shall authorize the Town to grant exemptions up to a 5-year period. This ordinance shall lapse, unless readopted, on September 30, 2016, and no exemptions shall be granted after September 30, 2016 without such re adoption.

Section 11. Prior Actions Superseded. Any and all previous ordinances adopted by the Town relating to the Act are hereby superseded by this ordinance.

NOTICE

TAKE NOTICE that the above-entitled Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton on July 25, 2011 and said Ordinance was adopted, after public hearing and final reading thereon, 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 August 8, 2011.

Lorraine A. Read, RMC
Municipal Clerk

EXHIBIT A
DOWNTOWN HISTORIC DISTRICT

Town of Newton

Historic District

<u>Address</u>	<u>Block</u>	<u>Lot</u>	<u>Address</u>	<u>Block</u>	<u>Lot</u>
99 High St	402	1	131 Main St	611	1
95 High St	402	2			
91 High St	402	3	22 Liberty St	701	13
89 High St	402	4	26 Liberty St	701	14
85-87 High St	402	5	32 Liberty St	701	15
83 High St	402	6	36 Liberty St	701	16
81 High St	402	7	38 Liberty	701	17
79 High St	402	8	94 High St	701	18
77 High St	402	9	96 High St	701	19
75 High St	402	10	98-100 High St	701	20
73 High St	402	11	102 High St	701	21
2 Academy St	402	11.01			
71 High St	402	12	116 Main St	702	10
69 High St	402	13	110 Main St	702	11
2 Academy St	402	14	110 Main St	702	12
4 Academy St	402	15	110 Main St	702	13.01
8 Academy St	402	16	6 Liberty St	702	14
14 Academy St	402	16.01	8 Liberty St	702	15
10 Academy St	402	17	14 Liberty	702	16
18 Academy St	402	18			
			132 Main St	703	1
3 Academy St	403	1	124 Main St	703	2
67 High St	403	1.01	128 Main St	703	2.01
5 Academy St	403	1.02	3 Dunn Pl	703	4
63 High St	403	2			
59 High St	403	3	125 Main St	704	1
53 High St	403	4	121 Main St	704	2
53 High St.	403	3.01	117 Main St	704	3
51 High St	403	5	115 Main St	704	4
49 High St	403	6	113 Main St	704	5
53 High St.	403	7	105 Main St	704	6
53 High St.	403	8			
35 High St	403	9	35 Liberty St	706	1
53 High St.	403	10	33 Liberty St	706	1.01
53 High St.	403	11	31 Liberty St	706	3
17 High St	403	12	29 Liberty St	706	4
11 High St	403	13	25 Liberty St	706	5
9 High St	403	14	21-23 Liberty St	706	6
7 High St	403	15	17-19 Liberty St	706	7
15 High St	403	16	3 Linwood Annex	706	8
			8 Division St	706	9

Town of Newton

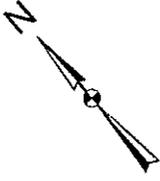
Historic District

<u>Address</u>	<u>Block</u>	<u>Lot</u>	<u>Address</u>	<u>Block</u>	<u>Lot</u>
12 Division St	706	10	91 Main St	711	1
18 Division St	706	11	89 Main St	711	2
20 Division St.	706	12	85-87 Main St	711	3
74 High St	706	13	83 Main St	711	4
76-78 High St	706	14	81 Main St	711	5
80 High St	706	15	79 Main St	711	6
82 High St	706	16	75 Main St	711	7
			63 Main St	711	8
15 Liberty St	707	1	59 Main St	711	9
4 Linwood Annex	707	1.01	41-47 Main St	711	10
9 Liberty St	707	2			
7 Liberty St	707	3	39 Main St	711	12
100 Main St (6 Units)	707	4	21 Main St	711	13
100B Main St.	707	4.02	9-11 Main St	711	15
100 Main St.	707	5	7 Main St	711	16
94 Main St	707	6	3 Main St	711	17
6 Division	707	7	1 Main St	711	18
			108-110 Spring St	711	19
28 Church St	708	13	116 Spring St	711	21
64 High St	708	14	124 Spring St	711	22
66 High St	708	15	112 Spring St	711	23
68 High St	708	16	112-120 Spring St	711	23.01
70 High St	708	17	132 Spring St	711	26
			1 Adam St	711	26.01
5 Division St	709	1	144 Spring St	711	27
92 Main St	709	2	1 Adam St.	711	27.01
90 Main St	709	3	150 Spring St	711	28
86 Main St	709	4	156-160 Spring St	711	29
82 Main St	709	5	1 Adams	711	29.01
4-6 Church St	709	6	166-168 Spring St	711	30
8-10 Church St.	709	7	170 Spring St	711	31
12 Church St	709	8	1 Adams St	711	31.01
14-16 Church St	709	9	3 Adams St	711	32
			11 Adams St	711	33
101 Main St	710	1	13 Adams St	711	34
Elm Street	710	1.01	Main St	711	43
	710	1.02			
93 Main St	710	19	Main St	711	44
97 Main St	710	20			

Town of Newton

Historic District

<u>Address</u>	<u>Block</u>	<u>Lot</u>	<u>Address</u>	<u>Block</u>	<u>Lot</u>
234 Spring St	713	8	127-129 Spring St	717	2
Lot by Theatre	713	9	131 Spring St	717	3
218 Spring St	713	10	141-143 Spring St	717	4
220 Spring St	713	10.01	137 Spring St	717	4.01
216 Spring St	713	11	149-153 Spring St	717	5
214 Spring St	713	12	155-157 Spring St	717	6
			163-165 Spring St	717	6.01
4 Adams St	714	8	169 Spring St	717	7
180 Spring St	714	9	173 Spring St	717	8
188 Spring St	714	10	179 Spring St	717	9
196 Spring St	714	10.01	181-183 Spring St	717	10
200 Spring St	714	11	185 Spring St	717	11
			123 Spring St	717	33
54 High St	715	1			
19 Church Street	715	3	189-191 Spring St	717.01	12
66 Main St	715	4	201 Spring St	717.01	13
62 Main St	715	5	211-213 Spring St	717.01	14
Main St	715	6	219 Spring St	717.01	15
40 Park Place	715	7	221 Spring St	717.01	16
30 Park Place	715	8	223 Spring St	717.01	17
4 Park Place	715	10			
High St	715	11	4 High/Spring St	721	1
46 High St	715	12			
1 Legal Ln	716	9			
56-61 Spring St	716	10			
65-67 Spring St	716	12			
56-61 Spring St	716	12.01			
71-75 Spring St	716	14			
71-75 Spring St	716	15			
83 Spring St	716	16.01			
93-95 Spring St	716	17			
103 Spring St	716	17.01			
111 Spring St	716	19			
115 Spring St	716	20			
111 Spring St	716	21			
9 Moran Street	716	22			
93-95 Spring St.	716	39			

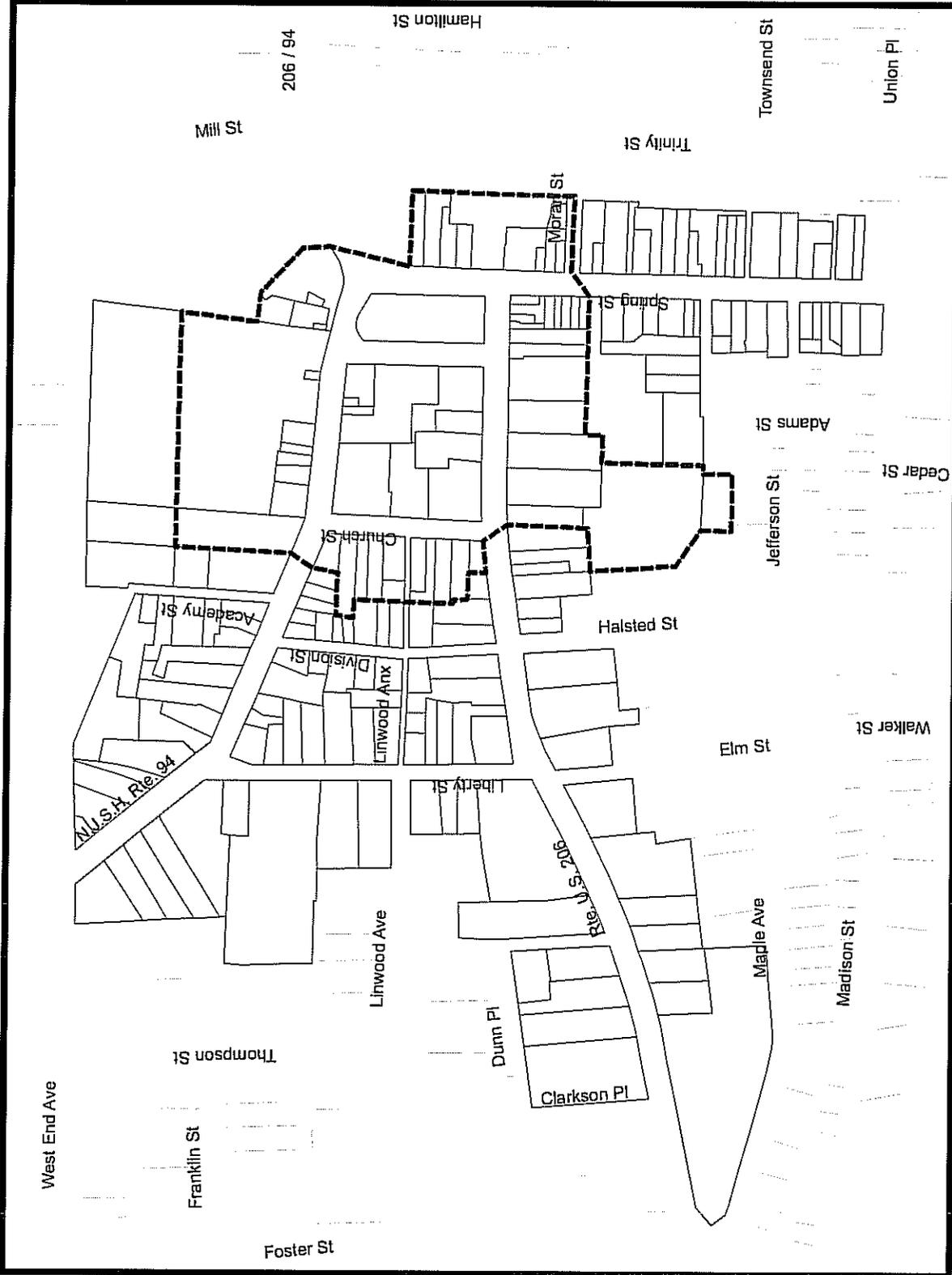


Legend



(NJ & National Register)

Existing Local Historic District



HISTORIC DISTRICT
Town of Newton
Sussex County - New Jersey



Harold E. Pellow & Associates, Inc.
Consulting Engineers, Planners & Land Surveyors
C.O.A. #24042795500
Augusta, N.J.

"This map was developed using Sussex County Geographic Information System (SCGIS) digital data, but this secondary product has not been verified by SCGIS and is not county-subsanated."

"This map was developed 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-subsanated."

EXHIBIT B

DEFINITIONS SET FORTH IN THE ACT AS OF THE DATE OF ADOPTION

N.J.S.A. 40A:21-3. Definitions

As used in this act: [FN1]

- a. "Abatement" means that portion of the assessed value of a property as it existed prior to construction, improvement or conversion of a building or structure thereon, which is exempted from taxation pursuant to this act.
- b. "Area in need of rehabilitation" means a portion or all of a municipality which has been determined to be an area in need of rehabilitation or redevelopment pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c. 79 (C.40A:12A-1 et al.), a "blighted area" as determined pursuant to the "Blighted Areas Act," P.L.1949, c. 187 (C.40:55-21.1 et seq.), or which has been determined to be in need of rehabilitation pursuant to P.L.1975, c. 104 (C.54:4-3.72 et seq.), P.L.1977, c. 12 (C.54:4-3.95 et seq.), or P.L.1979, c. 233 (C.54:4-3.121 et al.).
- c. "Assessor" means the officer of a taxing district charged with the duty of assessing real property for the purpose of general taxation.
- d. "Commercial or industrial structure" means a structure or part thereof used for the manufacturing, processing or assembling of material or manufactured products, or for research, office, industrial, commercial, retail, recreational, hotel or motel facilities, or warehousing purposes, or for any combination thereof, which the governing body determines will tend to maintain or provide gainful employment within the municipality, assist in the economic development of the municipality, maintain or increase the tax base of the municipality and maintain or diversify and expand commerce within the municipality. It shall not include any structure or part thereof used or to be used by any business relocated from another qualifying municipality unless: the total square footage of the floor area of the structure or part thereof used or to be used by the business at the new site together with the total square footage of the land used or to be used by the business at the new site exceeds the total square footage of that utilized by the business at its current site of operations by at least 10%; and the property that the business is relocating to has been the subject of a remedial action plan costing in excess of \$250,000 performed pursuant to an administrative consent order entered into pursuant to authority vested in the Commissioner of Environmental Protection under P.L.1970, c.33 (C.13:1D-1 et al.), the "Water Pollution Control Act," P.L. 1977, c. 74 (C.58:10A-1 et seq.), the "Solid Waste Management Act," P.L.1970, c. 39 (C.13:1E-1 et seq.), and the "Spill Compensation and Control Act," P.L.1976, c. 141 (C.58:10-23.11 et seq.).
- e. "Completion" means substantially ready for the intended use for which a building or structure is constructed, improved or converted.
- f. "Condominium" means a property created or recorded as a condominium pursuant to the "Condominium Act," P.L.1969, c. 257 (C.46:8B-1 et seq.).

g. "Construction" means the provision of a new dwelling, multiple dwelling or commercial or industrial structure, or the enlargement of the volume of an existing multiple dwelling or commercial or industrial structure by more than 30%, but shall not mean the conversion of an existing building or structure to another use.

h. "Conversion" or "conversion alteration" means the alteration or renovation of a nonresidential building or structure, or hotel, motel, motor hotel or guesthouse, in such manner as to convert the building or structure from its previous use to use as a dwelling or multiple dwelling.

i. "Cooperative" means a housing corporation or association, wherein the holder of a share or membership interest thereof is entitled to possess and occupy for dwelling purposes a house, apartment, or other unit of housing owned by the corporation or association, or to purchase a unit of housing owned by the corporation or association.

j. "Cost" means, when used with respect to abatements for dwellings or multiple dwellings, only the cost or fair market value of direct labor and materials used in improving a multiple dwelling, or of converting another building or structure to a multiple dwelling, or of constructing a dwelling, or of converting another building or structure to a dwelling, including any architectural, engineering, and contractor's fees associated therewith, as the owner of the property shall cause to be certified to the governing body by an independent and qualified architect, following the completion of the project.

k. "Dwelling" means a building or part of a building used, to be used or held for use as a home or residence, including accessory buildings located on the same premises, together with the land upon which such building or buildings are erected and which may be necessary for the fair enjoyment thereof, but shall not mean any building or part of a building, defined as a "multiple dwelling" pursuant to the "Hotel and Multiple Dwelling Law," P.L.1967, c. 76 (C.55:13A-1 et seq.). A dwelling shall include, as they are separately conveyed to individual owners, individual residences within a cooperative, if purchased separately by the occupants thereof, and individual residences within a horizontal property regime or a condominium, but shall not include "general common elements" or "common elements" of such horizontal property regime or condominium as defined pursuant to the "Horizontal Property Act," P.L.1963, c. 168 (C.46:8A-1 et seq.), or the "Condominium Act," P.L.1969, c. 257 (C.46:8B-1 et seq.), or of a cooperative, if the residential units are owned separately.

l. "Exemption" means that portion of the assessor's full and true value of any improvement, conversion alteration, or construction not regarded as increasing the taxable value of a property pursuant to this act.

m. "Horizontal property regime" means a property submitted to a horizontal property regime pursuant to the "Horizontal Property Act," P.L.1963, c. 168 (C.46:8A-1 et seq.).

n. "Improvement" means a modernization, rehabilitation, renovation, alteration or repair which produces a physical change in an existing building or structure that improves the safety, sanitation, decency or attractiveness of the building or structure as a place for human habitation or work, and which does not change its permitted use. In the case of a multiple dwelling, it includes only improvements which affect common areas or elements, or three or more dwelling units within the multiple dwelling. In the case of a multiple dwelling or commercial or industrial structure, it shall not include ordinary painting, repairs and replacement of maintenance items, or an enlargement of the volume of an existing structure by more than 30%. In no case shall it include the repair of fire or other damage to a property for which payment of a claim was received by any person from an insurance company at any time during the three year period immediately preceding the filing of an application pursuant to this act.

o. "Multiple dwelling" means a building or structure meeting the definition of "multiple dwelling" set forth in the "Hotel and Multiple Dwelling Law," P.L.1967, c. 76 (C.55:13A-1 et seq.) [which is set forth below], and means for the purpose of improvement or construction the "general common elements" and "common elements" of a condominium, a cooperative, or a horizontal property regime.

p. "Project" means the construction, improvement or conversion of a structure in an area in need of rehabilitation that would qualify for an exemption, or an exemption and abatement, pursuant to P.L.1991, c. 441 (C.40A:21-1 et seq.).

q. "Annual period" means a duration of time comprising 365 days, or 366 days when the included month of February has 29 days, that commences on the date that an exemption or abatement for a project becomes effective pursuant to section 16 of P.L.1991, c. 441 (C.40A:21-16).

[FN1] L.1991, c. 441 (N.J.S.A. § 40A:21-1 et seq.).

DEFINITION OF MULTIPLE DWELLING SET FORTH IN THE HOTEL AND MULTIPLE DWELLING LAW AS OF THE DATE OF ADOPTION

N.J.S.A. 55:13A-3. Definitions.

(k) The term "multiple dwelling" shall mean any building or structure of one or more stories and any land appurtenant thereto, and any portion thereof, in which three or more units of dwelling space are occupied, or are intended to be occupied by three or more persons who live independently of each other. This definition shall also mean any group of ten or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two units of dwelling space are occupied or intended to be occupied by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof. This definition shall not include:

(1) any building or structure defined as a hotel in this act, or registered as a hotel with the Commissioner of Community Affairs as hereinafter provided, or occupied or intended to be occupied exclusively as such;

(2) a building section containing not more than four dwelling units, provided the building has at least two exterior walls unattached to any adjoining building section and the dwelling units are separated exclusively by walls of such fire-resistant rating as comports with the "State Uniform Construction Code Act," P.L.1975, c. 217 (C.52:27D-119 et seq.) at the time of their construction or with a rating as shall be established by the bureau in conformity with recognized standards and the building is held under a condominium or cooperative form of ownership, or by a mutual housing corporation, provided that if any units within such a building section are not occupied by an owner of the unit, then that unit and the common areas within that building section shall not be exempted from the definition of a multiple dwelling for the purposes of P.L.1967, c. 76 (C.55:13A-1 et seq.). A condominium association, or a cooperative or mutual housing corporation shall provide the bureau with any information necessary to justify an exemption for a dwelling unit pursuant to this paragraph; or

(3) any building of three stories or less, owned or controlled by a nonprofit corporation organized under any law of this State for the primary purpose to provide for its shareholders or members housing in a retirement community as same is defined under the provisions of the "Retirement Community Full Disclosure Act," P.L.1969, c. 215 (C.45:22A-1 et seq.), provided that the corporation meets the requirements of section 2 of P.L.1983, c. 154 (C.55:13A-13.1).

TOWN OF NEWTON

ORDINANCE 2011-14

AN ORDINANCE REPEALING AND REPLACING CHAPTER 14 FLOOD DAMAGE PREVENTION ORDINANCE OF THE TOWN OF NEWTON REVISED GENERAL ORDINANCES WITH AN UPDATED FLOOD DAMAGE ORDINANCE

WHEREAS, the Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry; and

WHEREAS, the flood hazard areas of Town of Newton are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare; and

WHEREAS, these flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss; and

WHEREAS, it is the purpose of this Ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- [1] Protect human life and health;
- [2] Minimize expenditure of public money for costly flood control projects;
- [3] Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- [4] Minimize prolonged business interruptions;
- [5] Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- [6] Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- [7] Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- [8] Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and

WHEREAS, in order to accomplish its purposes, this Ordinance includes methods and provisions for:

- [1] Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- [2] Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- [3] Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

- [4] Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- [5] Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

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

SECTION 14-1.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

Appeal — A request for a review of the Construction Official's interpretation of any provision of this Ordinance or a request for a variance.

Area of Shallow Flooding — A designated AO, AH, or VO zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard — The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base Flood — The flood having a one percent chance of being equaled or exceeded in any given year.

Basement — Any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

Development — Any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

Digital Flood Insurance Rate Map (DFIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Elevated Building — A non-basement building (i) built in the case of a building in an Area of Special Flood Hazard to have the top of the elevated floor elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the

water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Flood or Flooding — A general and temporary condition of partial or complete inundation of normally dry land areas from: .

- [1] The overflow of inland or tidal waters and/or
- [2] The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Study (FIS) — The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

Flood Insurance Rate Map (FIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Floodplain Management Regulations — Zoning Ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodway — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

Highest Adjacent Grade — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure — Any structure that is:

- [a] Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- [b] Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- [c] Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- [d] Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved State program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in States without approved programs.

Lowest Floor — The lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest

floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements.

Manufactured Home — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Manufactured Home Subdivision — A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

New Construction — Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

Recreational Vehicle — A vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Start of Construction — For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure — A walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

Substantial Damage — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- [1] Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- [2] Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Variance — A grant of relief from the requirements of this Ordinance that permits construction in a manner that would otherwise be prohibited by this Ordinance.

SECTION 14-2.0 GENERAL PROVISIONS

14-2.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This Ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Town of Newton, Sussex County, New Jersey.

14-2.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the areas of special flood hazard for the Town of Newton, Community No. 340453, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- a) A scientific and engineering report "Flood Insurance Study, Sussex County, New Jersey (All Jurisdictions)" dated September 29, 2011.
- b) Flood Insurance Rate Map for Sussex County, New Jersey (All Jurisdictions) as shown on Index and panel numbers 34037C0284E, 34037C0292E, 34037C0303E, 34037C0311E; whose effective date is September 29, 2011.

The above documents are hereby adopted and declared to be a part of this Ordinance. The Flood Insurance Study and maps are on file at 39 Trinity Street, Newton, New Jersey.

14-2.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Ordinance and other applicable regulations. Violation of the provisions of this Ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2,000 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Town of Newton from taking such other lawful action as is necessary to prevent or remedy any violation.

14-2.4 ABROGATION AND GREATER RESTRICTIONS

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and other Ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

14-2.5 INTERPRETATION

In the interpretation and application of this Ordinance, all provisions shall be:

- [1] Considered as minimum requirements;
- [2] Liberally construed in favor of the governing body; and,
- [3] Deemed neither to limit nor repeal any other powers granted under State statutes.

14-2.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of the Town of Newton, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

SECTION 14-3.0 ADMINISTRATION

14-3.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any area of special flood hazard established in SECTION 14-2.2. Application for a Development Permit shall be made on forms furnished by the Construction Official and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- [1] Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- [2] Elevation in relation to mean sea level to which any structure has been floodproofed.
- [3] Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in SECTION 14-4.2-2; and,
- [4] Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

14-3.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Construction Official is hereby appointed to administer and implement this Ordinance by granting or denying development permit applications in accordance with its provisions.

14-3.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Construction Official shall include, but not be limited to:

14-3.3-1 PERMIT REVIEW

- [1] Review all development permits to determine that the permit requirements of this Ordinance have been satisfied.
- [2] Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- [3] Review all development permits to determine if the proposed development is located in the floodway, assure that the encroachment provisions of SECTION 14-4.3[1] are met.

14-3.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation and floodway data has not been provided in accordance with SECTION 14-2.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Construction Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer SECTIONS 14-4.2-1, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, and 14-4.2-2, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION.

14-3.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- [1] Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- [2] For all new or substantially improved floodproofed structures:
 - [i] verify and record the actual elevation (in relation to mean sea level); and
 - [ii] maintain the floodproofing certifications required in SECTION 14-3.1 (3).
- [3] Maintain for public inspection all records pertaining to the provisions of this Ordinance.

14-3.3-4 ALTERATION OF WATERCOURSES

- [1] Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control Section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- [2] Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

14-3.3-5 INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in SECTION 14-3.4.

14-3.4 VARIANCE/APPEAL BOARD PROCEDURE

- [1] The Planning Board as established by the Town Council shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
- [2] The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Official in the enforcement or administration of this Ordinance.
- [3] Those aggrieved by the decision of the Planning Board, or any taxpayer, may appeal such decision to the Superior Court of New Jersey.

- [4] In passing upon such applications, the Planning Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Ordinance, and:
- (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - (xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- [5] Upon consideration of the factors of SECTION 14-3.4-1 [4] and the purposes of this Ordinance, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.
- [6] The Construction Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

14-3.4-1 CONDITIONS FOR VARIANCES

- [1] Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in SECTION 14-3.4-1[4] have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- [2] Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- [3] Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- [4] Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- [5] Variances shall only be issued upon:
- (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create

nuisances, cause fraud on or victimization of the public as identified in SECTION 14-3.4- 1[4], or conflict with existing local laws or Ordinances.

- [6] Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 14-4.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

14-4.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

14-4.1-1 ANCHORING

- [1] All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- [2] All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

14-4.1-2 CONSTRUCTION MATERIALS AND METHODS

- [1] All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- [2] All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

14-4.1-3 UTILITIES

- [1] All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- [2] New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
- [3] On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- [4] Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

14-4.1-4 SUBDIVISION PROPOSALS

- [1] All subdivision proposals shall be consistent with the need to minimize flood damage;
- [2] All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- [3] All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- [4] Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

14-4.1-5 ENCLOSURE OPENINGS

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

14-4.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data have been provided as set forth in SECTION 14-2.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in SECTION 14-3.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

14-4.2-1 RESIDENTIAL CONSTRUCTION

- [1] New construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated to or above base flood elevation;
- [2] within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

14-4.2-2 NONRESIDENTIAL CONSTRUCTION

In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities:

either

- [1] Elevated to the level of the base flood elevation; and
- [2] Within any AO zone on the municipality's DFIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

or

- [1] Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- [2] Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- [3] Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the

applicable provisions of this subsection. Such certification shall be provided to the official as set forth in SECTION 14-3.3-3 [2] [ii].

14-4.2-3 MANUFACTURED HOMES

- [1] Manufactured homes shall be anchored in accordance with SECTION 14-4.1-1 [2].
- [2] All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.

14-4.3 FLOODWAYS

Located within areas of special flood hazard established in SECTION 14-2.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- [1] Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- [2] If SECTION 14-4.3[1] is satisfied, all new construction and substantial improvements must comply with SECTION 14-4.0 PROVISIONS FOR FLOOD HAZARD REDUCTION.
- [3] In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

SECTION 14-5.0 SEVERABILITY

If any provision of this Ordinance or the application of this Ordinance to any person or circumstances is held invalid, the remainder of this Ordinance shall not be affected and shall remain in full force and effect.

SECTION 14-6.0 REPEALER

All Ordinances or parts of Ordinances or resolutions that are inconsistent or in opposition to the provisions of this Ordinance are hereby repealed in their entirety.

SECTION 14-7.0 EFFECTIVE DATE

This Ordinance shall take effect upon its final passage and publication according to law.

NOTICE

TAKE NOTICE that the above-entitled Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton on July 25, 2011 and said Ordinance was amended and reintroduced at a regular meeting of the Town Council on August 8, 2011, 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 August 8, 2011.

Lorraine A. Read, RMC
Municipal Clerk

TOWN OF NEWTON

ORDINANCE 2011-16

AN ORDINANCE ESTABLISHING THAT A BUSINESS ENTITY WHICH MAKES POLITICAL CONTRIBUTIONS TO MUNICIPAL CANDIDATES AND MUNICIPAL AND COUNTY POLITICAL PARTIES IN EXCESS OF CERTAIN THRESHOLDS SHALL BE LIMITED IN ITS ABILITY TO RECEIVE PUBLIC CONTRACTS FROM THE TOWN OF NEWTON IN THE COUNTY OF SUSSEX

WHEREAS, large political contributions from those seeking or performing contracts with a municipality raise reasonable concerns on the part of taxpayers and residents as to their trust in government and its business practices; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, a municipality is authorized to adopt such ordinances, regulations, rules and by-laws as necessary and proper for good government, as well as the public health, safety and welfare; and

WHEREAS, pursuant to P.L.2005, c.271 (codified at N.J.S.A. 40A:11-51) a municipality is authorized to adopt by ordinance, measures limiting the awarding of public contracts to business entities that have made political contributions, and limiting the contributions that the recipient of such a contract can make during the term of a contract; and

WHEREAS, in the interest of good government, the people and the government of the Town of Newton desire to establish a policy that will avoid the perception of improper influence in public contracting and local elections;

NOW, THEREFORE, BE IT RESOLVED, it shall be the policy of the Town of Newton to create such a regulation which states that a Business Entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the Town of Newton; and

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

DEFINITIONS

As used in this ordinance:

- (a) “Campaign Committee” means (i) every candidate for the Town of Newton elective municipal office; (ii) every candidate committee established by or for the benefit of a candidate for the Town of Newton elective municipal office; (iii) every joint candidate committee established in whole or in part by or for the benefit of a candidate for the Town of Newton elective municipal office; (iv) every political party committee of the Town of Newton; (v) every political party committee of the Town of Newton; and (vi) every political committee, continuing political committee, or other form of association or organization that regularly engages in the support of candidates for the Town of Newton municipal or Sussex County elective offices or Town of Newton municipal or Sussex County political parties or political party committees. The terms in the foregoing paragraph have the meaning prescribed in N.J.A.C. 19:25-1.7.
- (b) “Contribution” has the meaning prescribed in N.J.A.C. 19:25-1.7. By way of illustration, and not limitation, this definition includes pledges, loans, and in-kind contributions.
- (c) A “contract for professional or extraordinary services” means all contracts for “professional services” and “extraordinary unspecifiable services” as such term is used in N.J.S.A. 40A:11-5.
- (d) For purposes of this Ordinance, a “Business Entity” whose contributions are regulated by this ordinance means: (i) an individual including the individual’s spouse, and any child/children; (ii) a firm; corporation; professional corporation; partnership; limited liability company; organization; association; and any other manner and kind of business entity; (iii) any person who owns 10% or more of the equity or ownership or income interests in a person or entity as defined in sections (i) and (ii) above and their spouses and child/children; (iv) all partners or officers of such an entity, in the aggregate, and their spouses and child/children; (v) any person, subcontractor, subsidiary, corporation, firm, partnership, limited liability company, organization or association who has received or indefeasibly acquired the right to receive, from a person described in subparagraph (i) above, more than \$100,000.00 in

compensation or income of any kind (including, by way of illustration, and not limitation: wages, salaries, sums paid to independent contractors, benefits, dividends, profit-sharing, pension contributions, deferred contributions, stock, stock options or gifts), in any twelve (12) month period prior to the award of, or during the term of, a contract subject to this ordinance; and (vi) all persons who are an "affiliate" of a Business Entity as defined in sections (i), (ii) and (v) above, as such term is used in 11 U.S.C. 101(2).

SECTION 1 – PROHIBITION ON AWARDING PUBLIC CONTRACTS TO CERTAIN CONTRIBUTORS

- (a) To the extent that it is not inconsistent with state or federal law, the Town of Newton and any of its departments, instrumentalities or purchasing agents shall not enter into any agreement or otherwise contract to procure "professional services" as such term is defined at N.J.S.A. 40A:11-2(6) and used at N.J.S.A. 40A:11-5(1)(a)(i) and/or banking, insurance or other consulting service (hereinafter "Professional Services"), nor "extraordinary unspecified services" as such term is defined at N.J.S.A. 40A:11-2(7) and used at N.J.S.A. 40A:11-5(1)(a)(ii) and/or media, public relations, lobbying, parking garage management or other consulting and/or management service (hereinafter "Extraordinary Unspecified Services") from any Business Entity if such Business Entity has solicited or made any Contribution to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the Town of Newton or a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Town of Newton or Sussex County political committee or political party committee, or (iii) to any continuing political committee or political action committee that regularly engages in the support of Town of Newton municipal or Sussex elections and/or Town of Newton municipal or Sussex County candidates, candidate committees, joint candidate committees, political committees, political parties, political party committees, (hereinafter "PAC"), in excess of the thresholds specified in subsection (g) within one calendar year immediately preceding the date of the contract or agreement.

- (b) No Business Entity who submits a proposal for, enters into negotiations for, or agrees to any contract or agreement with the Town of Newton or any of its departments or instrumentalities, for the rendition of Professional Services or Extraordinary Unspecified Services shall knowingly solicit or make any Contribution, to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the Town of Newton, or a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Town of Newton or Sussex political committee or political party committee, or (iii) any PAC between the time of first communication between that Business Entity and the municipality regarding a specific agreement for Professional Services or Extraordinary Unspecified Services, and the later of the termination of negotiations or rejection of any proposal, or the completion of the performance or specified time period of that contract or agreement.
- (c) The monetary thresholds of this Ordinance are: (i) a maximum of \$300 per calendar year each for any purpose to any candidate or candidate committee for mayor or governing body, or \$500 per calendar year to any joint candidates committee for mayor or governing body, or \$300 per calendar year to a political committee or political party committee of the Town of Newton; (ii) \$500 maximum per calendar year to a Sussex County political committee or political party committee; and (iii) \$500 maximum per calendar year to any PAC. However, for each Business Entity party to a contract for Professional or Extraordinary Unspecified Services as defined in subparagraph (a), or engaged in negotiations for a contract defined in subparagraph (a), when such Business Entity's Contribution is aggregated with all "persons" defined in subparagraph (d) of "Definitions" above, by virtue of their affiliation to that Business Entity party, a maximum of \$2,500 to all Town of Newton candidates, candidate committees, joint candidate committees, and holders of public office having ultimate responsibility for the award of a contract, all Town of Newton or Sussex County political committees and political party committees as described herein combined, without violating subsection (a) of this section.

(d) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be (i) the Town of Newton Mayor or Governing body, if the contract requires approval or appropriation from the Mayor or Governing body, or (ii) the Mayor of the Town of Newton, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.

(e) Rules regarding subcontractors. No person may be awarded a subcontract to perform under a contract subject to this Ordinance, if the subcontractor would be disqualified by paragraph (a) from receiving the contract at the time that the subcontract is awarded. Nor may any person who would be disqualified by paragraph (a) from receiving the contract perform substantially all of obligations described in a contract for professional or extraordinary services that is subject to this ordinance.

SECTION 2 - CONTRIBUTIONS MADE PRIOR TO THE EFFECTIVE DATE

No Contribution or solicitation of contributions made prior to the effective date of this Ordinance shall be deemed to give rise to a violation of this Ordinance.

SECTION 3 - CONTRACT RENEWAL

No contract subject to this ordinance may be renewed, extended, or materially modified unless the resulting renewal, extension, or modification would be allowable under the provisions of this ordinance if it were an initial contract.

SECTION 4 - CONTRIBUTION STATEMENT BY BUSINESS ENTITY

(a) Prior to awarding any contract or agreement to procure "Professional Services" or "Extraordinary Unspecified Services" from any Business Entity, the Town of Newton or its purchasing agents and departments, as the case may be, shall receive a sworn statement from said Business Entity which is the intended recipient of said contract that he/she/it has not made a Contribution in violation of Section 1 of this Ordinance. The Town of Newton, its purchasing agents and departments shall be responsible for informing the Town Council of the Town of Newton that the aforementioned sworn statement has been received and that the Business Entity is not in violation of this ordinance, prior to awarding the contract or agreement.

- (b) A Business Entity shall have a continuing duty to report to the Town of Newton any Contributions that constitute a violation of this act that are made during the negotiation, proposal process or the duration of a contract. The Town of Newton, its purchasing agents and departments shall be responsible for informing the governing body within ten (10) business days after receipt of said report from the Business Entity, or at the next meeting of the Town Council of the Town of Newton following receipt of said report from the Business Entity, or whichever comes first.

- (c) The certification required under this subsection shall be made prior to entry into the contract or agreement with the Town of Newton, or prior to the provision of services or goods, as the case may be, and shall be in addition to any other certifications that may be required by any other provision of law.

SECTION 5 - RETURN OF EXCESS CONTRIBUTIONS

A Business Entity that is a party to a contract for Professional Services or Extraordinary Unspecified Services may cure a violation of Section 1 of this Ordinance, if, within 30 days after the date on which the applicable ELEC report is published, said Business Entity notifies the municipality in writing and seeks and receives reimbursement of the Contribution from the recipient of such Contribution.

SECTION 6 - EXEMPTIONS

The contribution limitations prior to entering into a contract in Section 1(a) do not apply to contracts which (i) are awarded to the lowest responsible bidder after public advertising for bids and bidding therefor within the meaning of N.J.S.A. 40A:11-4, or (ii) are awarded in the case of emergency under N.J.S.A. 40A:11-6. There is no exemption for contracts awarded pursuant to a "Fair and Open Process" under N.J.S.A. 19:44A-20 et seq.

SECTION 7 - PENALTY

- (a) It shall be a material breach of the terms of a Town of Newton agreement or contract for Professional Services or Extraordinary Unspecified Services when a Business Entity that is a party to such agreement or contract has: (i) made or solicited a Contribution in violation of this Ordinance; (ii) knowingly concealed or misrepresented a Contribution given or received;

(iii) made or solicited Contributions through intermediaries for the purpose of concealing or misrepresenting the source of the Contribution; (iv) made or solicited any Contribution on the condition or with the agreement that it will be re-contributed to a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the Town of Newton, or a holder of public office having ultimate responsibility for the award of a contract, or any Town of Newton or Sussex County political committee or political party committee, or any PAC; (v) engaged or employed a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any Contribution, which if made or solicited by the professional Business Entity itself, would subject that entity to the restrictions of this Ordinance; (vi) funded contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engaged in any exchange of Contributions to circumvent the intent of this Ordinance; or (viii) directly or indirectly, through or by any other person or means, done any act which if done directly would subject that entity to the restrictions of this Ordinance.

(b) Furthermore, any Business Entity that violates Section 7 (a) (i-viii) shall be disqualified from eligibility for future Town of Newton contracts for a period of four (4) calendar years from the date of the violation.

(c) Any person who knowingly, purposely, or recklessly violates any provision of this ordinance, or who conspires with another person to violate any provision of this ordinance, or who, with the purpose of promoting or facilitating a violation of this ordinance, solicits another person to commit it, or aids or agrees, or attempts to aid another person in planning or committing it, shall be subject to punishment including fines and/or imprisonment as fixed by law for violations of the ordinances of the Town of Newton.

SECTION 8 - CITIZENS PRIVATE RIGHT OF ACTION

In addition to any rights that were heretofore available, or which may hereafter be available, to citizens, taxpayers, or associations, to challenge violations of this ordinance, every person aggrieved by a violation of the ordinance, or any taxpayer or resident of the Town of Newton has the right, consistent with the Rules of Court, to file charges in a court of competent jurisdiction, and/or to pursue a civil action for a violation of this ordinance in a court of competent

jurisdiction, and to seek and obtain declaratory, injunctive, or other legal or equitable relief, including but not limited to, attorneys fees and costs, arising from or related to a violation of this ordinance.

SECTION 9 - SEVERABILITY

If any provision of this Ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

SECTION 10 – INDEXING

The monetary thresholds of “Definitions” Section (d) and Section 1(c) of this ordinance shall be increased effective March 1 of each calendar year by the percentage increase, in the prior calendar year, of the consumer price index for all urban consumers (CPI-U) for the New York-Northern New Jersey-Long Island region, rounded to the nearest \$10.00. The Clerk of the Town of Newton shall, by no later than April 1 of each calendar year, prepare and publish the revised thresholds on the official municipal website and in an official municipal newspaper.

SECTION 11 - REPEALER

All ordinances or parts of ordinances which are inconsistent with any provisions of this Ordinance are hereby repealed as to the extent of such inconsistencies.

SECTION 12 - EFFECTIVE DATE

This Ordinance shall become effective twenty (20) days following the final adoption thereof by the Town Council of the Town of Newton and shall be published as required by 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 August 8, 2011. 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 August 22, 2011, and shall take effect according to law.

Lorraine A. Read, RMC
Municipal Clerk

TOWN OF NEWTON

ORDINANCE # 2011-17

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:

21-1.5 Traffic (Relating to Chapter X).

2. Overnight Parking Pass

- | | |
|--|--------------------------------------|
| a. Central Plaza (Lot #4), Western Plaza (Lot #3), and the Adams Street Lot (Lot #1)
(residents and business night shift employees) | \$15.00* monthly
\$180.00* annual |
| b. Tractor Trailer/Box Truck
Parking - Annually | \$25.00* |
| c. Park & Ride (10-13B.2-b) | Free |

*plus applicable NJ State Sales Tax

NOTICE

TAKE NOTICE that the above-entitled Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton on August 8, 2011, 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 August 22, 2011, and shall take effect according to law.

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

TOWN OF NEWTON
ORDINANCE 2011-18

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE
TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY,
ADOPTING AMENDMENTS TO THE PATERSON AVENUE
REDEVELOPMENT PLAN**

WHEREAS, the *Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.*, (the “Redevelopment Law” or the “Act”) authorizes municipalities to determine whether certain parcels of land within the municipality constitute an area in need of redevelopment, and to prepare and adopt a redevelopment plan therefor; and

WHEREAS, on December 10, 2007, the Town of Newton, acting by Resolution, designated Block 1201.02, Lots 2 & 2.01 as an area in need of redevelopment pursuant to the Act (hereinafter, the “Redevelopment Area”); and

WHEREAS, on November 10, 2008, after review and comment by the Town’s Planning Board in accordance with the Act, the Town, acting by Ordinance, enacted the Paterson Avenue Redevelopment Plan governing the Redevelopment Area (the “Initial Redevelopment Plan”, attached hereto as Exhibit A); and

WHEREAS, due to changes in the national, regional and local economies occurring since the time of adoption of the Initial Redevelopment Plan that made development of the housing uses contemplated therein unlikely to occur in the near future, the Town wished to consider the addition of alternative uses and standards to the Initial Redevelopment Plan in order to provide additional options for the revitalization of the Redevelopment Area; and

WHEREAS, in accordance with the Act, the Town prepared proposed amendments to the Initial Redevelopment Plan (the “Proposal”, attached hereto as Exhibit B); and

WHEREAS, on June 27, 2011, the Town Council, acting by Resolution, referred the Proposal to the Planning Board for its review and comment in accordance with Section 7 of the Act; and

WHEREAS, at a duly noticed and constituted public meeting of the Planning Board held on July 20, 2011, Jessica Caldwell, P.P., A.I.C.P. of Harold E. Pellow & Associates, Inc. (the “Planning Consultant”) presented the Proposal and further addressed any questions and comments presented by the Planning Board; and

WHEREAS, the members of the public were given the opportunity to provide their own testimony regarding the Proposal; and

WHEREAS, after due consideration of the Proposal, the testimony of the Planning Consultant, and the testimony of the public, the Planning Board determined by Resolution dated July 20, 2011 (the "Planning Board Resolution", attached hereto as Exhibit C), that while the Proposal is not consistent with the permitted uses for the Redevelopment Area recommended by the Town's Master Plan, it is consistent with the overarching goals of the Master Plan, and recommended to the Town Council that it adopt a modified version of the Proposal, with such changes as summarized at Exhibit B to the Planning Board Resolution (the "Planning Board Recommendations"); and

WHEREAS, the Planning Board Resolution included the following recommendation:

"The Planning Board recommends that the Town ascertain the height of the existing buildings within the Redevelopment Area, and provide for a maximum height for office, light industrial, research and development and warehouses uses that is the lesser of 40 feet or the height of the tallest building currently existing within the Redevelopment Area."; and

WHEREAS, the Town Engineer has determined that the tallest building currently existing within the Redevelopment Area has an approximate height of 36.3 feet, and has recommended that a maximum height of 40 feet be established for office, light industrial, research and development and warehouse uses within the Redevelopment Area (the "Height Amendment"); and

WHEREAS, the Town wishes to adopt the Proposal, as modified by the Planning Board Recommendations, as further modified by the Height Amendment (as so modified and attached hereto as Exhibit D, the "Plan Amendments"); and

WHEREAS, the Town acknowledges that the Plan Amendments are not consistent with the recommended uses set forth in the Master Plan, but wishes to adopt the Plan Amendments for the reasons set forth therein,

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

Section 1. The recitals hereto are hereby incorporated herein by reference as if set forth at length.

Section 2. The Plan Amendments, as filed in the Office of the Town Clerk, attached hereto as Exhibit D, are hereby approved. Any portion of the Initial Redevelopment Plan not modified by the Plan Amendments shall remain in full force and effect.

Section 3. The zoning map of the Town of Newton is hereby amended to incorporate the provisions of the Plan Amendments and delineate the boundaries of the Paterson Avenue Redevelopment Area.

Section 4. This ordinance shall take effect as provided in law.

NOTICE

TAKE NOTICE that the above-entitled Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton on August 8, 2011, 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 August 22, 2011, and shall take effect according to law.

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

EXHIBIT A

INITIAL REDEVELOPMENT PLAN

ON FILE IN THE CLERK'S OFFICE

EXHIBIT B

PROPOSAL



TOWN OF NEWTON
RESOLUTION #130-2011

June 27, 2011

"Resolution of the Town of Newton in the County of Sussex, New Jersey, Directing the Town Planning Board to Review a Proposed Amendment to the Paterson Avenue 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; and

WHEREAS, on December 10, 2007, the Town of Newton, acting by Resolution, designated Block 1201.02, Lot 2 & 2.01 in the Town (the "Area") as an area in need of redevelopment pursuant to the Act; and

WHEREAS, on November 10, 2008, after review and comment by the Town's Planning Board in accordance with the Act, the Town, acting by Ordinance, enacted a Redevelopment Plan for the Area (the "Redevelopment Plan"); and

WHEREAS, due to changes in the national, regional and local economies occurring since the time of adoption of the Redevelopment Plan, the Town wishes to consider the addition of alternative uses and standards to the Redevelopment Plan in order to provide additional options for the revitalization of the Area; and

WHEREAS, in accordance with the Act, the Town has prepared a proposed amendment to the Redevelopment Plan, which is attached hereto as Exhibit A (the "Proposed Amendment"); and

WHEREAS, the Town Council desires to utilize the Planning Board's expertise and experience in considering the Proposed Amendment;

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 PROPOSED AMENDMENT

The Town Council hereby authorizes and directs the Planning Board to review the Proposed Amendment 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

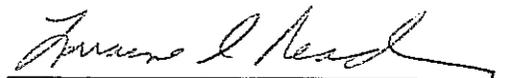
A copy of this resolution shall be available for public inspection at the offices of the Town.

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, June 27, 2011.



Lorraine A. Read, RMC
Municipal Clerk

PATERSON AVENUE REDEVELOPMENT
PLAN AMENDMENT

Draft

June 13, 2011

Prepared by: Harold E. Pellow & Associates, Inc.

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

PLAN CONSISTENCY REVIEW

BACKGROUND

On December 10, 2007, the Town Council of the Town of Newton determined that Block 1201.02, Lots 2 and 2.01 constituted an area in need of redevelopment (the “Area” or the “Redevelopment Area”) in accordance with the provisions of the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “Redevelopment Law”). In late 2008, following review and input by the Planning Board, a redevelopment plan (the “Redevelopment Plan”) was adopted for the Area. The Redevelopment Plan called for 64 single family residential units to be constructed to achieve a variety of goals relative to the Redevelopment Area designation.

However, following adoption of the Redevelopment Plan, the economic climate changed dramatically in Newton, as well as across New Jersey and the United States. The housing market plummeted as banks and financial institutions were weakened by bad lending practices. The national economy, and that in Newton, as well, is now coming out of what is now referred to as the “Great Recession”. However, economic recovery is slow and the housing market remains extremely weak. In light of this dramatic change to the housing market, the Town is revisiting the Redevelopment Plan to consider other alternatives for revitalization of the Redevelopment Area.

While the housing market has grown weaker, some businesses are thriving and growing in the economic recovery. For example, under the Sparta Avenue Redevelopment Plan, a research and development and light manufacturing firm devoted to lasers and photonics, Thor Labs, is relocating its world headquarters to Newton. Similar businesses, including Thor Labs itself, subsequently began demonstrating interest in leasing space within the Redevelopment Area. The Town believes that this Area has potential for redevelopment in the near term with new, light industrial and research and development uses that will have a lower impact on the neighboring residential neighborhood than previous uses, when combined with improvements to the Area to improve structures, buffer property, and improve landscaping.

AMENDMENTS TO THE REDEVELOPMENT PLAN

The Redevelopment Plan contemplates the potential for amendments to the plan. At Section 9.1 of the Redevelopment Plan, it states, “As development occurs within the Area, development priorities and market demands may change. This Plan should have the ability 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.” The Redevelopment Plan goes on to state that any proposed redevelopment plan amendment should include a Plan Consistency Review Section that addresses the consistency of the proposed amendments with the Redevelopment Plan, the Town of Newton Master Plan, the Sussex County Master Plan and the State Development and Redevelopment Plan.

REDEVELOPMENT PLAN GOALS

The following goals of the Redevelopment Plan are in keeping with this proposed amendment.

1. To allow for more efficient use of land and to expand the Town's tax base by encouraging high quality development.
2. To maximize the participation of private developers while minimizing the participation of the public sector.
3. To enhance the positive visual character and safety of the Paterson Avenue Redevelopment Area through building placement and design, landscaping and streetscape improvements.
4. To provide vehicular circulation and parking options to minimize impacts on the existing roadways and adjacent residential uses.
5. To create a high quality developed environment, with building forms and design that set a new standard for the overall aesthetic appearance of the area and surrounding neighborhood.

TOWN OF NEWTON MASTER PLAN GOALS

The following Town of Newton Master Plan Goals are consistent with this proposed plan amendment:

1. To encourage municipal action to guide the appropriate use or development of all lands in Newton, in a manner that will promote the public health, safety, morals, and general welfare.
2. Encourage development and improvement of industrial, commercial and public service uses which complement Newton's role as a Regional Center in the County.
3. Encourage light industrial development subject to performance standards that would be compatible with the "Regional Center" development concept of Newton.

SUSSEX COUNTY STRATEGIC GROWTH PLAN GOALS

The following Sussex County Strategic Growth Plan Goals are consistent with this proposed amendment in promoting the expansion of job centers and retaining jobs in a traditional center:

Job Creation Centers - Expansion of job creation centers will provide/create:

1. Employment
2. Opportunities for reverse commuting.
3. A measure of economic stability to offset the regressive, counterproductive property tax system.
4. The need to establish land use policies which compliment a strategy of marketing the County's strength to identified business and industry groups.
5. A greater ability to align the resources of the Sussex County Economic Development Partnership with municipal efforts to develop employment, attract business, and expand support infrastructure (water, sewer, power, communications).

Traditional Town Centers -

1. These will become the focus of the majority of development in Sussex County.
2. Existing centers should be revitalized. Proposed centers should provide a wide range of densities, styles and mixes of development. Where necessary, sewer service areas should be expanded to accommodate this planned growth (See Exhibit 5, Existing and Proposed Sewer Service Areas). Centers increase the range of options for transportation in the region.

Sussex County’s Vision 2020 is supportive of keeping and bringing industrial use to Sussex County. As set forth in the Phase One Report entitled “Background, Situation Assessment and Industry Identification”:

In September 2004 the Board of Chosen Freeholders adopted the Sussex County Strategic Growth Plan. This comprehensive document incorporated the goals of the New Jersey State Development and Redevelopment Plan, reflected the concerns of the County’s residents and businesses, and articulated a clear and concise vision for the County.

...

One of the focal points in the Strategic Growth Plan is that of economic development. The Strategic Growth Plan (SGP) notes that in large measure Sussex County lacks the higher wage jobs of nearby labor markets, inducing County residents to commute to neighboring areas for jobs. ... many of the local jobs, centered on recreation and tourism, cannot provide the family sustaining jobs needed to cover ever-increasing expense of housing, food, fuel, and taxes.... Thus, attracting and growing firms, whose activities, processes and employment needs best fit the County’s strengths, aims, and environment becomes an important aspect of implementing the SGP.

In order to implement the SGP, the County created the Vision 2020 Economic Development Initiative to identify and implement strategies that will grow the business sector in accordance with the principles of both the County Strategic Growth Plan and the State Development Redevelopment Plan....

(Phase One Report – Background, Situation Assessment & Industry Identification, p. 1).

In the Phase Two Report, “Site Selection and Evaluation”, Sussex County attempted to identify “star sites” that can be developed or redeveloped for commercial or industrial use. The Planners recognize in the Phase Two Report:

Available sites (on the market, in the right location, at the right prices) or high potential areas should be identified and turned into "project ready" sites so that a developer has no reservation about committing to a project. The County has many assets for businesses and developers, but the development or relocation or expansion decision should be made as easy as possible from site availability to permitting to construction through hiring. This will entail thought, planning and coordination, but will be well worth the effort (if not actually imperative) in the current, difficult, real estate market in the western Interstate 80 corridor. (emphasis in the original) (p. 24 - Phase Two Report).

STATE DEVELOPMENT AND REDEVELOPMENT PLAN

Goal 3 and its policies and indicators from the State Development and Redevelopment Plan is consistent with this proposed plan amendment because it would create additional jobs within a State Designated Regional Center, thereby promoting economic development, increasing employment opportunities and bettering the economic welfare of the community.

GOAL	POLICIES	INDICATORS
<p>Goal 3: Promote Beneficial Economic Growth, Development and Renewal for All Residents of New Jersey</p> <p>STRATEGY: Promote socially and ecologically beneficial economic growth, development and renewal and improve both the quality of life and the standard of living of New Jersey residents, particularly the poor and minorities, through partnerships and collaborative planning with the private sector. Capitalize on the State's strengths—its entrepreneurship, skilled labor, cultural diversity, diversified economy and environment, strategic location and logistical excellence—and make the State more competitive through infrastructure and public services cost savings and regulatory streamlining resulting from comprehensive and coordinated planning. Retain and expand businesses, and encourage new, environmentally sustainable businesses in Centers and areas with infrastructure. Encourage economic growth in locations and ways that are both fiscally and environmentally sound. Promote the food and agricultural industry throughout New Jersey through coordinated planning, regulations, investments and incentive programs—both in Centers to retain and encourage new businesses and in the Environs to preserve large contiguous areas of farmland.</p>	<p>Policy on Economic Development - Promote beneficial economic growth and improve the quality of life and standard of living for New Jersey residents by building upon strategic economic and geographic positions, targeting areas of critical capital spending to retain and expand existing businesses, fostering modern techniques to enhance the existing economic base, encouraging the development of new enterprises, advancing the growth of green businesses, elevating work force skills, and encouraging sustainable economic growth in locations and ways that are fiscally and ecologically sound.</p> <p>Policy on Agriculture - Promote and preserve the agricultural industry and retain farmland by coordinating planning and innovative land conservation techniques to protect agricultural viability while accommodating beneficial development and economic growth necessary to enhance agricultural vitality and by educating residents on the benefits and the special needs of agriculture.</p> <p>Policy on Equity - It is the position of the State Planning Commission that the State Plan should neither be used in a manner that places an inequitable burden on any one group of citizens nor should it be used as a justification for public actions that have the effect of diminishing equity. It is also the position of the Commission that the achievement, protection and maintenance of equity be a major objective in public policy decisions as public and private sector agencies at all levels adopt plans and policies aimed at becoming consistent with the State Plan.</p>	<p>Key Indicator 1. New development, population and employment located in the Metropolitan and Suburban Planning Areas or within Centers in the Fringe, Rural and Environmentally Sensitive Planning Areas</p> <p>Indicator 1. Average annual disposable income among New Jerseyans</p> <p>Indicator 2. Unemployment</p> <p>Indicator 3. Conversion of farmland for development</p> <p>Indicator 5. Agricultural output</p> <p>Indicator 7. Economic output per unit of energy consumed</p> <p>Indicator 21. Municipalities with median household incomes of less than \$30,000 per year (in 1990 dollars)</p> <p>Indicator 22. Number of census tracts with more than 40% of the population living under the poverty level</p>

This proposed amendment to the Redevelopment Plan is consistent with the goals of the Redevelopment Plan, the goals of the Town of Newton Master Plan, the goals of the Sussex County Strategic Growth Plan and the goals of the State Development and Redevelopment Plan. It is therefore recommended that the following provisions be added to the Redevelopment Plan:

PATERSON AVENUE REDEVELOPMENT PLAN AMENDMENT

OFFICES, LIGHT INDUSTRIAL, MANUFACTURING, RESEARCH AND DEVELOPMENT AND WAREHOUSES

At Section 4.1 entitled “Land Use Plan”, add the following to “Permitted Uses”:

“4. Offices, manufacturing, research & development (R&D), and light industrial uses, including associated storage and warehouse use.” Permanent outdoor storage is prohibited. Temporary outside storage used in connection and support of a permitted use is permitted (a) provided materials are stored in a storage container or other enclosed container, (b) no container is stored for more than 48 consecutive hours at any one time, (c) no more than two (2) such storage containers are on-site at any one time, and (d) such storage containers are placed on or near and used in connection with a loading dock area.

At Section 6.2 entitled “Setback Regulations”, add the following:

“Bulk Requirements: Offices, Light Industrial, Manufacturing, Research and Development, and Warehouses:

Notwithstanding any other provisions of this Redevelopment Plan to the contrary, the bulk requirements for offices, light industrial, manufacturing, research and development and/or warehouse uses shall be as follows:

- a. Minimum lot area: 87,120 square feet.
- b. Minimum lot frontage: 200 feet.
- c. Minimum lot width: 250 feet.
- d. Minimum yards - principal and accessory structures**:
 1. Front yard: 40 feet.
 2. Rear yard: 30 feet.
 3. Side yard: 15 feet one side; 30 feet total.

At Section 6.12 entitled “Building Parking Standards”, add the following:

“6. Parking Requirements: Offices, Light Industrial, Manufacturing, Research and Development and Warehouses: Notwithstanding any other provisions of this Redevelopment Plan to the contrary, parking requirements for office, light industrial, manufacturing, and/or research and development and/or warehouse uses shall be as follows:

One (1) space for each 1,100 sq. ft. for the Office, Light Industrial, and Research and Development uses, and one (1) space per 2,500 sq. ft. for Warehouses. These requirements may be reduced by minor deviation granted by the Board if parking studies of similar style facilities and/or actual usage illustrates that less parking spaces are required. In parking lots containing more than 10 spaces, at least 5% of the interior parking area shall be landscaped with plantings. Parking lot street frontage screening and perimeter screening shall be a minimum of 10 feet wide. A snow removal/disposal plan shall be provided.

At Section 6.11 entitled “Building Signage and Lighting Standards”, add the following:

“5. Signs for Offices, Light Industrial, Manufacturing, Research and Development and Warehouses. One ground mounted sign is permitted per lot, with a maximum sign size of 40 square feet and a minimum setback of 10 feet is required.”

Add a new Section 7.10 entitled “Landscaping and Buffering – Offices, Light Industrial, Manufacturing, Research and Development and Warehouses.

Notwithstanding any other provisions of this Redevelopment Plan to the contrary, the landscaping and buffering requirements with respect to landscaping and buffering for offices, light industrial, manufacturing, research and development, and/or warehouses shall be as follows:

Landscaping:

- a. The area shall have a minimum of 5% of the lot landscaped. All areas not occupied by buildings, parking areas, patios, walkways and/or any other impervious surface shall be suitably landscaped. No landscaping shall interfere with required sight triangles.
- b. Deciduous trees shall have at least a three-and-one-half-inch dbh and 10 feet in height at planting, and evergreen trees shall be at least five feet tall. All trees shall be balled and burlapped and be of specimen quality as established by the American Association of Nurserymen.
- c. Any landscaping which, within two years of planting, dies, for any reason, shall be replaced by the developer(s) at his expense by means of a developer’s agreement or a bond agreement as determined by the Town Council.
- d. The following landscape principles shall be considered:
 1. Landscaping shall be located to provide for climate control, e.g. shade trees in parking areas.
 2. Landscaping shall be used to accent and complement buildings.
 3. Landscaping shall be provided in public areas, parking areas, recreation sites and adjacent to buildings.
 4. Massing trees shall be considered at critical points.
 5. Smaller trees shall be used on narrow streets.
 6. Ground cover shall be used to prevent erosion.
 7. A variety and mixture of landscaping shall be provided. Consideration shall be given to susceptibility to disease, colors, season, textures, shapes, blossom and foliage in selecting species.
 8. Local soil conditions and water availability shall be considered in the choice of landscaping.
 9. Existing trees located within 10 feet of any street right-of-way shall be maintained unless shown to be removed as part of an approved plan. The

existing grade within that space shall not be disturbed without such approval.

10. Entrances to nonresidential lots shall be landscaped.
11. The impact of any proposed landscaping plan at various time intervals shall be considered. For example, shrubs can grow and eventually block sight distances and foundation plants can block out buildings.
12. Impervious materials shall not be used in any landscape area. Weed retardant mulch, porous nonwoven synthetic landscape fabric or other materials shall be used.
13. Decorative stones are discouraged as a ground cover. Vegetative ground cover is encouraged.
14. On site re-use of rainwater and grey water for irrigation is encouraged.

Buffering:

- a. Visual screens provided through landscaping shall be designed in such a manner as to provide a barrier on a year-round basis around the view of the area to be screened.
- b. Existing vegetation within the buffer shall be preserved, where possible, and supplemented with plantings and other buffer devices to provide screening of residences.
- c. Buffer dimensions shall be measured from property lines.
- d. No buildings, signs (other than directional signs), structures, storage of materials or parking shall be permitted within the buffer area.
- e. All plantings shall be installed according to accepted horticultural standards.
- f. Design. Arrangement of plantings in buffer shall provide maximum protection to adjacent properties and avoid damage to existing plant material. The plantings shall be arranged in double staggered rows where possible. If planting berms are used, the minimum top width shall be four feet and the maximum side slope shall be 2:1. No berm shall be so high in height or mass as to be disproportionate to the characteristics of its setting.
- g. Planting specifications. Plant materials shall be a minimum of six feet in height and planted in such a fashion that a screen at least eight feet in height shall be produced within three growing seasons. All plantings shall be deer resistant, such as Blue Spruce, and installed according to accepted horticultural standards.
- h. Maintenance. Plantings shall be watered regularly with a sprinkler system or other means preferably using recycled water in a manner appropriate for the specific plant species through the first growing season, and dead or dying plants shall be replaced by the developer during the next planting season. No buildings, structures, storage of materials or parking shall be permitted within the buffer area. Buffer areas shall be maintained and kept free of all debris, rubbish, weeds and tall grass.
- i. Basic standards. The following buffer requirements shall apply unless it is shown or apparent to the Board that an alternative arrangement is more suitable:
 1. Along the side and rear lot lines of all commercial industrial and other nonresidential uses: 10 feet.
 2. Along the front lot line of light industrial, manufacturing or other higher intensity nonresidential uses: 10 feet.
 3. Along the rear lot lines of nonresidential uses that abut residential zones and uses: 20feet.
 4. Buffers need not be added cumulatively to setback requirements; a buffer area shall instead be an overlay of a required setback.

EXHIBIT C

PLANNING BOARD RESOLUTION



Interoffice Memorandum

To: Town Council
Cc: Debra Millikin, Deputy Town Manager
FROM: Kathy Citterbart, Planning Board Secretary
DATE: July 21, 2011
RE: Paterson Avenue Redevelopment Plan Amendment

At its regular meeting on July 20, 2011 the Newton Planning Board recommended to the Town Council that the Paterson Avenue Redevelopment Plan Amendments proposed by the Town be adopted, as modified by recommendations enumerated by the attached resolution of the Planning Board.

**RESOLUTION OF THE PLANNING BOARD OF THE TOWN OF
NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY
RECOMMENDING THE ADOPTION OF AMENDMENTS TO THE
PATERSON AVENUE REDEVELOPMENT PLAN**

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; and

WHEREAS, on December 10, 2007, the Town of Newton, acting by Resolution, designated Block 1201.02, Lot 2 & 2.01 as an area in need of redevelopment pursuant to the Act (hereinafter, the “Redevelopment Area”); and

WHEREAS, on November 10, 2008, after review and comment by the Town’s Planning Board in accordance with the Act, the Town, acting by Ordinance, enacted the Paterson Avenue Redevelopment Plan governing the Redevelopment Area (the “Redevelopment Plan”); and

WHEREAS, due to changes in the national, regional and local economies occurring since the time of adoption of the Redevelopment Plan, the Town wished to consider the addition of alternative uses and standards to the Redevelopment Plan in order to provide additional options for the revitalization of the Redevelopment Area; and

WHEREAS, in accordance with the Act, the Town prepared proposed amendments to the Redevelopment Plan, which are attached hereto as Exhibit A (the “Proposal”); and

WHEREAS, on June 27, 2011, the Town Council, acting by Resolution, referred the Proposal to the Planning Board for its review and comment in accordance with Section 7 of the Act; and

WHEREAS, at a duly noticed and constituted public meeting of the Planning Board held on July 20, 2011, Jessica Caldwell, P.P., A.I.C.P. of Harold E. Pellow & Associates, Inc. (the “Planning Consultant”) presented the Proposal and further addressed any questions and comments presented by the Planning Board; and

WHEREAS, the members of the public were given the opportunity to provide their own testimony regarding the Proposal; and

WHEREAS, after due consideration of the Proposal, the testimony of the Planning Consultant, and the testimony of the public, the Planning Board has determined that while the Proposal is not consistent with the permitted uses for the Redevelopment Area recommended by the Town's Master Plan, it is consistent with the overarching goals of the Master Plan, and therefore the Planning Board wishes to recommend to the Town Council that it adopt a modified version of the Proposal (the “Revised Proposal”) as an amendment to the Redevelopment Plan. The Revised Proposal shall consist of the Proposal as modified by the revisions enumerated at Exhibit B attached hereto.

EXHIBIT A

PROPOSAL

4. At page 7, prior to sub-heading entitled “At Section 4.1...” add the following:

Generally:

Notwithstanding any other provision of this Redevelopment Plan to the contrary, graphics included in this Redevelopment Plan which represent residential and home office uses, including but not necessarily limited to Section 1.8, Development Axonometric; Section 1.9, Illustrative Site Plan; and Section 4.1, Land Use Plan, shall continue to apply to residential and home office uses under this Redevelopment Plan and shall not be construed to prohibit the office, light industrial, manufacturing, research and development and warehouse uses that are permitted in accordance with Section 4.1 of this Redevelopment Plan.

5. At page 7, prior to sub-heading entitled, “At Section 6.2...”, add the following:

At Section 5.0, Mobility Regulating Plan, add the following at the end of Section 5.1, Introduction:

The requirements of this Section 5.0 shall apply with respect to residential and home office uses. The location and detail of any thoroughfares within the Redevelopment Area in connection with development of office, light industrial, manufacturing, research and development and warehouse uses, shall be subject to the approval of the Planning Board in consultation with the Town Engineer.

At Section 6.0, Building Regulations, add the following at the end of Section 6.1, Introduction:

Notwithstanding any other provision of this Redevelopment Plan to the contrary, the provisions of Section 6.4 – Building Mass; Section 6.5 – Building Type Plan; Section 6.6 – Building Typologies; Section 6.7 – Architectural Regulations, items #3 (architectural styles), #4 (building design) and #5 (story height); Section 6.8 – Façade Regulations, items #1 (varied façade designs); #2 (façade materials); #3 (façade colors); #4 (accent colors); #5 (soffit emphasis) and #6 (soffits); and Section 6.9 Building Window and Roof Regulations shall apply to residential and home office uses only. With respect to office, light industrial, manufacturing, research and development and warehouse uses the overall mass and design of the building shall be presented to the Planning Board in connection with site plan review.

6. At page 7, prior to sub-heading entitled “At Section 6.12...”, add the following:

- e. The maximum permitted floor area ratio of office, light industrial, manufacturing, research and development and warehouse uses shall be established as a mathematical function of the bulk standards set forth above and the maximum height set forth at Section 6.3, and shall not be impacted by any deviations that may sought and granted with respect to one or more of these bulk standards.

EXHIBIT D

PLAN AMENDMENTS

PATERSON AVENUE REDEVELOPMENT
PLAN AMENDMENT

August 8, 2011

Prepared by: Harold E. Pellow & Associates, Inc.

Jessica Caldwell, P.P., A.I.C.P, Town Planner, P.P. # 5944

PLAN CONSISTENCY REVIEW

BACKGROUND

On December 10, 2007, the Town Council of the Town of Newton determined that Block 1201.02, Lots 2 and 2.01 constituted an area in need of redevelopment (the "Area" or the "Redevelopment Area") in accordance with the provisions of the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Redevelopment Law"). In late 2008, following review and input by the Planning Board, a redevelopment plan (the "Redevelopment Plan") was adopted for the Area. The Redevelopment Plan called for 64 single family residential units to be constructed to achieve a variety of goals relative to the Redevelopment Area designation.

However, following adoption of the Redevelopment Plan, the economic climate changed dramatically in Newton, as well as across New Jersey and the United States. The housing market plummeted as banks and financial institutions were weakened by bad lending practices. The national economy, and that in Newton, as well, is now coming out of what is now referred to as the "Great Recession". However, economic recovery is slow and the housing market remains extremely weak. In light of this dramatic change to the housing market, the Town is revisiting the Redevelopment Plan to consider other alternatives for revitalization of the Redevelopment Area.

While the housing market has grown weaker, some businesses are thriving and growing in the economic recovery. For example, under the Sparta Avenue Redevelopment Plan, a research and development and light industrial firm devoted to lasers and photonics, Thor Labs, is relocating its world headquarters to Newton. Similar businesses, including Thor Labs itself, subsequently began demonstrating interest in leasing space within the Redevelopment Area. The Town believes that this Area has potential for redevelopment in the near term with new, light industrial and research and development uses that will have a lower impact on the neighboring residential neighborhood than previous uses, when combined with improvements to the Area to improve structures, buffer property, and improve landscaping.

AMENDMENTS TO THE REDEVELOPMENT PLAN

The Redevelopment Plan contemplates the potential for amendments to the plan. At Section 9.1 of the Redevelopment Plan, it states, "As development occurs within the Area, development priorities and market demands may change. This Plan should have the ability 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." The Redevelopment Plan goes on to state that any proposed redevelopment plan amendment should include a Plan Consistency Review Section that addresses the consistency of the proposed amendments with the Redevelopment Plan, the Town of Newton Master Plan, the Sussex County Master Plan and the State Development and Redevelopment Plan.

REDEVELOPMENT PLAN GOALS

The following goals of the Redevelopment Plan are in keeping with this proposed amendment.

1. To allow for more efficient use of land and to expand the Town's tax base by encouraging high quality development.
2. To maximize the participation of private developers while minimizing the participation of the public sector.
3. To enhance the positive visual character and safety of the Paterson Avenue Redevelopment Area through building placement and design, landscaping and streetscape improvements.
4. To provide vehicular circulation and parking options to minimize impacts on the existing roadways and adjacent residential uses.
5. To create a high quality developed environment, with building forms and design that set a new standard for the overall aesthetic appearance of the area and surrounding neighborhood.

PROPOSED AMENDMENTS TO THE PATERSON AVENUE REDEVELOPMENT PLAN:

At Section 1.4, Statutory Basis of the Plan, under the heading Statutory Requirements, B1, replace "...as residential uses." with "...in accordance with this Redevelopment Plan."

At Section 1.7, Goals of the Plan, under the heading Redevelopment Goals, #3, Replace first sentence with "To replace and redirect existing light industrial and commercial activity in the Paterson Avenue Redevelopment Area elsewhere within Newton or to ensure that to the extent light industrial uses are developed within the Paterson Avenue Redevelopment Area, they are developed in a manner that do not create a nuisance to the surrounding residential neighborhood."

TOWN OF NEWTON MASTER PLAN GOALS

The following Town of Newton Master Plan Goals are consistent with this proposed plan amendment:

1. To encourage municipal action to guide the appropriate use or development of all lands in Newton, in a manner that will promote the public health, safety, morals, and general welfare.
2. Encourage development and improvement of industrial, commercial and public service uses which complement Newton's role as a Regional Center in the County.
3. Encourage light industrial development subject to performance standards that would be compatible with the "Regional Center" development concept of Newton.

The Town of Newton Master Plan recommended zoning of the Redevelopment Area as T-3, Neighborhood Residential. The Paterson Avenue Redevelopment Plan established permitted uses in accordance with that recommendation. However, due to dramatic changes in the local, regional and national economies since the time of the adoption of the Paterson Avenue

Redevelopment Plan and the Town of Newton Master Plan, particularly with respect to the housing markets, residential development of the Redevelopment Area is not considered likely in the near future. Therefore, this Proposed Amendment recommends the retention of residential development as a permitted use under the Paterson Avenue Redevelopment Plan, while also recommending the addition of other non-residential permitted uses in order to increase the alternatives and options available for the revitalization of the Redevelopment Area.

This approach, while not entirely consistent with the specific uses recommended for the Redevelopment Area pursuant to the Town of Newton Master Plan, is believed to be consistent with the overarching goals of the Town of Newton Master Plan, as set forth above, and to reflect changing market realities since the adoption of the Town of Newton Master Plan and the Paterson Avenue Redevelopment Plan.

SUSSEX COUNTY STRATEGIC GROWTH PLAN GOALS

The following Sussex County Strategic Growth Plan Goals are consistent with this proposed amendment in promoting the expansion of job centers and retaining jobs in a traditional center:

Job Creation Centers - Expansion of job creation centers will provide/create:

1. Employment
2. Opportunities for reverse commuting.
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Goal 3 and its policies and indicators from the State Development and Redevelopment Plan is consistent with this proposed plan amendment because it would create additional jobs within a State Designated Regional Center, thereby promoting economic development, increasing employment opportunities and bettering the economic welfare of the community.

GOAL	POLICIES	INDICATORS
<p>Goal 3: Promote Beneficial Economic Growth, Development and Renewal for All Residents of New Jersey</p> <p>STRATEGY: Promote socially and ecologically beneficial economic growth, development and renewal and improve both the quality of life and the standard of living of New Jersey residents, particularly the poor and minorities, through partnerships and collaborative planning with the private sector. Capitalize on the State's strengths—its entrepreneurship, skilled labor, cultural diversity, diversified economy and environment, strategic location and logistical excellence—and make the State more competitive through infrastructure and public services cost savings and regulatory streamlining resulting from comprehensive and coordinated planning. Retain and expand businesses, and encourage new, environmentally sustainable businesses in Centers and areas with infrastructure. Encourage economic growth in locations and ways that are both fiscally and environmentally sound. Promote the food and agricultural industry throughout New Jersey through coordinated planning, regulations, investments and incentive programs—both in Centers to retain and encourage new businesses and in the Environs to preserve large contiguous areas of farmland.</p>	<p>Policy on Economic Development - Promote beneficial economic growth and improve the quality of life and standard of living for New Jersey residents by building upon strategic economic and geographic positions, targeting areas of critical capital spending to retain and expand existing businesses, fostering modern techniques to enhance the existing economic base, encouraging the development of new enterprises, advancing the growth of green businesses, elevating work force skills, and encouraging sustainable economic growth in locations and ways that are fiscally and ecologically sound.</p> <p>Policy on Agriculture - Promote and preserve the agricultural industry and retain farmland by coordinating planning and innovative land conservation techniques to protect agricultural viability while accommodating beneficial development and economic growth necessary to enhance agricultural vitality and by educating residents on the benefits and the special needs of agriculture.</p> <p>Policy on Equity - It is the position of the State Planning Commission that the State Plan should neither be used in a manner that places an inequitable burden on any one group of citizens nor should it be used as a justification for public actions that have the effect of diminishing equity. It is also the position of the Commission that the achievement, protection and maintenance of equity be a major objective in public policy decisions as public and private sector agencies at all levels adopt plans and policies aimed at becoming consistent with the State Plan.</p>	<p>Key Indicator 1. New development, population and employment located in the Metropolitan and Suburban Planning Areas or within Centers in the Fringe, Rural and Environmentally Sensitive Planning Areas</p> <p>Indicator 1. Average annual disposable income among New Jerseyans</p> <p>Indicator 2. Unemployment</p> <p>Indicator 3. Conversion of farmland for development</p> <p>Indicator 5. Agricultural output</p> <p>Indicator 7. Economic output per unit of energy consumed</p> <p>Indicator 21. Municipalities with median household incomes of less than \$30,000 per year (in 1990 dollars)</p> <p>Indicator 22. Number of census tracts with more than 40% of the population living under the poverty level</p>

Based upon the foregoing, it is recommended that the following amendments be made to the Paterson Avenue Redevelopment Pan.

PATERSON AVENUE REDEVELOPMENT PLAN AMENDMENT

OFFICES, LIGHT INDUSTRIAL, RESEARCH AND DEVELOPMENT AND WAREHOUSES

Generally:

Notwithstanding any other provision of this Redevelopment Plan to the contrary, graphics included in this Redevelopment Plan which represent residential and home office uses, including but not necessarily limited to Section 1.8, Development Axonometric; Section 1.9, Illustrative Site Plan; and Section 4.1 Land Use Plan; shall continue to apply to residential and home office uses under this Redevelopment Plan and shall not be construed to prohibit the office light industrial, research and development and warehouse uses that are permitted in accordance with Section 4.1 of this Redevelopment Plan.

At Section 3.0, Definitions, add the following:

Light Industry - Research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building. Finished or semi-finished products may be temporarily stored outdoors pending shipment.

At Section 4.1 entitled "Land Use Plan", add the following to "Permitted Uses":

"4. Offices, research & development (R&D), and light industrial uses, including associated storage and warehouse use." Permanent outdoor storage is prohibited. Temporary outside storage used in connection and support of a permitted use is permitted (a) provided materials are stored in a storage container or other enclosed container, (b) no container is stored for more than 48 consecutive hours at any one time, (c) no more than two (2) such storage containers are on-site at any one time, and (d) such storage containers are placed on or near and used in connection with a loading dock area.

At Section 5.0, Mobility Regulating Plan, add the following at the end of Section 5.1,

Introduction:

The requirements of this Section 5.0 shall apply with respect to residential and home office uses. The location and detail of any thoroughfares within the Redevelopment Area in connection with development of office, light industrial, manufacturing, research and development and warehouse uses, shall be subject to the approval of the Planning Board in consultation with the Town Engineer. In reviewing the location and detail of thoroughfares within the Redevelopment Area,

the Planning Board and the Town Engineer shall consider safe traffic circulation and pedestrian safety, and the minimization of traffic conflicts and traffic impacts.

At Section 6.0, Building Regulations, add the following at the end of Section 6.1,

Introduction:

Notwithstanding any other provision of this Redevelopment Plan to the contrary, the provisions of Section 6.4 – Building Mass; Section 6.5 – Building Type Plan; Section 6.6 – Building Typologies; Section 6.7 – Architectural Regulations, items #3 (architectural styles), #4 (building design) and #5 (story height); Section 6.8 – Façade Regulations, items #1 (varied façade designs); #2 (façade materials); #3 (façade colors); #4 (accent colors); #5 (soffit emphasis) and #6 (soffits); and Section 6.9 Building Window and Roof Regulations shall apply to residential and home office uses only. With respect to office, light industrial, manufacturing, research and development and warehouse uses the overall mass and design of the building shall be presented to the Planning Board in connection with site plan review.

At Section 6.2 entitled “Setback Regulations”, add the following:

“Bulk Requirements: Offices, Light Industrial, Research and Development, and Warehouses:

Notwithstanding any other provisions of this Redevelopment Plan to the contrary, the bulk requirements for offices, light industrial, research and development and/or warehouse uses shall be as follows:

- a. Minimum lot area: 87,120 square feet.
- b. Minimum lot frontage: 200 feet.
- c. Minimum lot width: 250 feet.
- d. Minimum yards - principal and accessory structures**:
 1. Front yard: 40 feet.
 2. Rear yard: 30 feet.
 3. Side yard: 15 feet one side; 30 feet total.
- e. The maximum permitted floor area ratio of office, light industrial, manufacturing, research and development and warehouse uses shall be established as a mathematical function of the bulk standards set forth above and the maximum height set forth at Section 6.3, and shall not be impacted by any deviations that may sought and granted with respect to one or more of these bulk standards.

At Section 6.12 entitled “Building Parking Standards”, add the following:

“6. Parking Requirements: Offices, Light Industrial, Research and Development and Warehouses: Notwithstanding any other provisions of this Redevelopment Plan to the contrary, parking requirements for office, light industrial, and/or research and development and/or warehouse uses shall be as follows:

One (1) space for each 1,100 sq. ft. for the Office, Light Industrial, and Research and Development uses, and one (1) space per 2,500 sq. ft. for Warehouses. These requirements may be reduced by deviation granted by the Board if parking studies of similar style facilities and/or actual usage illustrates that less parking spaces are required. In parking lots containing more

than 10 spaces, at least 5% of the interior parking area shall be landscaped with plantings. Parking lot street frontage screening and perimeter screening shall be a minimum of 10 feet wide. A snow removal/disposal plan shall be provided.

At Section 6.11 entitled “Building Signage and Lighting Standards”, add the following:

“5. Signs for Offices, Light Industrial, Research and Development and Warehouses. One ground mounted sign is permitted per lot, with a maximum sign size of 40 square feet and a minimum setback of 10 feet is required.”

At Section 6.3, Minimum and Maximum Height Regulations, add the following:

Office/Light Industrial/Manufacturing/Research and Development/Warehouses: Maximum building height of 40 feet, composed of one or more stories. Notwithstanding any other provision of this Redevelopment Plan to the contrary, this Redevelopment Plan does not impose a minimum or maximum story height for office, light industrial, manufacturing, research and development or warehouse uses.

Section 7.10 entitled “Landscaping and Buffering – Offices, Light Industrial, Research and Development and Warehouses.

Notwithstanding any other provisions of this Redevelopment Plan to the contrary, the landscaping and buffering requirements with respect to landscaping and buffering for offices, light industrial, research and development, and/or warehouses shall be as follows:

Landscaping:

- a. Each lot shall have a minimum of 5% of the lot landscaped. All areas not occupied by buildings, parking areas, patios, walkways and/or any other impervious surface shall be suitably landscaped. No landscaping shall interfere with required sight triangles.
- b. Deciduous trees shall have at least a three-and-one-half-inch dbh and 10 feet in height at planting, and evergreen trees shall be at least five feet tall. All trees shall be balled and burlapped and be of specimen quality as established by the American Association of Nurserymen.
- c. Any landscaping which, within two years of planting, dies, for any reason, shall be replaced by the developer(s) at his expense by means of a developer’s agreement or a bond agreement as determined by the Town Council.
- d. The following landscape principles shall be considered:
 1. Landscaping shall be located to provide for climate control, e.g. shade trees in parking areas.
 2. Landscaping shall be used to accent and complement buildings.
 3. Landscaping shall be provided in public areas, parking areas, recreation sites and adjacent to buildings.
 4. Massing trees shall be considered at critical points.
 5. Smaller trees shall be used on narrow streets.
 6. Ground cover shall be used to prevent erosion.
 7. A variety and mixture of landscaping shall be provided. Consideration shall be given to susceptibility to disease, colors, season, textures, shapes, blossom and foliage in selecting species.

8. Local soil conditions and water availability shall be considered in the choice of landscaping.
9. Existing trees located within 10 feet of any street right-of-way shall be maintained unless shown to be removed as part of an approved plan. The existing grade within that space shall not be disturbed without such approval.
10. Entrances to nonresidential lots shall be landscaped.
11. The impact of any proposed landscaping plan at various time intervals shall be considered. For example, shrubs can grow and eventually block sight distances and foundation plants can block out buildings.
12. Impervious materials shall not be used in any landscape area. Weed retardant mulch, porous nonwoven synthetic landscape fabric or other materials shall be used.
13. Decorative stones are discouraged as a ground cover. Vegetative ground cover is encouraged.
14. On site re-use of rainwater and grey water for irrigation is encouraged.

Buffering:

- a. Visual screens provided through landscaping shall be designed in such a manner as to provide a barrier on a year-round basis around the view of the area to be screened.
- b. Existing vegetation within the buffer shall be preserved, where possible, and supplemented with plantings and other buffer devices to provide screening of residences.
- c. Buffer dimensions shall be measured from property lines.
- d. No buildings, signs (other than directional signs), structures, storage of materials or parking shall be permitted within the buffer area.
- e. All plantings shall be installed according to accepted horticultural standards.
- f. Design. Arrangement of plantings in buffer shall provide maximum protection to adjacent properties and avoid damage to existing plant material. The plantings shall be arranged in double staggered rows where possible. If planting berms are used, the minimum top width shall be four feet and the maximum side slope shall be 2:1. No berm shall be so high in height or mass as to be disproportionate to the characteristics of its setting.
- g. Planting specifications. Plant materials shall be a minimum of six feet in height and planted in such a fashion that a screen at least eight feet in height shall be produced within three growing seasons. All plantings shall be deer resistant, such as Blue Spruce, and installed according to accepted horticultural standards.
- h. Maintenance. Plantings shall be watered regularly with a sprinkler system or other means preferably using recycled water in a manner appropriate for the specific plant species through the first growing season, and dead or dying plants shall be replaced by the developer during the next planting season. No buildings, structures, storage of materials or parking shall be permitted within the buffer area. Buffer areas shall be maintained and kept free of all debris, rubbish, weeds and tall grass.
- i. Basic standards. The following buffer requirements shall apply unless it is shown or apparent to the Board that an alternative arrangement is more suitable:
 1. Along the side and rear lot lines of all commercial industrial and other nonresidential uses: 10 feet.
 2. Along the front lot line of light industrial or other higher intensity nonresidential uses: 10 feet.

3. Along the rear lot lines of nonresidential uses that abut residential zones and uses: 20feet.
4. Buffers need not be added cumulatively to setback requirements; a buffer area shall instead be an overlay of a required setback.

At Section 9.5, under the heading “Affordable Housing”, strike the first paragraph and replace with the following:

All development within the Redevelopment Area must comply with State affordable housing regulations, and local affordable housing regulations, if any, which are applicable at the time of the site plan application.



TOWN OF NEWTON
RESOLUTION #170-2011

August 8, 2011

**"Paving Former Lot 9 (now a portion of Lot 8) in
Block 713 on the Town of Newton Tax Map"**

WHEREAS, the Town of Newton was a party to a Parking Lot License Agreement with Brumar Associates, Inc., which agreement was dated January 4, 1996 and terminated September 30, 2001, (the "License Agreement"); and

WHEREAS, the License Agreement, among other issues, obligated the Town of Newton to maintain the parking lot adjacent to the Newton Theater building, said lot also known as former Lot 9 (now a portion of Lot 8) in Block 713 on the Town of Newton Tax Map (the "Theater Parking Lot"), and the License Agreement also obligated the Town of Newton to share revenue that the Town of Newton collected from parking meters installed on the Theater Parking Lot; and

WHEREAS, the License Agreement expired in 2001 and the Theater Parking Lot has since changed ownership so that it is now owned by The Newton Theater Company, LLC, 105 West Dewey Avenue, C17, Wharton, New Jersey 07885; and

WHEREAS, the Town of Newton seeks to fulfill its maintenance and restoration duties under the Lease and fulfill its revenue sharing obligations under the Lease by paving the subject parking lot and has obtained an estimate for such paving through the Morris County Cooperative Pricing Council, of which the Town of Newton is a paid member; and

WHEREAS, the present owner of the subject property, The Newton Theater Company LLC, has signed and delivered a Release, Hold-Harmless and Indemnification Agreement in favor of the Town of Newton in consideration for said paving;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton to approve the expense of an amount not to exceed SIX THOUSAND AND FIVE HUNDRED DOLLARS (\$6,500.00) for the paving of the former Lot 9 (now a portion of Lot 8) in Block 713 on the Town of Newton Tax Map (the "Theater Parking Lot"), in compliance with the terms of the attached July 14, 2011 letter quotation summarized by Harold E. Pellow & Associates, Inc., said paving to be accomplished forthwith through Tilcon New York, Inc.

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, August 8, 2011.

Lorraine A. Read, RMC
Municipal Clerk

GENERAL RELEASE

This General Release is made on the signature date set forth below between: **The NEWTON THEATER COMPANY, LLC**, a limited liability company of the State of New Jersey, 105 West Dewey Ave, C17, Wharton, New Jersey 07885; and the **TOWN OF NEWTON**, a municipality of the State of New Jersey, 39 Trinity Street, Newton, New Jersey 07860.

WHEREAS, the Town of Newton entered into a Parking Lot License Agreement dated January 4, 1996 (the "License Agreement") with Brumar Associates, Inc., the predecessor of The Newton Theater Company, LLC in controlling the use of a parking lot adjacent to the Newton Theater on Spring Street in Newton and otherwise known as former Lot 9 (now a part of Lot 8) in Block 713 on the Town of Newton Tax Map (the "Theater Parking Lot"); and

WHEREAS, The Newton Theater Company, LLC is the present owner of the Theater Parking Lot and the License Agreement is no longer in force or effect; and

WHEREAS, the Town of Newton seeks to fulfill its maintenance and revenue sharing obligations of the License Agreement by paving the Theater Parking Lot in or about August 2011 at a cost not exceeding SIX THOUSAND AND FIVE HUNDRED DOLLARS (\$6,500.00); and

WHEREAS, in consideration for said paving of the Theater Parking Lot by the Town of Newton, The Newton Theater Company, LLC seeks to release all claims against the Town of Newton and indemnify and hold the Town of Newton harmless for all claims arising from the maintenance and/or revenue sharing related to the Theater Parking Lot and/or the License Agreement;

NOW, THEREFORE, in consideration of the covenants set forth herein, the Newton Theater Company, LLC hereby agree as follows:

The Newton Theater Company, LLC, including its predecessors, successors and/or assigns, hereby releases and forever discharges the Town of Newton from any and all claims and rights that The Newton Theater Company, together with its predecessors, successors and/or assigns, may have against the Town of Newton. This releases all claims, including those of which The Newton Theater Company is not aware and those not mentioned in this Release. The Newton Theater Company also agrees to indemnify and hold harmless the Town of Newton for any claims arising out of the use, maintenance, revenue or any other matter arising from the Theater Parking Lot and/or the License Agreement. This Release includes a release of all alleged acts and omissions of the principals, employees, entities and agents of the Town of Newton regarding all issues and potential issues in controversy between the parties and their principals, employees and agents up to and including the date of this Release. The Newton Theater Company, LLC has had the opportunity to consult with its respective legal counsel in the negotiation, preparation and review of this Release prior to its execution.

IN WITNESS WHEREOF, The Newton Theater Company, LLC executes this General Release on the date set forth below.

THE NEWTON THEATER COMPANY, LLC

By: _____

Date:

STATE OF NEW JERSEY :
: **SS:**
COUNTY OF SUSSEX :

I certify that on _____, 2011, _____ came before me in person and stated to my satisfaction that:

- (a) this person is the _____ of The Newton Theater Company, LLC, a New Jersey limited liability company;
- (b) this Release was signed, sealed and delivered as the voluntary act and deed of The Newton Theater Company;

Notary



TOWN OF NEWTON

RESOLUTION #171-2011

August 8, 2011

"Authorize Extension for Payment of Real Estate Taxes"

WHEREAS, the Sussex County Board of Taxation has certified the 2011 tax rate for the Town of Newton on July 22, 2011 and as a result, the tax bills for the third installment could not be mailed by June 15th, but were mailed instead on August 1, 2011; and

WHEREAS, the intent of NJSA 54:4-64 is to assure that taxpayers are given adequate notice of taxes due before penalties are invoked requiring payment of interest for delinquency under the provisions of NJSA 54:4-67; and

WHEREAS, in accordance with NJSA 54:4-67 and NJSA 54:4-81 a twenty-five (25) day extension period must be provided. In fairness to the tax payers of the Town of Newton, the Town is extending the period greater than twenty-five (25) days to August 30, 2011 by establishing the interest rate for delinquency at zero percent (0%) from the certification date of mailing said tax bills; and

WHEREAS, interest shall revert back to August 1, 2011 after the August 30, 2011 extension period to provide consistency and compliance in accordance with NJSA 54:4-67;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that a greater than twenty-five (25) day extension period is hereby granted for the August 2011 tax quarter by charging zero percent (0%) interest during said extension period:

BE IT FURTHER RESOLVED, that following the August 30, 2011 extension period, interest shall be charged from August 1, 2011 in compliance with NJSA 54:4-67.

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, August 8, 2011.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #172-2011

August 8, 2011

"Affirm the Issuance of a Bond Anticipation Note"

WHEREAS, when Bond Ordinances are adopted by the Town Council of the Town of Newton, the Chief Financial Officer is authorized to issue Bond Anticipation Notes to provide temporary financing for the Town; and

WHEREAS, the Town of Newton will be financing debt through the Morris County Improvement Authority on approximately August 30, 2011; and

WHEREAS, Lakeland Bank agreed to financing the debt for the interim period of July 28, 2011 to September 1, 2011 at the rate of 1.25%; and

WHEREAS, the Chief Financial Officer negotiated the sale with Lakeland Bank for a Bond Anticipation Note totaling \$1,798,000.00 at a net interest cost of 1.25%, and a net interest payable of \$2,155.14; and

WHEREAS, the appropriate Town Officials have executed said Note in the amount of \$1,798,000.00 with an interest rate of 1.25% dated July 28, 2011 for a term of 35 days (360 days for interest calculations) due September 1, 2011; and

WHEREAS, to comply with N.J.S.A. 40A:2-28 of the Local Bond Law, which requires that the Chief Financial Officer report certain information in writing to the Mayor and Council at the next Town Council meeting, herewith attached is the Certificate of Determination and Award;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that it does hereby affirm the issuance of said Bond Anticipation Note by the Chief Financial Officer and the execution of said note by the appropriate Town Officials.

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, August 8, 2011.

Lorraine A. Read, RMC
Municipal Clerk

CERTIFICATE OF DETERMINATION AND AWARD

I, Dawn L. Babcock, Chief Financial Officer of the Town of Newton, in the County of Sussex, New Jersey (hereinafter referred to as the "Town"), HEREBY CERTIFY as follows:

1. I hereby determine to issue the Bond Anticipation Note (the "Note") hereinafter described by virtue of the authority conferred upon me by the bond ordinance of the Town referred to in the attached chart by reference to number, date of adoption and amount of bonds or notes authorized, such notes to be issued in the amount indicated in the chart.

<u>TOTAL</u> <u>PRINCIPAL</u> <u>AMOUNT:</u>		<u>NUMBERS</u>		<u>DENOMINATIONS</u>
	\$1,798,000	2011-1		\$1,798,000
<u>DATE:</u>	7/28/11			
<u>MATURITY:</u>	9/1/11			
<u>INTEREST</u> <u>RATE PER</u> <u>ANNUUM:</u>	1.25%			
<u>PLACE OF</u> <u>PAYMENT:</u>	Town of Newton, in the County of Sussex, New Jersey			

2. Pursuant to the authority so conferred upon me, I have awarded and sold the Note to Lakeland Bank at the price of \$1,798,000, plus an amount equal to the interest on the Note accrued to the date of payment of the purchase price.

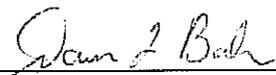
3. No bonds of the Town have heretofore been issued pursuant to the bond ordinance referred to in Section 1 hereof.

4. The date of the first note or other obligation issued in anticipation of the issuance of the bonds that the Note is issued in anticipation of, whether or not now outstanding, is as stated in the attached chart.

5. No grants have been received, no paydowns have been made and no cancellations have been enacted that would reduce the debt authorization below the amount of notes outstanding under the bond ordinance described in the attached chart.

6. No notes or other obligations in anticipation of the issuance of bonds have heretofore been issued pursuant to the bond ordinance referred to in the attached chart and now remain outstanding and unpaid.

IN WITNESS WHEREOF, I have hereunto set my hand as of July 28, 2011.



Dawn L. Babcock
Chief Financial Officer

\$1,798,000 Bond Anticipation Note
of the
Town of Newton, in the
County of Sussex, New Jersey

Dated: July 28, 2011

Maturity: September 1, 2011

Bond Ordinance Number	Description of Improvement, Date of Adoption and Period of Usefulness of Bond Ordinance	Original Bond Authorization	History of Notes to be Refunded/Date of First Issue	2011 Paydowns	Unspent Proceeds	Amount to be Issued
2010-7	Various capital improvements, finally adopted 6/14/10 (12.05 years)	\$2,047,100	\$2,047,100 Bond Anticipation Note dated 7/28/10 and maturing 7/28/11, with the date of first issue being 7/28/10 as to the \$2,047,100 originally issued, with \$249,000 being paid down with insurance proceeds and with \$100 being paid down with unspent proceeds.	\$249,100	\$289,457.24	\$1,798,000
Totals:				<u>\$249,100</u>	<u>\$289,457.24</u>	<u>\$1,798,000</u>



TOWN OF NEWTON

RESOLUTION #173-2011

August 8, 2011

"Authorize Refund of Redemption Monies to Outside Lien Holder for Block 1309, Lot 33"

WHEREAS, at the Municipal Tax Sale held on October 29, 2008 a lien was sold on Block 1309, Lot 33, also known as 6 Smith Street, for 2007 delinquent taxes and water and sewer charges; and

WHEREAS, this lien, known as Tax Sale Certificate #1285, was sold to Jesse Wolosky for 3% redemption fee; and

WHEREAS, GMAC Mortgage who is the mortgage company for the owner of said property, has effected the redemption of Certificate #1285 in the amount of \$1,708.49. Also, paid were legal fees in the amount of \$1,096.95 as set forth by said lien holder in his foreclosure process;

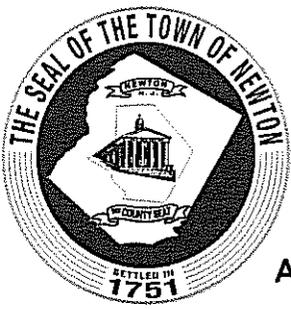
NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that this Governing Body acknowledges that Jesse Wolosky is entitled to the redemption in the amount of \$1,708.49 as well as the legal fees in the amount of \$1,096.95; and

BE IT FURTHER RESOLVED, that the Tax Collector be authorized to issue a check in the amount of \$1,708.49 for the redemption of Certificate #1285 along with the legal fees of \$1,096.95 to Jesse Wolosky, 1 Vista Drive, Sparta, NJ 07871.

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, August 8, 2011.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #174-2011

August 8, 2011

"Award Bid for Proposed Sidewalk Replacement on Various Streets Project"

WHEREAS, the Town of Newton publicly opened and read bids for the Proposed Sidewalk Improvements on Various Streets Project on Wednesday, August 3, 2011 at 11:00am as follows:

Name and Address of Bidder

Bid Price

**Tony's Concrete Construction
316 E. Kinney Street
Newark, NJ 07105**

\$51,713.74

WHEREAS, the Town Engineer, Harold E. Pellow & Associates, Inc., has reviewed the bids and recommends the contract for the Proposed Sidewalk Replacement on Various Streets Project be awarded to Tony's Concrete Construction, of Newark, New Jersey whose low bid was \$51,713.74; 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 Proposed Sidewalk Replacement on Various Street is to be awarded to Tony's Concrete Construction, Newark, New Jersey in the amount of \$51,713.74.

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, August 8, 2011.

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 #: 174 -2011

APPROVING: TONY'S CONCRETE CONSTR. CO

FOR THE PURPOSE OF: SIDEWALK IMPROVEMENTS

IN THE AMOUNT OF: \$51,713.74

APPROPRIATED BY: GENERAL CAPITAL:

ORD.#2011-5 #3091155 ADAM STREET CURBING /
SIDEWALK / PARKING LOT \$14,889.46

ORD.#2011-5 #3091151 VARIOUS ROAD IMPROVEMENTS/
SIDEWALK INSTALLATION \$ 36,824.28

DATED THIS 8th DAY OF AUGUST, 2011

BY

DAWN L. BARCOCK
CHIEF FINANCIAL OFFICER



TOWN OF NEWTON

RESOLUTION #175-2011

August 8, 2011

"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 2010 and 2011 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, August 8, 2011.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #176-2011

August 8, 2011

"Requesting Correction of the Hazardous Drainage Problem on Route 206 at the Merriam Avenue Intersection by the New Jersey Department of Transportation (NJDOT)"

WHEREAS, a hazardous condition exists on Route 206 in the Town of Newton, where Route 206 and Merriam Avenue intersect; and

WHEREAS, such hazardous condition is the result of the lack of sufficient storm drainage on Route 206; and

WHEREAS, during and following heavy rainstorms, Route 206 at this location floods and in the winter and often ices over; and

WHEREAS, Route 206, at this location, has been closed to traffic numerous times, having a major traffic impact on the Town of Newton, the Township of Andover, the County of Sussex, and the State of New Jersey; and

WHEREAS, the Town of Newton, in order to alleviate such hazardous conditions, has closed down the Merriam Avenue intersection with Route 206 numerous times; and

WHEREAS, letters have been sent by various Newton officials to the New Jersey Department of Transportation (NJDOT) requesting that appropriate drainage be installed to remedy this hazardous situation;

NOW, THEREFORE, BE IT RESOLVED by the Newton Town Council that the Town of Newton formally requests that the severe drainage problem that exists on Route 206 in the area of the intersection with Merriam Avenue become a repair priority with the New Jersey Department of Transportation (DOT) in order to correct this obviously deficient and hazardous condition; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be sent to the New Jersey Department of Transportation (NJDOT), Sussex County Board of Chosen Freeholders, New Jersey State Senator Steve Oroho, New Jersey Assemblyman Gary Chiusano, New Jersey State Assemblywoman Allison Littell McHose, and the Township of Andover.

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, August 8, 2011.

Lorraine A. Read, RMC
Municipal Clerk