

**HICKS AVENUE
REDEVELOPMENT PLAN
AMENDMENT
TOWN OF NEWTON
SUSSEX COUNTY, NEW JERSEY**



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HICKS AVENUE REDEVELOPMENT PLAN AMENDMENT TOWN OF NEWTON, SUSSEX COUNTY

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PLAN CONSISTENCY REVIEW

BACKGROUND

The Hicks Avenue Redevelopment Plan (the “Plan”) governs the Town of Newton Redevelopment Area (the “Area”) located on the northeastern corner of Sparta Avenue and Hicks Avenue. Notice was sent to property owners within the Area on November 21, 2007, pursuant to *DeRose v. Town of Harrison*. The Area was recommended to be designated as an Area in Need of Redevelopment by the Town of Newton Planning Board on December 6, 2007, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “Redevelopment Law”). The Area was designated an Area in Need of Redevelopment by the Town Council on December 10, 2007. The Plan for the Area, which established superseding zoning, was adopted by the Town Council on December 22, 2008.

The Plan Area includes eight (8) tax lots in Block 24.02 (former Block 1309), including portions of the adjacent street rights-of-way of Sparta Avenue, Hicks Avenue and Smith Street. The Town of Newton has updated tax lot numbers since the adoption of the original Hicks Avenue Redevelopment Plan. The new lot and block numbers for the parcels located in the Plan Area are: Block 24.02, Lots 1, 2, 3, 4, 5, 6, 7 and 8 (former Block 1309, Lots 1.01, 1, 2, 41, 9, 6, 8 and 42, respectively). The Plan Area comprises approximately 13.65 acres.

The purpose of the plan amendment is to provide for an updated design concept for the Redevelopment Area. The original plan contemplated townhouses with rear access garages, a mixed-use building and an apartment building. This plan amendment continues to propose townhouses; however with garage access in the front yard. The mixed-use/apartment building area along Sparta Avenue will be permitted to contain a free-standing commercial building. Additionally, this Plan Amendment will permit certain single family residential uses that exist in the area to remain as permitted uses. The mandatory stormwater recapture and use for irrigation or other non-potable uses are to be revised to be optional as well. The prior development concepts will remain permitted, simply allowing for additional design options for potential redevelopers.

AMENDMENTS TO THE REDEVELOPMENT PLAN

The Redevelopment Plan (the “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 amendments are to provide for changing market demands and an increase in the amount of available water in the Town, reducing the need for grey water conservation methods.

It has been more than five years since the Redevelopment Plan was adopted. There is insufficient market demand for the types of units proposed in the original plan because the cost of providing rear entry garages is increased because of the need to provide a rear access lane as well as the neighborhood street. The rear entry garages also minimize the size of rear yards, where the development community has requested the ability to provide larger rear yards. Additionally, the area has sufficient residential proposed to not necessarily need the retail uses to be mixed-use, providing for the ability to allow a stand-alone commercial use or commercial building with multiple commercial uses. This Plan Amendment provides for a greater variety of building types, while maintaining the spirit of the original plan, both in terms of the layout and architectural design.

The requirement for mandatory re-use of stormwater on the site may also be cost prohibitive for potential redevelopers. The original need for this water recycling program was due to a limited amount of available water in the Town’s water allocation. The Town has undertaken a leak detection program and has recovered more than 20 percent of water previously lost to leaks in the system. This has lessened the need for mandatory water recycling, providing for the potential for this provision to be optional in the Plan.

The Plan Amendment is generally consistent with the stated goals of the Plan. For example, the first goal in the Plan is to “eliminate the incongruous land uses within the Area and between the designated Area and surrounding environs, eliminating blighting influences.” This Plan Amendment Continues this goal by providing for a greater likelihood of redevelopment occurring. This Plan Amendment is also generally consistent with the Master Plan of the Town of Newton. For example, one of the general goals from the Master Plan is “to promote a desirable visual environment through creative development techniques and good civic design and arrangement.” The Plan Amendment encourages good design, building arrangement and provides for high quality residential and commercial uses in a currently abandoned industrial area. For these reasons, the Plan Amendment is generally consistent with the stated goals of the Plan, the goals of the Town of Newton Master Plan and State Development and Redevelopment Plan. One goal from the Redevelopment Plan must be amended slightly to permit the option of a stormwater recapture system on the site, rather than a mandatory system.

Based upon the foregoing, the following amendments are made to the Hicks Avenue Redevelopment Plan. If there is a conflict between any of the amended provisions below and existing provisions in the Plan, the amended provisions shall govern. With the exception of the foregoing, all other provisions of the Plan not specifically modified by this Plan Amendment shall remain unmodified.

HICKS AVENUE REDEVELOPMENT PLAN AMENDMENT

At Section 1.2, Local Context Map, on page 7, the last paragraph shall include the following:

The Redevelopment Plan also permits a neighborhood center concept that includes a combination of townhouses, single family residential on existing lots and free-standing commercial uses or a commercial building with multiple commercial spaces. Development layouts, site and circulation plans and building graphics within the Plan are conceptual in nature and subject to final engineering and architectural design by an applicant, subject to approval by the Planning Board.

At Section 1.7, Goals of the Plan, on page 12, Goal 18 shall be replaced with the following:

18. To encourage environmental sustainability through the optional creation of a Potable Water Conservation Program, by which stormwater is recaptured, stored and used for landscape irrigation, car washing, and non-potable use within the dwelling units, retail or commercial structures.

At Section 1.7 Goals of the Plan, on page 12, Redevelopment Objectives, under Section 1, the following sentence shall be added:

1. A Redeveloper is not required to assemble all parcels in the Area prior to undertaking a redevelopment project.

At Section 1.9, Illustrative Site Plan, the second and third paragraphs on page 14 and first paragraph on page 15 shall be deleted and replaced with the following:

The Illustrative Site Plan provides one option for redevelopment of the Area. This Redevelopment Plan permits a density of up to 20 residential units per buildable acre. The total number of units ultimately constructed will depend on the amount of land allocated for residential uses and the total acreage of land proposed to be redeveloped by an applicant. The Plan provides one alternative that shows townhouses with rear access drives, a mixed-use building and a multi-family residential building and an alternative plan permitted by this Redevelopment Plan is for townhouses with garage access in front of the buildings, single family residential remaining or constructed on individual lots and free-standing commercial buildings with one or more commercial uses.

At Section 2.2 Environmental Conditions, page 19, the final paragraph under the heading “Site Contamination” shall be deleted and replaced with the following:

Prior to any construction on the site, the Municipality must receive from the redeveloper any and all supporting data which the Municipality deems necessary to validate that any contamination on the site has been remediated, or will be remediated during construction pursuant to an NJDEP approved site remediation plan.

At Section 2.4 Circulation & Utilities, page 21, the third to the last paragraph entitled “Stormwater” shall be deleted and replaced with the following:

The stormwater management on this development site will be in accordance with the Residential Site Improvement Standards and Newton’s Stormwater Control Ordinance.

At Section 3.0 Definitions, page 24 and 25, the definitions for Design Professional, Density and Potable Water Conservation Program should be deleted and replaced with the following:

Design Professional – A practicing Licensed Professional Planner or Architect that has experience with redevelopment plans in general and form-based zoning.

Density – The number of dwelling units permitted per buildable acre within the Redevelopment Area. Buildable land is exclusive of constraints from wetlands and wetland buffers. Where a Redeveloper is able to obtain an NJDEP permit to build within regulated areas, those areas shall be deemed buildable for purposes of density.

Potable Water Conservation Program – An optional program prepared by the developer by which stormwater is recaptured, stored and used for non-potable use, such as landscape irrigation, car washing and flushing toilets.

At Section 4.1 Land Use Regulations, Permitted Uses, Section 1, page 28, Residential Uses should be deleted and replaced with the following:

1. Residential: Includes premises available for long-term human habitation; excludes all boarding houses and rooming houses. Residential uses are limited to attached townhouses, paired villas (duplexes), multi-family flats, residential above mixed-use commercial and single-family dwellings.

At Section 4.1 Land Use Regulations, Permitted Uses, page 28, delete and replace paragraph for as follows and add paragraph 5, Commercial Uses as follows:

4. Open Spaces, Park and Playgrounds: Public or private open space and/or recreational areas that may include passive and/or active recreational facilities such as pedestrian walkways, bike paths, pedestrian-scaled lighting, benches, picnic areas, playground equipment and/or trash receptacles (wild-life proof).
5. Commercial: Free-standing commercial structures with one or more commercial uses. Permitted commercial uses include all Commercial Retail Service Uses and Business/Office/Professional Uses permitted in the T-4 Neighborhood Services Zone of the Newton Form-Based Code. The Accessory Uses in the T-4 Neighborhood Services Zone are also permitted within the Redevelopment Area as appropriate, with commercial accessory uses in the commercial area and residential accessory uses in the residential area.

At Section 4.1 Land Use Plan, page 29, delete the entire section and replace with the following:

The Land Use Plan for the area includes a 200-foot deep section along Sparta Avenue that permits commercial, mixed-use and residential uses. This area is shown in lavender below. The remainder of the Area, shown in yellow, is slated for residential development. Parking areas and access for the mixed-use/commercial zone of the Area may be located in the residential zone. The boundary between the two zones may be flexed 50 feet in either direction to facilitate a variety of layouts. (The areas flexed need not be the entire length of the boundary).



At Section 5.2 Mobility Regulations, page 33, the first and second paragraphs shall be deleted and replaced with the following:

This section provides a conceptual circulation and parking plan for the development. The development must meet New Jersey Site Residential Improvement Standards for the residential portion of the development and is subject to Planning Board approval for the commercial/mixed-use portion of the development.

Section 5.4 Thoroughfare Overview, page 36, the following discussion shall be added at the end of the page:

An alternate street layout may be designed to minimize pavement and impervious surfaces throughout the development. This layout would apply to the interior of the development. Streetscapes and sidewalks along Sparta Avenue, Hicks Avenue and Smith Street would remain as shown. The alternate street layout would permit a redeveloper to propose an internal residential street with a 24 foot-wide pavement width and four (4) foot sidewalk on one side of the street. All parking would be off-street parking including parking for both commercial and residential units. Residential units must have off-street guest parking provided along with the minimum parking required by New Jersey Residential Site Improvement Standards.

At Section 5.7 Pedestrian Circulation Plan, page 45, the following shall be added to the end of the page:

Examples of possible modifications to the pedestrian plan include: sidewalks on one side of the street within the development, six (6) foot sidewalks around the commercial building and a combined pedestrian walkway and rail trail bike path along Sparta Avenue in lieu of a sidewalk along Sparta Avenue.

At Section 6.2 Bulk & Setback Regulations, page 49, the bulk standards shall be deleted and replaced with the following:

Density: The density of the Area must not exceed 20 dwelling units per buildable acre of development area.

Lot Sizes: Lot sizes may vary depending on the building type and layout of the redevelopment. Lot sizes will be a function of building size plus required setbacks. Alternatively, the Area, or a portion thereof, may be redeveloped as one lot with multiple structures and uses. In this case, setbacks will be measured from exterior lot lines. Pre-existing residential uses on individual lots shall be deemed to be conforming as they exist at the time of the adoption of this Plan and may be reconstructed within the same footprint on the existing lot. Future additions or redevelopment of those lots shall follow the bulk standards set forth herein.

Setbacks: Setbacks are the distance between the property line and the outer edge of the building wall, expressed in feet.

Front yard setback: (measured from the building wall to ROW or edge of pavement)

- Residential: 12' min. (garage in rear/ off-street parking) / 26' min. (garage in front)
- Multi-family: 15' min.
- Mixed-use: 15' min.
- Commercial: 15' min.

Side yard setback:

- Residential: 6' min. to property line
- Residential: 22' min. between buildings
- Multi-family: 10' min.
- Mixed-use: 15' min.
- Commercial: 15' min.

Rear yard setback:

- Residential: 8' min.
- Residential: 22' min. between buildings
- Multi-family: 10' min.
- Mixed-use: 10' min.
- Commercial: 10' min.

Encroachments: Encroachment is the distance beyond the setback lines that certain building elements can protrude, expressed in feet. Building elements which may encroach include, but are not necessarily limited to: overhangs, steps, porches, balconies, bay and box windows, decks, etc.

- Front yard encroachment: 6 feet max.
- Rear yard encroachment: 6 feet max.
- Side yard encroachment: 4 feet max.

Driveways/Aprons: Driveways and Access Drives may be constructed of concrete, pavers, asphalt or similar materials, as approve by the Planning Board. All driveway aprons shall be constructed of concrete.

At Section 6.3 Minimum and Maximum Height Regulations, page 50, this section shall be deleted and replaced with the following:

Maximum and minimum height requirements are expressed as a combination of stories and height in feet as follows:

- Residential: 3 stories and 40 feet max.
- Multi-family: 3 stories and 40 feet max.
- Mixed-use: 3 stories and 40 feet max.; 2 story minimum
- Commercial: 3 stories and 40 feet max.

At Section 6.4 Building Mass, page 51, the third paragraph shall be deleted and replaced with the following paragraph:

The development is an inclusionary zone and affordable units must be provided to meet the applicable NJ Council on Affordable Housing (COAH) regulations regarding inclusionary zones at the time of site plan approval. All COAH units must meet all COAH regulations.

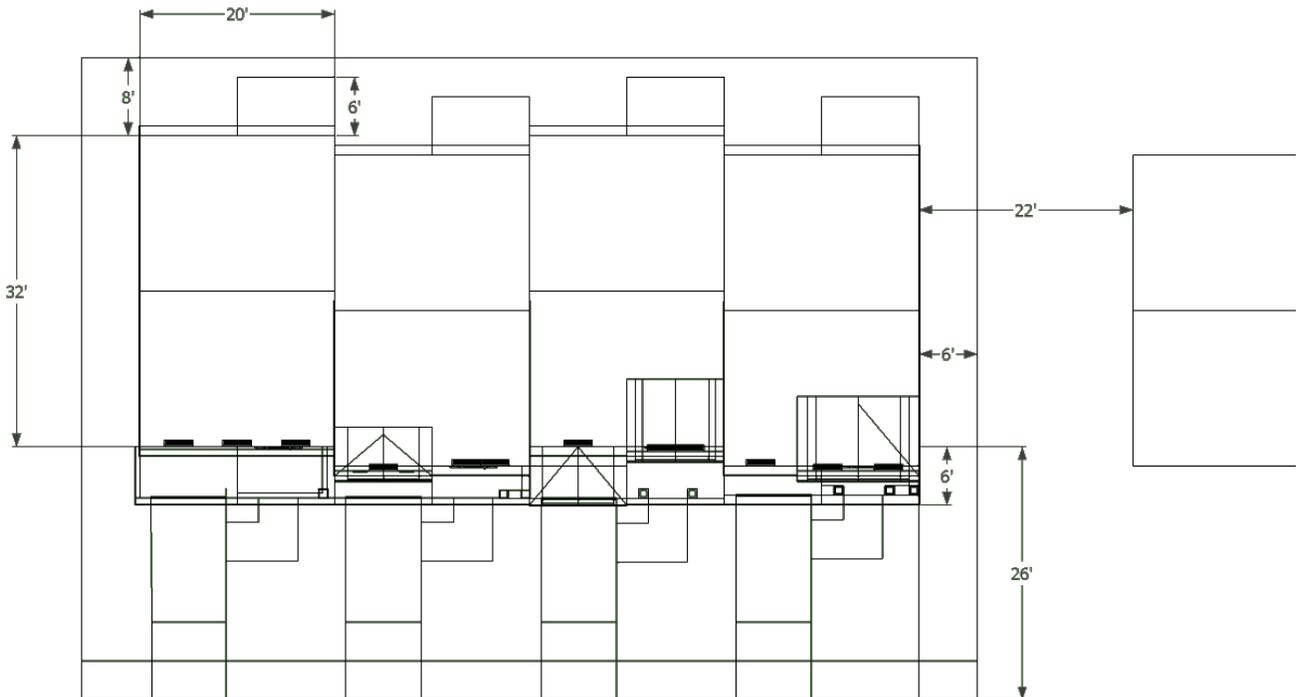
At Section 6.6 Building Typologies, page 55, add the following:

Townhouse E: 20x32 (garage in front)

Regulation	Feet
Front Yard Setback	26 min.
Side Yard Setback	6 min. / 22 between buildings
Rear Yard Setback	8 min. / 22 between buildings
Front & Rear Encroachment	6 min.
Side Encroachment	4 min.
Primary Building Footprint	20 x 32*
Accessory Structure Footprint	N/A
Lot Width	Varies
Lot Depth	Varies
Building Height	40 / 3 floors

*Building footprint size may vary provided that other bulk standards can be met

Townhouse E: 20 x 32





Architectural Style and Colors are Illustrative and May Change Subject to Planning Board Approval

The Multi-Family and Mixed-Use building typologies shall also be changed to encompass commercial use buildings by changing the titles to Multi-Family/Commercial and Mixed-Use/Commercial

At Section 6.7.1 Architectural Style: Townhouse, page 57, the following photos shall be added:



At Section 6.8 Façade Regulations, page 60, delete and replace Item 1 and delete Item 13 as shown below.

1. To create individuality within a proposed residential development, there must be a minimum of three distinct façade designs for single family or townhouse building types, when multiple units are proposed. The three or more façade designs should be alternated within each building to provide for individuality of units and break-up long buildings. Façade colors, materials and accents should be alternated throughout the development.
- ~~13. Ground level retail/commercial facades fronting along Sparta Avenue and/or Hicks Avenue must be of at least 60% void area (windows and other openings).~~

At Section 6.10 Building Entrance, Balcony, and Porch Regulations, page 62, delete Items 2 and 5 shown below:

- ~~2. Every unit shall have a usable front porch and/or a second floor balcony. Porch steps must match the materials used in the porch.~~
- ~~5. The finished floor of the ground level of buildings shall be raised a minimum of 2 feet and a maximum of 3 feet above the grade of the front plain of each primary structure. Porches and stairs shall connect the building to walkway.~~

At Section 6.11 Building Signage and Lighting Standards, page 64, delete the second paragraph and add the following:

All proposed signs within the redevelopment area shall conform to the sign regulations of the Town's Form-Based Code for the T-4 Neighborhood Services Zone.

At Section 6.12 Building Parking Standards, page 64, the second paragraph shall be replaced with the following:

6. Garages: Garages may be built to accommodate one or two cars and may be built with a second floor or loft above.

At Section 6.13 Green Building Standards, page 66, delete Item 4 and replace with the following:

Stormwater Detention and Reuse: In order to mitigate the impact of stormwater on the existing infrastructure and limited potable water resources, new development is encouraged to create a Potable Water Conservation Program using stormwater detention, collection and re-use for non-potable uses such as irrigation, washing cars and flushing toilets, thereby reducing demands on potable water.

At Section 7.2 General Requirements, page 71, delete Item 4 and Item 7 and replace with the following:

4. All yard spaces shall be landscaped with trees, shrubs, perennials and ground cover.
7. All landscaped areas must be well maintained, cleared, clipped and pruned to provide a positive healthy visual character.

At Section 7.3 Streetscape Requirements, page 73, delete Item 4 and replace with the following:

4. If a planter strip is provided between the sidewalk and the curb, it shall be a minimum of 1'6" wide and shall contain plantings or textured pavers. Alternatively, sidewalks may be installed flush with the curb and street trees planted on the yard side of the sidewalks.

At Section 7.3 Streetscape Requirements, page 73, delete Item 5 shown below:

- ~~5. The area between the curb and ROW edge together must equal a combined minimum width of eight (8) feet. The remaining width of two (2) feet will be between the sidewalk and ROW edge, in effect lengthening the front yards of properties. Street trees are to be planted within this area. Street trees may also be planted in bumpouts.~~

At Section 7.3 Streetscape Requirements, page 73, add Item 11 as follows:

11. Where rear residential yards abut an exterior street, an evergreen buffer shall be planted along the street side of the units, in a staggered pattern to provide year-round buffering for the residences. The buffer width, design and tree species shall be subject to Planning Board approval.

At Section 7.4 Yard Landscape Requirements, page 74, Items 2 and 9 shall be deleted and replaced as follows:

2. Every building shall have direct access from the access drive, driveway or sidewalk to the primary pedestrian ingress and egress of a building by way of a walkway. Materials of the walkway shall compliment the color and design of the building and the sidewalks.
9. Yards must have a minimum number of landscape features:
 - Two (2) canopy trees per building (in addition to street trees); and
 - Foundation shrubs: five (5) per building (or unit for townhouses) along the front façade.

At Section 7.5 Signage Requirements, page 75, the section shall be deleted and replaced with the following:

All proposed signs within the redevelopment area shall conform to the sign regulations of the Town's Form-Based Code for the T-4 Neighborhood Services Zone.

At Section 8.2 General Utilities Requirements, page 83, delete Item 3 and Item 7 and replace with the following:

3. Stormwater Management in accordance with Residential Site Improvement Standards, N.J.A.C. 5:21-6 and the Town of Newton Stormwater Control Ordinance, Chapter 258 of the Code of the Town of Newton.
7. Snow Removal: Adequate facilities shall be provided for the removal of snow from the common areas.

Section 8.3 Stormwater Management, page 84, the following paragraph shall be deleted as shown below:

~~A Potable Water Conservation Program must be developed as part of the Plan (see page 25). Sustainable techniques to address and utilize stormwater runoff must be included in the Plan (unless the developer receives a waiver from the Planning Board). These techniques would include the construction of green roofs, water cisterns and the use of stored water for irrigation and other non-potable uses. Such techniques would mitigate the effects of stormwater runoff and lessen the volume needed in stormwater detention facilities, but as significantly, would mitigate the demands on the allocation of limited potable water resources from the Town.~~

At Section 9.2 Plan Consistency Review, page 88, the following shall be added to the final paragraph:

The Plan Amendment is determined to not be in conflict with the Master Plans of Andover Township, Fredon Township or Hampton Township.

At Section 9.3 Redevelopment Plan Implementation, page 90, Item 5 shall be deleted and replaced with the following:

5. Once a property has been redeveloped in accordance with the Redevelopment Plan, it may not be converted to any use not expressly permitted in this Redevelopment Plan. Pre-existing residential uses on individual lots shall be deemed to be conforming as they exist at the time of the adoption of this Plan Amendment and be re-constructed within the same building footprint on the existing lot. Future additions or redevelopment of those lots must conform to the standards of this Redevelopment Plan. Except as previously noted, a use or structure not conforming to the requirements of this Redevelopment Plan may not be reconstructed in the event of its destruction. The Planning Board shall determine the issue of whether the non-conforming use or building has been “destroyed”.

At Section 9.4 Schedule and Duration of the Plan, page 91, under the title “Phasing”, Items A and B shall be deleted and replaced with the following:

Phasing Plan: Any applicant seeking to develop properties located within this Redevelopment Plan that is planning on phasing the development must submit a Phasing Plan for review and approval by the Newton Planning Board.

At Section 9.4 Schedule and Duration of the Plan, page 91, under the title “Certificates of Completion and Compliance”, shall be deleted and replaced with the following:

Upon the inspection of the verification the Redevelopment Entity that the redevelopment of a parcel has been completed pursuant to the Redevelopment Agreement, a Certificate of Completion and Compliance shall be issued to the Redeveloper as such parcel shall be deemed no longer in need of redevelopment.

The Redevelopment Plan, as it may be amended from time to time, shall be in full force and effect upon its adoption by ordinance by the Town Council of the Town of Newton.

At Section 9.5 Affordable Housing, page 92, paragraph 2 titled Affordable Housing shall be deleted and replaced with the following:

Affordable Housing

The development is an inclusionary zone and affordable units must be provided to meet the applicable NJ Council on Affordable Housing (COAH) regulations regarding inclusionary zones at the time of site plan approval. All COAH units must meet all COAH regulations.

(Paragraphs 3, 4 and 5 under Affordable Housing shall remain).