

TOWN OF NEWTON
PLANNING BOARD
DECEMBER 19, 2018
MINUTES

The regular meeting of the Newton Planning Board took place on the above date. Chairman Le Frois read the Open Public Meetings Act and requested Mrs. Citterbart to call the roll. Board Secretary Mrs. Citterbart stated there was a quorum.

THE SUNSHINE STATEMENT: Was read.

SALUTE TO THE FLAG: Was recited.

OATH OF OFFICE: None.

PLEDGE OF ALLEGIANCE:

ROLL CALL: Was taken

Attendance: Mr. Marion, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Mr. Flynn, Mr. Russo, Mrs. Le Frois, Chairman Le Frois

Excused: Mr. Flaherty, Ms. Hall

Absent: Mr. Butterfield, Mrs. Larsen

Professionals present: Jessica Caldwell, J. Caldwell and Associates
David B. Simmons, Jr., Harold E. Pellow & Associates, Inc.
David H. Soloway, Esq. of Vogel, Chait, Collin & Schneider

CONSIDERATION OF MINUTES

December 3, 2018

A motion was made by Mr. Marion and seconded by Mr. Ragsdale to approve the December 3, 2018 meeting minutes.

AYE: Mr. Marion, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Mrs. Le Frois, Mr. Russo, Mr. Le Frois

The motion was carried.

HISTORIC RESOLUTIONS

Domestic Abuse Services, Inc. (D.A.S.I.) (#HPC-02-201)
Block 7.05, Lot 13
28 Church Street

The recommendation is to install a soft shell emergency generator on the property.

A motion was made by Mr. Russo and seconded by Mrs. Le Frois to approve the resolution.

AYE: Mr. Marion, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Mr. Flynn, Mrs. Le Frois, Mr. Russo, Mr. Le Frois

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The resolution was approved.

RESOLUTIONS

None

OLD BUSINESS

None

NEW BUSINESS

**Diller Avenue Redevelopment Plan
Block 18.02, Lots 2, 3, 19-23-30-32**

Jessica Caldwell from J. Caldwell and Associates presented her report on the Redevelopment Plan.

Mr. Soloway gave definition of plan and Board's responsibility and stated: Those of you who were at the last meeting recommended to the Town Council that it find the Diller Avenue Plan Area to be an Area in Need of Redevelopment. That was transmitted to the Town Council and has now been declared to be a Redevelopment Area. This is the next step in the process which is a referral of the Proposed Diller Avenue Redevelopment Plan to the Board. If it is adopted it will serve the function of a zoning ordinance for this particular area. Your function tonight is essentially the same one performed whenever an amendment to the zoning ordinance is proposed which is to consider the plan in the context of the Town's Master Plan and determine whether it's substantially consistent with the Master Plan. You also can make any recommendations or suggestions that you choose. Then it all gets transmitted back to the Town Council and if the Town Council does adopt the plan, it will then govern the zoning for these properties and then there would presumably be a development plan for these properties that would come before you like any other application would.

Ms. Caldwell stated: This plan was introduced on December 10, 2018 at the Town Council hearing. As Mr. Soloway said, it's similar to an ordinance in that it gets introduced, referred to the Planning Board for Master Plan consistency as well as any comments and recommendations that the Planning Board has, then sent back to the Town Council where they are expecting to hear it on December 26th. The plan area as you recall was talked about at the last meeting. It is surrounded by Diller Avenue, Sparta Avenue and Spring Street. It covers 6.1 acres and includes 10 tax lots. In creating this Redevelopment Plan we looked at the existing zoning for the area which is T-5 Town Core Support area and the T-4 Neighborhood Services which is mixed used residential and commercial. T-5 has a bit more density than T-4. With these two zones in mind we really want to combine them in a way and also what potential development would be there with the size and shape of the area. It is really a unique block. It is almost a tear drop shape. There is some design consideration with regard to the specific area. The plan includes a consistency review of the Town Master Plan. One of the goals is for economic development with focus on revitalization and redevelopment efforts and encourages light Industrial development and other development in the regional center. The Redevelopment Area is a key component of Newton's "spine" as outlined in the Town's 2006 Urban Design Plan where areas around Sparta Avenue and Route 206 were identified as the areas that would be more extensively developed

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along with Spring Street and Newton Square area. We did a review of consistency with local, regional, and the State plan. We found it consistent with those plans. We defined the permitted uses by combining the uses of T-4 and T-5. There is a lot of specific development in light industrial. We tried to keep it a bit open so if other uses did come in to play in the future we wouldn't have to amend the Redevelopment Plan. As many of you have gone through the redevelopment process, if something is not a permitted use and its proposed you can't do a use variance for a redevelopment area. It has to go back to the Town Council. So we wanted some flexibility. We didn't include any conditional uses. In terms of lot area, we don't have defined lot areas within the T-4 or T-5 districts so we left that open. Minimum lot width is 18'. In regards to the setbacks because you don't have the straight linear blocks, a lot of our zones especially the commercial and mixed-use businesses have minimum and maximums because we want to keep them along the street frontage. However, there is really likely going to be a lot of development further away from the streets because of the shape of the development area. So we've used the minimum setbacks but not apply the maximum for the front, side, and rear yard. We have 2' minimum principal and 20' minimum accessory building in the front yard; side yard is 0' minimum principal and 3' or 5' for corner accessory building; the rear yard is 3' for principal and 5' for accessory. The building height is 5 stories or 65 feet maximum for principal building and 2 stories or 25 feet maximum for accessory buildings. The impervious coverage is 90%. We also have allowed multiple principal uses on one lot presuming that most of the area will be combined into one lot area. We also have a rail trail that's been conceded to go through the Town. It is a former railroad right-of-way. The Town has sold off many pieces but has maintained easements over those pieces. So the idea is to continue that trail through the Redevelopment Area but however allow it some flexibility for the developer to use the trail to effectuate any development plan they may have. We did receive a few comments from the Town Engineer on this and he can address those. In respect to some recommendations as to how that trail would be constructed. We noted that there is a parade easement on this property that needs to be maintained. There is a sewer force main easement in this area as well. We should make specific notations so that anyone redeveloping this site will be aware of specifications for constructing.

Mr. Le Frois questioned: Regarding the rail trail, you said it needs to start where it connects on either side of the property but it can go anywhere within the property as long as it's maintained through the property?

Ms. Caldwell stated: Essentially.

Mr. Le Frois questioned: Did you also say that the developer maintains the right to use it for other purposes though?

Ms. Caldwell stated: There is a statement in the plan that they can utilize it as long as it is a pedestrian activity through the development.

Mr. Le Frois questioned: So they can't remove the trail and build a parking lot for instance?

Mr. Soloway stated: When you grant an easement, the easement owner has a right to do on the easement land whatever the easement grant says it has the right to do. But the property owner generally retains the right to do anything else on that property in that area that isn't inconsistent with and doesn't interfere with the easement use.

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Ms. Caldwell stated: It is a design factor so long as the site plan process is determined to be safe and meet the standards that are set.

Mr. Le Frois questioned: In regards to the parade easement, is that essentially lot 2? The long skinny area.

Ms. Caldwell stated: Yes. The Town uses that area for their parades so they wanted to retain that area. It's usually Saturday mornings and they are allowed to set up there essentially and start off the parade route in that location.

Ms. Caldwell stated: We also added affordable housing requirements and making sure they connect with the Master Plan and the housing requirements. If any housing is proposed in this area there will be an inclusionary component in the housing. That is only if housing is proposed. It is not required to be proposed.

Mr. Le Frois questioned: Is housing allowed?

Ms. Caldwell stated: It's permitted. In regards to the parking standards, we allowed parking to be shared across this particular redevelopment area and also with other adjacent redevelopment areas as part of an overall parking Master Plan. With consideration that Thorlabs would be constructing on this site and they own several pieces of property that are adjacent or within walking distance of this area. We want to allow for flexibility so all the parking for this site does not have to be on this particular redevelopment area and the ability to share different uses anywhere within the redevelopment area. We have some buffer requirements for fencing along adjacent properties. Dumpsters should be screened. Landscaping requirements including trees, shrubs and a two year maintenance guarantee agreement. We also require street trees along street frontages as we do in the T-5 Transect Zone. We have some optional green infrastructure. NJ features green infrastructure programs and we identified some standards for green infrastructure within the plan area. These are permitted to be implemented by the redeveloper if they so choose. With mobility regulations we have streets and automobile circulation. Identifying where the driveway would be on Spring Street and Sparta Avenue. Noting the right-of-way widening dedications are not particularly required for this plan but may be implemented through Sparta Avenue with the County. In regards to pedestrian and bicycle access circulation, pedestrian circulation is of particular interest because of the fact that there will potentially be a lot of pedestrian activity between this and other redevelopment areas. That is something we will want to look at. We have a minimum 6' wide sidewalk and a 4' wide sidewalk with 2' paver strip required for street frontages. We also have building design standards. They are similar to the ones we have in our existing ordinances. It is designed to break up large buildings with different articulations and features so they are not large spans of a singular type of material. Then just talking about window frontages and if they are store fronts with display windows, there are certain types of sill heights and façade treatments to create different types of spaces. In item f, we said that "Where large structures are required, massing and blank walls MUST BE avoided". This has been recommended to be changed to "SHOULD BE". Roof shape and material must be architecturally compatible with the rest of the building. Environmental elements relating to prevention of soil erosion, protection of significant vistas or views, preservation of trees and protection of watercourses and resources. Under lighting standards, I reference back to our ordinance in Section 320-24(E). Signage references back to our ordinance under Section 320-25. There is a note that states that any redeveloper(s) will submit a site plan for all or a portion of the plan area. The site plan approval process will occur as per the Town's site plan review requirements. There are legal provisions indicating that it will be included

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on the Zoning Map. A "D" type variance, or use variance, is not permitted. Under acquisition, because this is a Non-condemnation Area, there is no acquisition anticipated by the Town for this Plan. A relocation plan is not necessary because the Town will not be involved in any property acquisition in the redevelopment area.

Mr. Ragsdale questioned: Regarding the maximum impervious coverage of 90%, that seems pretty liberal. My concern is that if we have a developer come in and develop 90% of the property, how are we going to manage stormwater? Is there a guarantee that they are going to have onsite retention to accompany something like this? How would we address that?

Mr. Simmons stated: That's a good question. For example, with the Camp liff building there was an open detention basin that was constructed as part of that development. So depending on how a site plan comes in for part of the area or all of the area, there are some existing stormwater facilities that are in place for that particular development. But as far as the other development areas go, I would anticipate that because of the type of development that would probably go in that area it would be much like how it was done at Thorlabs on Sparta Avenue where they had underground pipes for underground detention. Under the stormwater regulations they have to address water quality, quantity, and recharge. What I've seen in Town developments like this is they will sometimes use the underground pipes to save on available space in the parking lots. Some that come to mind are the Thorlabs across the street and the Hess Station on 206. They opted to use underground pipes. I would assume the developer would look at the cost and the amount of usable space they would have to garnish for that and do something along those lines. Will they also have to put in some mechanical structures like the storm filter or some device like that for water quality? Yes. I think the stormwater regulations that are required by the State of NJ will dictate all that.

Mr. Ragsdale stated: So even though we are at 90% impervious coverage you think the stormwater requirements at the State and Local level will mitigate that?

Mr. Simmons stated: I think so. What they are going to look at with stormwater regulations is what are the flows offsite now under existing conditions and for the various storms that they have to design for they have to not only meet what the current offsite flows but they have to consider production factors with the storm frequency. So they've got to make it better than it is today. So that's a good point and it would be independent of the 90% impervious.

Mr. Ragsdale questioned: For the Planner, regarding the setbacks, we are only talking about a few feet. These buildings could be massive right up to the edge of the sidewalks. I'm a bit concerned about that.

Ms. Caldwell stated: It's primarily to allow flexibility; however because of the design standards of the building I feel there will be enough flexibility to not be just set up against the street. I think it will be difficult to build to the end of the street.

Mr. Soloway questioned: If you are requiring sidewalks in the front, doesn't that push it back by necessity?

Ms. Caldwell stated: Yes.

Mr. Ragsdale stated: It still looks a little close given the mass of the building. Once we approve this, a developer can come in and push a massive building right up to the right-of-way.

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Ms. Caldwell stated: It is similar to the setbacks that are in effect today. In the minimum versus the maximum, you have the maximum where you want the buildings up close to the street. It may sound counterintuitive but it is to allow for a streetscape. When the buildings are set far back, the pedestrian realm suffers. So that is really how the form based code in the entire ordinance is set up to have that streetscape.

Mrs. Le Frois questioned: Are these consistent with what is already required in the T-4 and T-5 zone?

Ms. Caldwell stated: Yes. For the minimum.

Mr. Ragsdale questioned: So we can only hold them to the minimum?

Ms. Caldwell stated: That's correct. Having a minimum and maximum means the building has to be between 2' and 12' from the frontage. Not having a maximum means they can be 20' away and it's not a variance.

Mr. Ragsdale questioned: Do we have any flexibility if a plan comes in and it looks like it's too close, can we push them back?

Ms. Caldwell stated: Not particularly if it's permitted. They would be allowed to do that. But you can give recommendations about how the building is configured and the setbacks. I don't foresee that there will be a lot of building on the frontage.

Mr. Flynn questioned: I think the question really is how far does the property line of some of those older lots extend passed the right-of-way or how much does the right-of-way extend into the lot?

Ms. Caldwell stated: There is a 60' right-of-way on Diller Avenue for starters.

Mr. Flynn stated: So 30' from the center of the road.

Ms. Caldwell stated: Then you have a 6' sidewalk.

Mr. Flynn stated: Sidewalks are in the right-of-way typically. So you've got 30' from the center line and then you've got to be 2' to 12' off of that. Any applicant will be doing a lot of cleaning up and consolidating of these lots.

Mr. Simmons stated: If you recall the former Moose Lodge at Diller Avenue and that was right on lower Spring Street. The property lines were in the street of that area as well. When that development came through and there was a subdivision proposed there were going to be two additional lots plus the Moose Lodge property. As part of the Moose Lodge property they were going to clean up the right-of-way along that corner; lower Spring Street and Diller Avenue. My assumption is that the developer who comes in will have something similar to that with sight triangle easements and right-of-way dedications as far as the right-of-way is concerned.

Mr. Le Frois questioned: Is there somewhere that can be specified? You think that will happen but you don't know that it will. Can we specify a right-of-way dedication?

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Mr. Flynn stated: If there is one big building spread across several lots there is going to be a lot merger.

Ms. Caldwell stated: I would assume so, but we wouldn't know until there was a plan.

Mr. Soloway stated: The Board would presumably require as a condition of approval that if there is a building that extends across several lots that those lots be merged.

Ms. Caldwell stated: A merger is not a subdivision because it is not an application. They don't have to come here to do that. They just go to the County and do it by deed.

Mr. Soloway stated: Again, if they came in with a building that crossed lot lines they would need site plan approval and it would certainly be reasonable approval condition to require a merger.

Mr. Flynn stated: So beyond a reasonable doubt they would be doing a lot line adjustment.

Mr. Soloway stated: It depends on the development plan. You would think they'd be cleaning things up. But I don't know for sure.

Mr. Le Frois questioned: So we would address that when the time comes?

Mr. Soloway stated: Yes. I'm not really concerned about ultimately consolidating lots.

Mr. Le Frois stated: I was thinking about consolidating lots and making sure the right-of-ways are dedicated on the adjacent streets and things like that.

Mr. Soloway stated: If the Town has an ordinance that requires that you can compel that, the County typically does. I think the guessing here is what has already been done.

Mr. Simmons stated: I don't think it was done with the Moose Lodge property because that was never memorialized.

Ms. Caldwell stated: It was required at the time, though.

Mr. Soloway stated: Yes. But it was never implemented.

Mrs. Le Frois questioned: Aren't some of those issues cared for in the general design standards code which the site plan will have to refer back to anyway; Section 320-21?

Ms. Caldwell stated: Just to clarify, under right-of-way we would strike that.

Mr. Le Frois stated: And put that right-of-way dedications may be required.

Mr. Marion questioned: In regards to the setbacks, looking at lot 31, there are 5 or 6 homes along Sparta Avenue. In theory they could build 3-5 feet off the property line up against those homes based on these setbacks?

Ms. Caldwell stated: That would be on the rear yard. Yes. It could be.

Mr. Marion stated: The same thing on lot 3. It looks like a house on Diller Avenue.

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Ms. Caldwell stated: It looks like a front yard.

Mr. Marion stated: My only concern is that whatever is proposed, we don't know what it looks like, will we be putting those people in a situation where they could be looking at their backyard and there's a building three to five feet off the property line and there is a building that is 65' high.

Ms. Caldwell stated: We can't say for sure what will happen, but with lot 2 going through the center that's where the most likely location of the rail trail will be. Given that, between the existing structure and once that structure is taken down.

Mr. Marion stated: I would think whatever is proposed that lots 31, 2 and 3 would be where the principal building would go. That's the largest open land. I think we have to take that into consideration with those six homes.

Mr. Soloway stated: That's a suggestion that the Board have a setback requirement along the residential use.

Mr. Le Frois questioned: Or a buffer. Can you specify a different setback based on the existing adjacent property current use?

Ms. Caldwell stated: Ok.

Mr. Marion stated: I make a recommendation that we do something in that area regarding setbacks or a buffer. Something that the applicant would do to inhibit something on the property line.

Ms. Caldwell stated: We have standards for fencing. Are you recommending vegetation?

Mr. Ragsdale stated: I think landscaping and a decent setback adjacent to the residential lots.

Mr. Wink stated: More than 5'.

Mr. Soloway stated: Principal building setback requirements in the T-4 zone is side yard 0 and rear yard is a 3' minimum. Accessory building is 5' minimum for side yard and 10' corner lot; 5' minimum for rear yard. In the T-5 zone side yard is 0' minimum and the rear yard is 3' minimum.

Mr. Le Frois stated: It looks like you kept the minimums and got rid of the maximums.

Ms. Caldwell stated: Yes.

Mr. Marion stated: For that one area I think it should be a 10' distance away from the property line. I think 20' is too deep into the property. I would like to show that we are at least considering those people and they can enjoy their back yard.

Mrs. Le Frois questioned: Are there existing residences in the T-4 or T-5?

Ms. Caldwell stated: T-4.

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Mr. Soloway questioned: Are they all single-family homes?

Ms. Caldwell stated: I'm not sure because they were not a part of this study but there could be 2-family.

Mrs. Le Frois stated: So the houses in this T-4 zone are consistent with the current setbacks? Specifically in the rear.

Ms. Caldwell stated: The side and the rear are consistent. T-4 is a mixed use zone which permits single-family, multi-family, and commercial. We have had Camp Iliff there.

Mr. Le Frois questioned Ms. Caldwell: As a Planner, would you stick to your recommendation or would you change it?

Ms. Caldwell stated: All structures are located close to the street. It's really the rear yard that has any potential for development. If you would recommend something I would say a 5' buffer with landscaping or fencing. I think the issue as a Planner is that this is a high density area and we are looking to promote a higher density development. When that happens you get smaller setbacks and fewer buffers.

Mr. Le Frois stated: Obviously if the developer purchases those properties the condition would not exist because he would own those properties.

Mr. Soloway stated: The condition would still exist.

Mr. Ragsdale stated: It is a 6.1 acre site. We are talking about maybe another 5' of green space to create a buffer that's 10' wide. With 5' you're not going to have a lot of space to buffer.

Ms. Caldwell stated: The concern is that if you add a 10' buffer to lot 2 you might be hindering development from a circulation standpoint.

Mr. Marion stated: Maybe a 6' buffer with fencing.

Mr. Flynn stated: It might be 6 acres but it is an irregular shaped lot.

Mr. Marion stated: We are trying to think about the families and what is proposed.

Ms. Caldwell stated: I can recommend it to the Council and look at it.

Mr. Soloway stated: Instead of writing the exact standard you can recommend to the Council that it require a greater rear and our side yard setback whenever it adjoins an existing residential use with landscaping and buffering standards appropriately.

Mr. Russo stated: I think the number is less important than the rationale that the Planning Board provides the Council to consider. The concern about the residential is legitimate and the number Jessica can navigate and use her professional judgement.

Ms. Caldwell stated: We don't want to hinder future development.

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Mr. Simmons stated: Regarding the bike trail, for the record my suggestion is that two standards be referred to in the Plan so the developer has something to follow. AASHTO Guide for the Development of Bicycle Facilities and NJDOT Bike Compatible Roadways and Bikeways Planning and Design Guidelines. They give minimum width and basic design guidelines so the applicant has a set of design standards to shoot for. The other thing I'd mentioned to Jessica is the sanitary sewer force easement. I'd like the Board to understand what that easement is right now. It is the Sparta Avenue sewage pump station that is behind the Tri-State rental center. Basically that 12" force main goes along the old railroad bed in the parking lot behind the Merriam Gateway. If you went up Railroad Avenue and made a left into the parking lot of the DMV office, between the parking lot and the houses on Diller Avenue is where the bicycle path and the force main are located. If you go to the far end of the DMV parking lot you will notice a spout coming out. There was a manhole cover in that area. That's where the force main comes. Then it goes through lot 2. That is a major force main for that section of the Town. The applicant should know they have to deal with that when they do their design and come before the Board so they don't cause a problem with that utility. After the DMV parking lot it uses gravity after that. There should not be any construction over that and they should not remove the cover. They would have to locate that main at their expense to adjust for their proposed development. Because it is a major utility for the Town I wanted to make everyone aware of it.

Mr. Soloway stated: I would recommend that the two separate standards for the bicycle path be used as a guide instead of a mandate.

Mr. Marion questioned: With the rental center, I think the nature path was eliminated.

Mr. Simmons stated: I haven't looked on the bicycle path myself but I believe there was some alternate design and they negotiated a different path than what was originally in place.

Mr. Marion stated: The only reason I'm asking is because whatever application comes in front of us, if the nature path is non-existent and is a hardship to require it, is it something we can waive?

Mr. Simmons stated: A bit of history on that. Back in the early 1980's is when the Town acquired that rail road property. Basically from there to the wetlands by Shoprite on South Park Drive all the way up including the freight station across and all the way to Diller Avenue and Hick's Avenue. When the original map was filed and preserved that bicycle path corridor it was before the time that Wetlands were a more significant issue to deal with. The path itself at the time in the Community Development office was more of a geometric design than dealing with wetlands. Fast forward to now and we've had wetlands for several decades. It is a situation where they have to deal with the property owners and also the wetlands and the transition areas and everything that goes with it. That's why there had to be some modification of things. As far as I know it is still going to happen.

Mr. Russo stated: It's going to happen. That's why we've been looking at the rail trail on these properties while we've been spending years working on it with JCP&L and the State of New Jersey and the Town and the County.

Mr. Simmons stated: So it doesn't physically exist now but we are working on it.

Ms. Caldwell stated: If we can be flexible with the standards we can find a way to get it through the development

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Mr. Le Frois stated: I think we can recommend those design standards as guides.

Portion opened to the public.

1st public: Marylou Hennigan, 17 Diller Avenue – I realize there is a road that separates us but my neighbors and I have lived there a long time and this will affect us as well. It's just a road separating us from this huge project. That's all I wanted to say.

No more public. Portion closed.

Mr. Soloway stated: The Board is required to transmit a formal report concerning your recommendations as to the proposed plan. The report must identify any provisions that are inconsistent with the Master Plan. I would ask Ms. Caldwell as Town Planner are any provisions of this plan inconsistent with the Master Plan?

Ms. Caldwell stated: No. I don't believe so.

Mr. Soloway continued: If you found that there was any inconsistency you would have to make recommendations as to the inconsistencies. Your report can also include any other matter that the Board deems appropriate. If you are looking to form a motion, there is a draft resolution here but it would need to be adopted as is. But if I'm hearing you directly, what you would put in your report is that the Council recommends that the proposed plan be adopted with consideration given to the possible revisions that I'll get to in a moment. You will find that the proposed plan either with those suggested revisions or without them is consistent with the Town's Master Plan. The proposed revisions would be first, on page 9 of the plan that the Council gives consideration to imposing whether rear and applicable side yard setback requirements for any development that is adjacent to an existing residential use. Perhaps with the requirement of some kind of buffering to go along with that. Secondly, referencing page 12 of the report, Mobility Regulations in A3. Under Right-of-way widening dedications are not required for this plan. Strike 'are not' and substitute 'maybe' required for the plan. Thirdly, the plan reference in some way the Town's 12" sanitary sewer force main so it's clear to the redeveloper that it's there and they have to work with it. Similarly, that the plan mention the parade easement so that it's clear for the redeveloper that they have to account for that as well. I think that is a good idea to put that in the plan. Finally, that the Council gives consideration whether to incorporate or reference as a possible guide, the AASHTO Guide for the Development of Bicycle Facilities and the NJDOT Bike Compatible Roadways and Bikeways Planning and Design Guidelines.

Ms. Caldwell added: On the bottom of page 12 under Design Standards in item F you should strike out "must be" and substitute with "should be".

Mr. Soloway stated: That would be the proposed resolution and we would add an attachment with the recommendations.

A motion was made by Mr. Russo and seconded by Mrs. Vrahnos to transmit the proposed resolution with recommendations to the Council.

AYE: Mr. Marion, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Mr. Flynn, Mrs. Le Frois, Mr. Russo, Mr. Le Frois

The resolution was approved.

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Domestic Abuse Services, Inc. (D.A.S.I.) (#PBSP-10-2018)
Block 7.05, Lot 13
28 Church Street

The applicant is requesting to install a soft shell emergency generator on the property.

William Hinkes, Esq. from Hollander, Strelzik, Pasculli represented the applicant.

Mr. Hinkes stated: They have a six unit apartment on the corner of Church and High Street. For emergency purposes they would like to install a generator on the site. With me I have Dawn Pena from the institution and Brendan Perez who is our consultant on the installation of the unit. Both of them may be testifying so they should be sworn in.

Sworn in: Dawn Penna, 6 Caldwell Lane, Newton and Brendan Perez, 3824 Bloomingdale Drive, Hillsborough, NJ 08844

Mr. Hinkes stated: We are looking for an approval for a minor site plan. There are no variances required. It complies with your ordinance regarding the installation of generators. I have testimony tonight to verify that. The one thing we did ask for is for waivers to keep the cost down for D.A.S.I. I hope you will see what you have in front of you is enough to make a good decision on the application tonight. There are some things we will do as conditions of approval of the application as required by the Board.

Mr. Perez stated: I work for EM Electrical Contractors out of Newton NJ on Merriam Avenue. We do commercial, industrial, and residential standby generators and residential, commercial, and industrial electrical work. I did a site visit with the D.A.S.I. property and went over the different options that they have and also the parameters for the project because of different conditions to meet for the Town. What we have is a 20 kW emergency generator we are looking to put on site that will back up the necessities that allow them to still function in the house without people having to be removed from the property for a power outage. It will keep the heat on, lighting, refrigeration, and things like that.

Mr. Le Frois questioned: Will it just cover certain circuits?

Mr. Perez stated: Yes. It will be an emergency panel. To do a full scale unit would be much bigger, cumbersome and expensive. This is just to keep everyone comfortable so they won't have to be taken out of the building.

Mr. Hinkes questioned: What are the dimensions of the unit?

Mr. Perez described the unit and stated: The length is 48", the width is 26.2" and the height is 29". It is a khaki/beige color. It looks like a storage box that you would store patio furniture in. It's a clamshell opening. It comes on a concrete pad which is minimally invasive, too. It sits right on top and is only a few inches bigger than the unit itself.

Mr. Hinkes questioned: Please show us on the photographs where it will be located.

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Mr. Perez stated: If you look on the top picture there is a gap in between the two bushes that are there. The generator will go in between those and be a little bit further out from the building. We chose that spot because the opening works with the setbacks and also we don't have to remove existing shrubbery.

Mr. Hinkes referred to the survey and questioned Mr. Perez: Please describe the setbacks.

Mr. Perez stated: We are 15' away from the outer property line and 3' away from the building. It will be more than 20' off the front corner and 30-35' off the back corner.

Mr. Hinkes questioned: Do those dimensions comply with municipal standards?

Mr. Perez stated: Yes.

Mr. Flynn questioned: Are you a surveyor or engineer?

Mr. Perez stated: I'm a project engineer for the company but not a certified engineer. It's based on the distances delineated on the survey that we measure out.

Mr. Hinkes stated: We do accept Mr. Simmons recommendation of a required survey on the field.

Mr. Flynn stated: I just was questioning that he made lot line determinations and he's not a surveyor.

Mr. Perez stated: For installation purposes, ideally the unit would be best on the front corner of the property but it's really close to the property line. That's why we moved it further back to keep it in the Town's requirements and to make it more aesthetically pleasing because it is a very busy roadway on High Street.

Mr. Hinkes stated: You were before the Historic Preservation Commission and did they make a recommendation on the screening?

Mr. Perez stated: Yes. We would be surrounding the unit with boxwoods so it screens the unit from being highly visible on the street as you come down the street. Boxwoods would stay green through the winter.

Mr. Hinkes questioned: Would you describe how noisy it is?

Mr. Perez stated: It is 65 dBA at 23'. That's in a free field environment. So generally when you put a unit on site and you say for example, the municipality here has a Cummings generator in the back of the property that comes with a 65 dBA. When you put it on the property here it doesn't meet the requirements at all. Every generators industry standard is based on a free field environment.

Mr. Hinkes questioned: How does this differ?

Mr. Perez stated: This will be 3' away from the building so you will have some reflective sound that comes off the building. The bushes and the boxwoods help abate that.

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Mrs. Le Frois stated: Is there a time when the generators in use will be tested?

Mr. Perez stated: During an outage there is no ordinance. It is only for testing purposes. We agreed to test once a week during the hours of 10:30AM to 5:00PM for half an hour at a lower speed. So it is actually a little bit quieter.

Mr. Hinkes questioned: Can you try to mimic 65 dB with your voice?

Mr. Perez stated: What we are talking at right now is about 70 dBA. A dump truck is at 90 dBA. I hope that helps explain that the unit is much quieter than you would think.

Mr. Hinkes questioned: What is the protocol for exercising the unit?

Mr. Perez stated: Once a week for 30 minutes.

Mr. Hinkes stated: Would the decibel amount at 15' be more than 65 dB?

Mr. Perez stated: No. It will be less.

Mr. Hinkes stated: I have nothing further for direct testimony. I know Mr. Simmons and Ms. Caldwell have a report.

Mr. Marion questioned: Is there an air conditioning condenser? It looks like there is something there in one of the photos.

Mr. Perez stated: Yes. We only have to stay 3' away from one of those.

Mr. Marion stated: So you can be 3' away from the condenser and be fine?

Mr. Perez stated: Yes. The window there keeps us 5' off the building diagonally. So between the two, you pull the unit out. So it is not even with the bushes; it crescents out. That's why we are putting boxwoods around it. It hides it all.

Mr. Marion questioned: And the boxwoods won't interfere with the condenser or the unit?

Mr. Perez stated: No.

Mrs. Le Frois questioned: Any concern for the residents that are there that they might either come in contact with it?

Mr. Perez stated: No. It is on the side yard. We chose this location because the back of the property is where the kids play and get together outside. This side of the yard is not a usable play space. The unit is lockable too and is not hot to the touch.

Mr. Le Frois prompted the professionals to review their reports.

Mr. Simmons reviewed his report dated December 10, 2018 and stated: On page 2, item 2 we talked about the size of the unit. The generator is natural gas and not propane. Item 5, I talked about the automatic transfer switch to be mounted inside the building. Item 6, the applicant talked about what time they were going to exercise the generator. Item 7 indicates the

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generator foundation and all electrical loads/controls/wiring are deferred to review and approval of Town Construction Official and Subcode Officials. Item 8 recommends that they get their surveyor to stake it so they can verify they meet offset requirements to the generator. That would be a condition of approval. Item 9 talks about boxwood screening. Item 10, I was relieved to find out they have an existing natural gas connection as High Street was recently resurfaced. Item 11 is all approvals required from various agencies. Also, as the Chairman indicated the Historic Preservation Commission approval.

Ms. Caldwell reviewed her report dated December 13, 2018 and stated: I asked them to address the foundation which you are looking to put on the resolution. The Historic Commission asked for a soft shell or composite type generator which the applicant amended the application to provide. Also, the unit be screened by boxwoods which amended it to comply. The generator and boxwoods will be a similar height when installed.

Mr. Flynn stated: I think we could simplify this process so that an applicant doesn't have to come to the Board for generators. I'm giving myself the task as a member of the Town Council an amendment to the Code so this can be done through the Building and Zoning Departments. These are pretty remedial tasks that I am confident our building department can make those decisions. I don't think this is the place for a generator application. But the rules are the rules based on the site plan. I think there should be an amendment to the Code that the application process would go through Building or Zoning.

Mr. Hinkes stated: Your current code allows residences to go straight through the Zoning Officer and not require minor site plan approval. If I may, perhaps if the standards are such that an applicant comes in that is fully compliant with the decibels and setbacks; even though it's a commercial facility, then that might be a way to do it.

Mr. Soloway stated: The Board may transmit to the Town Council any recommendations of things that might be addressed in the Zoning Ordinance.

Mr. Marion stated: I agree with you.

Application opened to the public. None stepping forward. Portion closed.

Mr. Soloway crafted a motion to approve the application for minor site plan approval with compliance with the ordinance and NJDEP noise regulations subject to complying with the ordinance requirement that exercising and testing of the generator only take place no more than once a week on weekdays between 10AM and 5PM. The foundation and all electrical work and wiring will be subject to the approval of the Town Construction and Subcode Officials. The applicant has the northerly property line staked by a licensed land surveyor prior to construction to ensure that the setback requirements are met. That the generator be screened with boxwoods subject to approval by the Town Engineer. And the usual conditions with various approvals. The transfer switch equipment be located in the basement.

Mr. Flynn stated: I would like to eliminate the requirement I mentioned about a licensed surveyor stake the property line to confirm the offsets.

Mr. Simmons stated: I think the whole thing has been predicated on confirming that.

Mr. Hinkes stated: We will do it.

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Mr. Russo made a motion and Mr. Flynn seconded it to approve the application.

Aye: Mr. Marion, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Mr. Flynn, Mrs. Le Frois, Mr. Russo, Mr. Le Frois

Motion carried.

Newton Christian Reformed Church (MSP-7-2018)
Block: 7.03, Lot: 7
23 Thompson Street

The applicant is requesting a minor site plan approval for exterior building modifications, adjustment and additions to parking spaces, and relocation of a sign.

Francis McGovern, Esq. of McGovern and Roseman, P.A. represented the applicant.

Mr. McGovern stated: I represent Newton Covenant Reformed Church which was historically known as Newton Christian Reformed Church. Tonight I have Andrew Billing who is the Vice President of development for the church. I also have Matthew Fox of Canger Engineering to testify as well. Basically, this application is for a minor site plan. The church has been there and not changed on the property for decades, close to 70 years. It's time to make a change. You can see there are architectural drawings that have been presented showing the major renovation within the existing building that's on the property itself. There is a minor change in the footprint of the building to allow a change to the main entrance of the building to allow a vestibule and handicap access for the parishioners. There's also an additional parking area. We are also looking to move the sign from Thompson Street to West End Avenue for more visibility. In reading Mr. Simmons' report, there are some variances and waivers that we will need because of the conditions and limitations on the property.

Sworn in: Matthew Fox, Stone Bridge Drive, Green Township, NJ; Andrew Billing, Wintermute Road, Green Township, NJ

Mr. Fox gave his credentials and stated: I'm a license professional engineer and land surveyor in the State of NJ since 1993. I've appeared before many Land Use Planning Boards and Zoning Boards on behalf of development applications similar to this one. Catholic University of America Emblem School of Engineering for Civic Engineer Professions. My license is current.

The Board accepted Mr. Fox's credentials.

Mr. McGovern referred to Existing Conditions Plan, Sheet 1 of the site plan and questioned Mr. Billing.

Mr. McGovern questioned: What is your position with the church and how long have you been there?

Mr. Billing stated: I'm Vice Chairman of the Development Committee and I've been at the church for almost 18 years.

Mr. McGovern questioned: So you are very familiar with the layout of the property?

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Mr. Billing stated: Yes. I am. It is across the street on West End Avenue.

Mr. McGovern questioned: In terms of the layout of the building as it exists right now how long has it been like that?

Mr. Billing stated: Many years. In fact, when Northwest Christian School started it was in the church and they'd added a wing on to the building. They have since moved to Route 519. That was about 15 to 20 years ago.

Mr. McGovern questioned: How long has the parking area been this size?

Mr. Billing stated: As long as I've been a part of the building.

Mr. Soloway questioned: How long has the building been there?

Mr. Billing stated: 75 years.

Mr. McGovern questioned: Where is the entrance?

Mr. Billing stated: The entrance is currently off Thompson Street. So the sanctuary was here on the left side of the plan. One of the reasons we are doing this update after 75 years is that our nursery is back here. So people come in here and have to walk all the way to the back to drop their kids off which isn't very good traffic flow. The inside is all knotty pine which was great 50 years ago. The whole thing will get refurbished inside and out.

Mr. McGovern stated: On the Thompson Street side there are stones. What will happen to them?

Mr. Billing stated: These stones on the left side of the plan are going to be removed and this little alcove that bumps out of the left side will be where the pulpit is located. So we are moving the pulpit to the back and constructing a new entrance here at the corner of the building which is nearer the main parking. It will allow people to come in this way and either go right to the sanctuary or left to the nursery or classrooms.

Mr. McGovern questioned: How many parishioners do you have?

Mr. Billing stated: About 30 families.

Mr. McGovern questioned: When do you have services?

Mr. Billing stated: Sunday morning at 10AM and Sunday evening at 6PM. There is also Sunday school immediately following the worship service on Sunday.

Mr. McGovern questioned: Are the people who attend the Sunday school the same ones who attend the worship service?

Mr. Billing stated: Yes. There are also various meetings throughout the month.

Mr. McGovern questioned: Describe the sign.

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Mr. Billing stated: The sign is now located on Thompson Street. We are planning on putting it up here on West End Avenue.

Mr. McGovern questioned: In the front of the building, meaning West End Avenue, are there any entrances?

Mr. Billing stated: There is one entrance closest to West End on the left side of the building. There is one entrance here on the right end of the education wing which was built for the school. So that will be eliminated and the one entrance will go here.

Mr. McGovern questioned: What changes are you proposing in the parking lot?

Mr. Billing stated: We are adding to the parking lot, about 3,000 square feet of pavement and nine parking spaces. We currently have 62 spaces.

Mr. McGovern questioned: That is 62 within the current boundary of your parking lot?

Mr. Billing stated: Correct.

Mr. McGovern questioned: So increasing the number of parking spaces to 78?

Mr. Billing stated: Correct. We are restriping it to make it more efficient.

Mr. McGovern questioned: Where are you adding additional spaces?

Mr. Billing stated: Around the back.

Mr. McGovern introduced Exhibit A-1, 14 photos describing the property and questioned Mr. Billings: Were these taken by you? Please describe them.

Mr. Billing stated: I took them. This is the main entrance now. We are going to enclose it and make a new pulpit at the end of the existing sanctuary. Page 2 is another shot of the main entrance taken from the sidewalk. On page 3 it is being taken from the corner of West End Avenue and Thompson Street. There are three trees located in this grassy area here. Page 4 is a similar shot but I wanted to show going down 519. There are a lot of telephone poles and things like that; a steep slope.

Mr. McGovern questioned: Have you met with County Engineering to discuss the location of the sign?

Mr. Billing stated: Yes. Page 5 is taken with my back to West End Avenue.

Mr. McGovern questioned: What is going to happen to the door?

Mr. Billing stated: The door on the left side, the door to the education wing would be removed. Page 6 is taken from the opposite corner from the driveway coming down off of West End Avenue toward the building where we are planning to install the new entrance to the building. You can see some of the existing striping of the parking spaces and all of that will be re lined. There are two entrances to the parking lot. One on the corner coming off West End Avenue and one coming off Thompson Street. Those won't change.

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Mr. McGovern questioned: So for traffic to flow through that lot is it important that there not be construction in the parking lot itself?

Mr. Billing stated: Yes. It's important to have good traffic flow in the parking lot. On page 7 is shown from the same angle except a little more down 519 again showing all the poles and signs along 519 and the steep slope.

Mr. Le Frois questioned: That will all remain unchanged basically?

Mr. Billing stated: Yes. Except for putting the sign up. Page 8 was taken from Thompson with my back to the property line and then facing down the length of the parking lot. On page 9 it was taken across the area where we are proposing to add the 9 parking spaces. It is taken toward the corner of this person's property adjacent to our church.

Mr. McGovern questioned: I see there's a dumpster there. Will it remain there?

Mr. Billing stated: We will have the dumpster in a different area. On page 10 it's showing the picture of the building from this direction of the building. We will have some parking to build the 9 spaces in this general area. Page 11, are photos taken yesterday. That's with my back to the education wing and facing the barn that the neighbor has across from our property. Page 12 is a similar shot. Page 13 is facing from this side of the building to the rear of the property line. This is the Liberty Towers property. Page 14 is the view of the area and where we are proposing to add those 9 spaces in the back of the building toward the neighbor with the barn and showing the trees.

Mr. McGovern questioned: What we are looking at here on the first page of the site plan application. Describe what the plan is.

Mr. Billing stated: As I mentioned previously the current entrance is down this vestibule and back through where these double doors are proposed. We are changing the flow and are closing this off so it will become the pulpit. We are creating a new vestibule in this area. It is nearer the parking lot so parishioners can come in and go into the sanctuary or the classroom or nursery area.

Mr. McGovern questioned: How many classrooms?

Mr. Billing stated: There are three shown. Right now it is configured with dividers for about the same number.

Mr. McGovern questioned: The access that you are planning on putting in is that in the design to assist more?

Mr. Billing stated: The current spaces are not to code or configured properly. We will increase from 3 spaces to 6 on the site plan. We are re-grading the space so all people can enter through the double doors. We don't need handicap ramps or alternative access. We have a number of older people in the congregation and we don't have enough handicap access right now. We want them to be able to come into the church and leave the church like everybody else.

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Mr. Le Frois questioned: You're increasing from 62 to 78 parking spaces. Do you anticipate more attendance?

Mr. Billing stated: Yes. We would like it.

Mr. Le Frois questioned: Do you need the extra spaces for the current attendance? Will there be more traffic generated?

Mr. Billing stated: It's not peak time. But the time we have most of our trouble is for weddings and funerals. We are the only church near the center of Town that has abundant parking. It helps to have it. We like having a little cushion.

Mr. McGovern questioned Mr. Fox: Would you explain what the conditions are and what the changes are, that are being proposed?

Mr. Fox stated: Essentially my responsibilities were to help in the development of the grading scheme and the access that will be provided for the existing church. The other condition was to allow additional storage as the existing parking area on the property. On sheet number 1 it shows the existing conditions. It shows parking areas as they are currently laid out on the site. There are 62 spaces that are currently located on the site. Through some change in design we are going to add parking spaces which are shown on sheet 2. Where there is one aisle of parking along the center there are 20 spaces along the retaining wall. And then 5 spaces along Thompson Street. Six spaces along the building. Adding 6 additional parking spaces in proximity to the entrance of the church. Also we laid out these 15 spaces along the north easterly side of the property. Again 3600 square feet of additional pavement which will provide a total of 9 additional parking spaces. We went through the exercise to grade in here. We have to provide some small area drains to make sure that none of the water is trapped up against the building. We have provided some planting areas along the building to dress up the façade as well. Again we have the location of the sign, halfway through Thompson Street. There is a section on sheet 3 that shows where we anticipate constructing the sign. It shows the existing pavement, the driveway and the curb area. It shows the existing slope down to the retaining wall on the cross section through the proposed wall. We have also provided additional construction details for our small drain to help us alleviate any of the water that is trapped against the building. There is construction detail for signage on handicap parking. This section gives you an idea of the extent of handicap accessed achieved from the proposed access to the church. It is only about a 12-16" increase in the grade and we will eliminate one to two steps. On the parking lot pavement detail and the sidewalk detail we have provided additional information. I just wanted to point out the location of the utilities for sewer and water. We have located the sewer and the water on Thompson Street and we show those connections into the existing building. We've also provided a bulk schedule that provides the bulk requirements for the T-3 residential transect zone. We've also provided an existing and proposed impervious coverage calculation which indicates an increase of 225 square feet of impervious area. That is a summary of what we're proposing.

Mr. McGovern stated: In taking a look at the proposed changes to the site plan, do you plan on replacing light fixtures?

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Mr. Fox stated: There are currently several light fixtures located on the building itself. We show the typical designation of 10 location of existing building mounted lights. They outwardly light the façade of the building.

Mr. McGovern questioned: Do the lights shine out to the parking area?

Mr. Fox stated: They do, but the majority of the function is to illuminate the face of the building.

Mr. McGovern questioned: You have reviewed Mr. Simmons' report. Do you agree?

Mr. Fox stated: Yes. We would agree that low level of lighting would not be intrusive to the adjacent property owners and we agree to whatever the Town Engineer would like us to do to demonstrate that we are maintaining a safely lighted lot. The applicant has agreed to upgrade some of the existing light fixtures on the building.

Mr. McGovern questioned: In terms of the area of the landscaping itself, you've had a chance to review Ms. Caldwell's comments regarding the design standards and the requirements for plantings and so forth. With regards to the layout of the building as it exists and the parking lot as it exists do you see a difficulty in being able to layout shade trees and the buffers?

Mr. Fox stated: Yes. We do have difficulty providing additional planting within the existing parking area based on the orientation and shape of the existing structure. We've provided a 24' width. Essentially what would happen if we did provide that landscaping within the parking area we would have to remove parking spaces from our property? So even though we are only adding 3,600 square feet of additional pavement, Ms. Caldwell's report addresses how it would affect the entire site. In the entire site we have an existing parking area. All of this pavement is existing. We are only adding a small piece at the back, 3,600 square feet. If you applied the 15% we would meet the landscaping standard. It does cause a hardship if we include the entire parking area. We would lose parking spaces to attain that 15%.

Mr. Soloway questioned: So you are complying with the ordinance's landscaping standards in the new parking area you are adding?

Mr. Fox stated: Yes. We are adding 3,600 square feet.

Mr. Soloway stated: I understand. You are saying that in the existing area the only way to comply would be to remove spaces. But for just the new parking area you can comply.

Mr. Fox stated: That is correct. If you see the proposed front of the site you will see plenty of landscaping. Mr. Billings will describe it. There are additional parking buffers, fencing, there are some shade trees. We have three existing already. We are going to remove the patio area and the pavement blocks and sidewalk area. It's a substantial area. We have some room in this area to add some shade trees.

Mr. Soloway stated: Just for the record, what side of the property is that?

Mr. Billing stated: It is the right front property corner, or the southeasterly property corner.

Mr. Fox stated: It is between the subject premises and lot 22 and block 7.03. We have some areas we could provide some additional shade trees. The applicant has indicated an area

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along the back of the property where they could also supplement the existing buffers to provide additional screening for the proposed parking spaces that we would like to construct.

Mr. McGovern stated: There is already quite a distance from that parking area?

Mr. Fox stated: It is about 40'. You have some additional buffering in that area to help screen the 9 parking spaces that we're constructing. We made provisions for an enclosed dumpster. We did take a look at the existing dumpster that they have on site. It is much smaller than the dumpster we made provisions for. We might relocate that dumpster to another spot. It will be screened and protected and be a safe and accessible enclosure for the dumpster area.

Mr. McGovern questioned: Mr. Simmons mentioned a 27" pipe in his comments. Where is that located?

Mr. Fox stated: At the same location as the southeast property corner there's an existing catch basin constructed along the curb way along Thompson Street. There is a 27" pipe at the bottom of the catch basin. The catch basin is approximately 7' deep. There's a 27" pipe that exits in that catch basin. We have it designated on the plan and showing the direction of the flow. We were not able to ascertain the other end of that line. We did look at the existing drainage structure which is a series of pipes that run through the property. In that structure there is an 8" pipe. We could not ascertain specifically where the next manhole or drainage structure is located. The applicant has agreed to provide whatever access the Town would need to come in and maintain those pipes. We would agree to an easement to maintain those drainage pipes.

Mr. McGovern questioned: What is the size of the parking spaces being constructed?

Mr. Fox stated: They are 9' x 18'.

Mr. McGovern questioned: And what are the existing parking sizes?

Mr. Fox stated: I'm not sure because they are not 90 degrees.

Mr. McGovern stated: The handicap spaces are being increased from 3 to 6 is that correct?

Mr. Fox stated: Yes.

Mr. McGovern questioned: In sheet 2, what is this area?

Mr. Billing stated: It is a playground area.

Mr. McGovern questioned: So can you put screening on that side of the parking lot?

Mr. Billing stated: We'd rather not because it would interfere with that area.

Mr. Soloway stated: Just for the record, what side of the property is that?

Mr. Billing stated: Southeast.

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Mr. McGovern questioned: This is an architectural picture of what the outside of the church would look like?

Mr. Billing stated: Correct. The new entrance is here and the old entrance of the school will be eliminated. This is where the parking field is so it makes it convenient for handicap parking.

Mrs. Le Frois questioned: Will there be a ramp?

Mr. Billing stated: No. We've used grading to eliminate the two or three steps. So you go straight into the parking lot.

Mr. McGovern questioned: The architect also provided a rendering of what the inside of the church would look like?

Mr. Billing stated: Correct. This is what it will look like after you enter the new entrance. You will have the opportunity to go to the right to enter the sanctuary and you see the pulpit here. Straight ahead you see the window. Again the nursery is off to the left.

Mr. Le Frois prompted the professionals to review their reports.

Mr. Simmons reviewed his report dated December 13, 2018 and stated: On page number 2 in regards to zoning there are two existing non-conforming conditions. The front yard setback on Thompson Street, 35' required and 33.5' existing. The rear yard setback of 30' required and 21' existing. Again these are existing and not aggravated by the applicants proposal. Item 3, I don't know what was discussed at the County meeting but my suggestion is for the sight triangle easement at the corner of Thompson Street and West End Avenue.

Mr. McGovern stated: We've indicated that on the plan. The County has indicated to us that we may or may not have to file a deed for that easement.

Mr. Soloway stated: Then a condition of the approving resolution is that you deed it if it is required by the County.

Mr. McGovern stated: Right. They are not 100% sure that the applicant will be required. But if he is required the applicant is willing to provide it.

Mr. Simmons continued: In regards to the 27" CMP pipe, I do have some survey information I can get you a copy of. I think it should be field verified in the lot. Field location shown was from that drain that was about 7' deep or so. I am confirming this because it shows the pipe going underneath the house on the next door lot to another inlet on the back of that house. So that gives us the direction as far as any easement goes. But subsequent to the Town and County approval I would feel more comfortable if the DPW and Water Department could do a little dye test just to verify that. I would like to confirm that so you can qualify the easement.

Mr. McGovern stated: Sure. If we are provided with a location we will be able to provide a metes and bounds description as Mr. Simmons' requested in his report.

Mr. Simmons continued: Item 4, they indicated the parking spaces. Item 5, under stormwater management they indicated the additional 2,755 square feet. I would point out that on the rear right hand corner of the property there was a plan that was developed by the Town for

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additional storm drainage improvements. In that area conceptually there was an underground pump system for detention facilities. That area has not been substantially encroached upon by the proposed improvements. The site plan they are proposing doesn't foreclose that in the future. Item 6, utilities, is the water and sanitary sewer. My understanding from the presentation tonight is that they are coming out of Thompson Street. So with the proposed grading it's not going to alter that situation. With regards to lighting, I would suggest one thing we've done in the past is we go on site with a light meter to determine the levels.

Mr. Le Frois questioned: Just to clarify, the only lighting being provided is one the building?

Mr. McGovern stated: That's correct.

Mr. Le Frois stated: Some of those parking spaces are pretty far away and could be quite dark.

Mrs. Le Frois stated: The back of the property can be dark.

Mr. Simmons stated: Not to cause the applicant more expense for the site plan, but in the interest of safety if you are going to have elderly members of the congregation then you end up in a dark area and you could have some issues.

Mr. Le Frois stated: Just to be fully transparent, there could be a need for some pole mounted lights?

Mr. Soloway stated: The applicant indicated that it would agree to a condition be at least 0.5 footcandle.

Mr. McGovern stated: The applicant has also said they would be willing to update the lighting on the facility.

Mr. Flynn stated: Correct me if I'm wrong, but you currently have an extremely bright light on that building now?

Mr. Billing stated: Yes. We want to be a good neighbor. There have been no instances in 75 years with the existing light. But we did feel that the 0.5 footcandle is currently the standard and should be achieved.

Mr. Le Frois stated: I share your concern on the remote spaces and the lights shining on the neighbors.

Mr. Billing stated: There is quite a bit of light coming off of 519 and the street lights there, too.

Mr. Simmons continued: Regarding the landscaping I defer to the Town Planner. In regards to the signage they've come up with a sign that they've run by the County and is acceptable to the County. I would point out that internal illumination does require Planning Board approval. With the architectural plans, will there be any HVAC changes?

Mr. Billing stated: There is not in this project. But there have been suggestions for three more condensers on the back of the building.

Mr. Simmons continued: Environmental Impact Statement is not required. I mentioned

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construction details that the applicant's Engineer added to the plans, and approvals required and final as-built.

Ms. Caldwell reviewed her report dated December 11, 2018 and stated: On item 2 is area and bulk requirements which they addressed. On page 3 under refuse, they agree to enclose the proposed dumpster. Item 5, under signage I want to clarify if it will be externally or internally illuminated. We addressed lighting. Under landscaping the addition to the parking area triggered several design waivers and variances that the applicant addressed. 15% of parking should be for landscaping. One shade tree for every 10 spaces is required as well as screening and buffering. Essentially that overlaps with the zoning that has the same requirements. It sounds like they are addressing it for the new parking area.

Mr. Le Frois questioned: Is this an official variance request because they are restriping it?

Mr. Soloway stated: I think the ordinance standards are implicated because they are expanding the parking lot. If they were just re striping then I would say no. But there will be an additional 3,600 square feet. So that's what triggers the current standards.

Mr. McGovern stated: As a practical matter, the math doesn't work. If we have to provide 15% landscaping in a parking lot we are only expanding by 12%.

Mr. Le Frois stated: I understand.

Mr. Soloway stated: I think the applicant's position is that they will comply in the new area. But in the area of the existing parking lot they really can't do anything. It's already paved and they would just create circulation issues and lose parking spots.

Ms. Caldwell continued: I did confer with Mr. Soloway on it. Under Bulk standards the pre-existing conditions are not being exacerbated.

Portion opened to the public. None stepping forward. Portion closed.

Mr. Soloway crafted a motion to approve the application for minor site plan approval with design standard waivers and variance grants for all of the various landscaping and buffering standards set forth in Ms. Caldwell's report, with the understanding that it would be a hardship to require the applicant to comply with the landscape requirements for the existing paved area. The conditions of the approval would be to find or approve the internally illuminated sign. The conditions would be they are doing a 3,600 square foot parking area that they do comply with the design standard and zoning ordinance requirements related to landscaping, trees and the like. That they add some shade trees along Thompson to the satisfaction of the Board professionals. That they supplement existing buffer areas. To the rear of the property they add more screening to the satisfaction of the Board professionals. They screen the dumpster. They comply with various recommendations on Mr. Simmons' report including a sight triangle easement to the County if required by the County. They designate a storm drainage easement to the Town for a 27" CMP. They comply with item 7 in Mr. Simmons' report that the lighting be at a 0.5 footcandle to the satisfaction of Mr. Simmons' office. They comply with section 12 of Mr. Simmons' report in terms of construction details and the understanding that the parking lot having a 3" bituminous stabilized base is referring to the new parking area and they don't have to rip anything out. Also standard approvals and requirements and a final as-built. In regards to the drainage easement, allow the Town to maintain it as needed.

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Mr. Marion questioned: In regards to the new parking area you made a comment about new shade trees in that area. Is that going to be a hardship because of the playground area?

Mr. Soloway stated: It's my understanding that the playground area is not part of the new parking area. The design standards and zoning ordinance standards cited by Ms. Caldwell refer to parking lots themselves. I can put in something that when doing screening and landscaping that they need not doing anything in the children's play area.

Mr. Le Frois stated: Ok.

Mr. Russo made a motion and Mr. Marion seconded the motion to approve the application.

Aye: Mr. Marion, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Mr. Flynn, Mrs. Le Frois, Mr. Russo, Mr. Le Frois

Punctuated Equilibrium (#PFSP-8-2018)
Block: 22.04, Lot: 1, 2, 3, 4, 5, 13, 14 & 15
Diller & Sparta Avenue

The applicant is requesting preliminary and final site plan approval for consolidation of lots.

Peter Donnelly, Esq. of Donnelly, Minter & Kelly represented the applicant.

Mr. Donnelly stated: We have an application for site plan approval for the property at the corner of Diller and Sparta Avenues. We are going to talk about site improvements in regards to parking, curbing, and lighting. We are also going to talk about crosswalks down Railroad Avenue. I have one witness tonight, Tom Graham from Dykstra Associates.

Sworn in: Thomas Graham from Dykstra Walker Design Group at 21 Bowling Green Parkway in Lake Hopatcong, NJ. He is a licensed professional engineer. Bachelor of Science in Civil Engineering from the NJ Institute of Technology. He has been a licensed engineer for 25 years. He has testified in front of this Board and many in Sussex, Bergen, Essex, and Morris Counties. His licensed is current in NJ.

The Board accepted his credentials.

Mr. Donnelly questioned Mr. Graham: Are you familiar with the recent reports from Ms. Caldwell and Mr. Simmons.

Mr. Graham stated: Yes. I can address their comments.

Mr. Donnelly stated: Yes, please proceed.

Mr. Graham reviewed Exhibit A1 dated 12/19/2018, a colorized rendering of proposed site conditions, and stated: The property is identified as Block 22.04, Lots: 1, 2, 3, 4, 5, 13, 14 & 15. An irregularly shaped parcel and it is 3.9 acres. It is located in the northeasterly corner of the intersection of Diller and Sparta Avenues. To the east there is a JCP&L substation. To the

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southeast there are commercial and residential development areas and across Sparta Avenue to the south. To the northwest crossing avenues with Merriam Gateway Apartments and commercial buildings. To the northwest is Thorlabs. Lands to the north are wooded and residential properties. The site formerly supported a number of commercial buildings that have subsequently been razed. Now there is an existing paved area. A portion of it has been striped. It is on this plan. In front of the existing pavement and the area is used as a parking lot. It is a bit haphazard the way people are parking. What we are proposing is to eliminate the pavement and reconfigure the area, curb the parking areas to help control stormwater runoff. They are going to construct a 165 space parking area. There is an existing agreement between Merriam-Gateway and the property owner that 31 spaces be available in the overnight hours to the residents of the apartments, not the commercial facility. We are also proposing 6 ADA spaces along Diller Avenue, 6 is the required number for a parking lot of 165 spaces. We are also proposing a bus shelter. This parking area is for the Thorlabs complex. Certainly people can walk to the facility they are also putting a bus shelter so a small coach or van could pick people up and take them to the facility if they didn't want to walk. We are showing on this plan a proposed bike trail which goes from right to left as you are looking at it which is from west to east. We are trying to be consistent with the planning that has been done prior. We are proposing new sidewalk along Diller and Sparta Avenue. Sparta Avenue is a County road so we have to get approval from the County. We have had preliminary conversations with them on the alignment. This property was previously in front of this Board, about a year ago, for some improvements to the existing property. They were related to eliminating a third of the property and doing some lighting and landscaping improvements, and to regrade the balance of the site. This plan is an expansion of that proposal. The improvements shown along Diller and Sparta Avenue are consistent with the prior plan. There is one item that I would add from Ms. Caldwell's report. The sidewalk needs to be 4.5' wide but the applicant shows 4' wide.

Mr. Donnelly questioned: The plan from last summer did not include lot 5. Can you show me where lot 5 is?

Mr. Graham stated: Yes. Lot 5 is pretty much the perimeter.

Mr. Donnelly stated: It is not in the 2017 application. The other thing I wanted to touch on is the Merriam Gateway Apartments having 31 parking spaces available to them. That is pursuant to a written easement that is recorded with the County. Since the Technical Review Committee hearing I've personally spoken with the owner of Merriam Gateway, Mr. Jonathan Greenbrook. I've emailed him a copy of the recorded easement and the planning parking locations. I subsequently spoke to him to find out if he had any objections. He said he has no objections.

Mr. Graham stated: This application would benefit the Thorlabs complex down the road. As part of the application we are also proposing two crosswalks in the area of Railroad Avenue where the Dunkin Donuts and DMV buildings are. Pedestrian access would come across Diller Avenue on the existing crosswalk and then follow the sidewalks and cross at Railroad Avenue on the crosswalk across Sparta Avenue. We've already had conversations with the County in regards to our application for Diller Avenue I expected it down in the public right-of-way. I pointed out the landscaping in the area. Our initial calculations had an excess of material. We can bring it to a zero calculation by basically raising the elevation by about a foot. So this would allow us to not have to export the excess material offsite. It would be evenly distributed consistent with the existing grading that we have.

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Mrs. Le Frois stated: So it would provide a buffer and be a little more aesthetically pleasing for people coming down Sparta Avenue.

Mr. Graham stated: Coming down Sparta Avenue. It would be consistent with the roadway and come up about 8' and come down into the parking lot. There is going to be a berm. So you wouldn't see it.

Mr. Flynn questioned: Do you think the County will grant you permission to have crosswalks so close together?

Mr. Graham stated: We have had preliminary discussions with them. We talked about it and they are open to the idea. Obviously they have to see the plan to understand it. Again these have to be approved by the County.

Mr. Wink questioned: There is only one crosswalk at Merriam Avenue?

Mr. Flynn stated: It is next to the gym and Boonton Tire.

Mr. Graham stated: These are about 600' away from that point in front of the existing Thorlabs facility and the Dunkin Donuts. The property is bisected by a number of easements, both utility and access easements. There is an access easement for a common property line. With the lot consolidation all of the easements would be rededicated or extinguished as necessary. The eight lots would be merged into one lot identified as lot 3. We are still awaiting confirmation on the lot number from the Tax Assessor.

Mr. Donnelly stated: I will follow up as soon as we have the confirmation of the lot number.

Mr. Graham stated: Most of the dirt will be used onsite to recreate the site; constructing the property area with curbing, lighting, landscaping. We will have to add a couple of new inlets in the curb in the parking area. The net result of this work is going to increase the impervious coverage by 600 square feet. It is not going to require any additional stormwater management methods. We have some roadway dedications along the lot consolidation. The right-of-way along Sparta Avenue will be dedicated to the County and the right-of-way along Diller Avenue to the Town of Newton.

Mr. Donnelly introduced Exhibit A2 – Parking Plan Overlay by Langan Engineering and requested Mr. Graham to explain it.

Mr. Graham stated: The JCP&L property was a former manufactured gas plant. As a result of those activities there is some contamination on our property. What we have here is a Parking Plan Overlay that was prepared by Langan for Newton 1 former MGP site. We have provided them with one of our preliminary parking layouts and they mapped it showing the area of concern. In the area of concern there are two areas that have been identified which are where the more concentrated areas were. This area needs to be remediated under the jurisdiction of the DEP. Langan Engineering will do the work. I had a conversation with the department manager yesterday. They are preparing some additional testing to better define the area of pollution and better determine the best course of action. They are in the process of putting the testing package together with the plans to follow, hopefully, in the first quarter of 2019.

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Mr. Le Frois questioned: So JCP&L will handle the clean up?

Mr. Graham stated: Yes.

Mrs. Le Frois questioned: What is the timeframe for completion?

Mr. Graham stated: The contamination is apart from any disturbance that we're proposing even the construction of the parking lot. There are two means to satisfactorily address the contamination. One is by capping. Typically you have a parking area with dimensions and depths that will satisfy the cap requirements. Or they have to do some injection to cut off the migration of the contamination. We are proposing no buildings here.

Mr. Soloway questioned Mr. Graham: Is there anything you are proposing that is going to require DEP approval or implication in the remediation or any controls?

Mr. Graham stated: The short answer is no. Should we construct the parking lot and they have to go back in to get there or if they have to excavate and remove a section of pavement it is not like they will have to replace a building.

Mr. Donnelly questioned: Can you show on the map where it is?

Mr. Graham referenced the map and stated: That represents this line. That was delineated on the site plans submitted to the Town. These areas here are potentially those areas that were not put on the plan but are here.

Mr. Soloway questioned: Are you proposing improvements in that area?

Mr. Graham stated: Yes. We are proposing parking areas in that area.

Mr. Soloway stated: So you are essentially capping that section for them?

Mr. Donnelly stated: You've made a good point. In speaking with counsel for JCP&L they are quite happy with that proposal and it won't be a problem.

Mr. Graham stated: They have done preliminary testing and have determined there is concern in areas where there are known higher concentrations of pollution. They are now doing additional testing to define those areas. The result of that testing will let them know the benefit that they will require to remediate the contamination.

Mr. Flynn questioned: So it will take one to four years?

Mr. Graham stated: The testing hopefully happens in the first quarter of next year. The plan has to be heard, and approved.

Mr. Soloway questioned: How can you pave over and not require DEP approval?

Mr. Donnelly stated: I don't think we're communicating properly here. The paving will not come until the LSRP who is licensed in remediation have completed the process.

Mr. Soloway stated: Ok. So you are not going to start paving without DEP approval.

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Mr. Soloway addressed the Board: A few years back they substantially revised a lot of the environmental requirements and the DEP partially went out of the business of environmental review. They delegated a lot of their approval functions to licensed site remediation professionals, or LSRP. The way the law is set up now, if the LSRP gives them their blessing and approves the plan, essentially that's the green light. The DEP can theoretically reverse that but they tend not to.

Mr. Donnelly stated: We have no intention of disturbing any environmental areas.

Mr. Soloway stated: You didn't make that clear.

Mr. Donnelly stated: I'm sorry. Any environmental elements that have to come out of the ground, be moved, tested, or whatever it will be JCP&L, Langan and other contractors. We have an agreement with them to give them access and indemnify us. The only thing we are proposing is that when all that work is done we will get confirmation; we will implement this plan. We will not touch it. It is JCP&L. They put it there. They don't want us to move things around and possibly make things worse.

Mr. Ragsdale questioned: The contamination affects a large part of the project. So are you not going to start the project until the remediation process is complete and approved by DEP?

Mr. Graham stated: The larger areas are the concern and it doesn't look like they will be. It's really only here and here.

Mr. Soloway questioned: What is your estimate on the time frame?

Mr. Graham stated: They hope to do the next phase of tests in the first quarter of next year.

Mr. Soloway questioned: Under the Redevelopment Plan that you are working under, parking is only permitted as an interim use. So this in effect is temporary. So one of the other things we have to think about is trying to get a better definition of temporary. But if you may be a few years away in that area how does that tie in with the temporary parking use?

Mr. Graham stated: If we paved this area now, part of it is under an existing driveway and part of it is under isolated parking lots. The bulk of the property could be developed without disturbing those areas.

Mr. Donnelly stated: If the solution is that some of the contaminants remain in the ground and we pave over it there will be restrictions in that area about disturbing it. So to your point if we want to hypothetically construct a building in this area we would have to go through a complex process over what can or can't be done. The initial remediation would have to happen at that point.

Mr. Soloway stated: If you are putting a building there that would be a future site plan application before the Board.

Mr. Donnelly stated: We are not putting a building there. The site is very constrained by sanitary sewer easement, two very large storm drain easements and a sanitary sewer that runs the other way.

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Mr. Soloway stated: My point is that under the Redevelopment Plan this is not allowed to permanently be a parking lot. The Board doesn't have jurisdiction, frankly, to approve a permanent parking lot. So what's the plan?

Mr. Donnelly questioned Mr. Graham: Can you describe the potential development on the site. Where you could put a building on the site.

Mr. Graham stated: South of the proposed bike path.

Mr. Donnelly questioned: Does that come in to your thinking?

Mr. Graham stated: This is the only area a proposed building could go because of the easements in the area, in the southeasterly area of the property.

Mr. Soloway stated: It can't be a stand-alone parking lot for more than a temporary period of time under the current plan. Maybe we should try to define any approval you get tonight. At some point you have to come back here. This is undoubtedly an improvement to the site but it can't be a permanent parking use unless you go back to the Council.

Mr. Robert Regimbal, Thorlabs CFO and General Counsel, sworn in.

Mr. Regimbal stated: To address Mr. Soloway's specific question and concern about the temporary parking. It is absolutely in Thorlab's plans to develop this site to include an up to 30,000 square foot building which is the largest footprint. When that gets done? I don't know. It depends on what the other development priorities. Right now, the 30,000 square foot building is just sufficient to address our expansion requirements. We could leave this site empty for a period of time as a temporary parking use. To answer your specific question, is it Thorlabs intention to ultimately develop and put an improvement on this site the answer is yes.

Mr. Soloway stated: So ultimately the parking area in whole or in part would support that building and be an accessory to that?

Mr. Regimbal stated: Yes.

Mr. Marion questioned: What is the containment?

Mr. Simmons stated: It was a manufactured gas plant.

Mr. Ragsdale stated: In the environmental report he's got benzene and lead above the DEP limits. It looks like it's pretty significant. It looks like they are going to be at this for a while. Is that a fair statement?

Mr. Graham stated: From my conversations with Langan the remediation is something they can do and then cap it. It's going to take time for them to be done but they will not be constantly remediating it for years.

Mr. Ragsdale questioned: Is there a chance of worker or public exposure?

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Mr. Graham stated: From what we've been told where they detected the contaminants is well below the area we are proposing to excavate.

Mr. Ragsdale stated: The report says that the contaminations are at the soil/bedrock interface. If you look at the soil map of the area that is about 20-40" down which is the area you are grading in and getting the storm system down.

Mr. Graham stated: I mentioned 15-20' is what I was told from Langan yesterday. The initial information was based on previous plans they have had in this area.

Mr. Ragsdale stated: Your report doesn't say that.

Mr. Soloway stated: As a practical matter what they are saying is that in the area over the contamination what they are presenting to you is an interim site plan. But they can't implement it until there is regulatory approval to allow them to build there.

Mr. Ragsdale stated: I think at some point we will have to see a better report because what you gave us is not correct.

Mr. Graham stated: It is correct. But I was given new information yesterday.

Mr. Ragsdale stated: So there will be new information to supplement this.

Mr. Soloway stated: My guess is that the next time you see this property there will be an approved plan from the LSRP and everyone will know what can and has to be done. We don't know that yet, but we will have a plan ready for if and when that happens assuming it is consistent to whatever that approval is.

Mr. Ragsdale questioned: Should we be voting on this now?

Mr. Soloway stated: I have no problem with you voting on it because if you approve this, one of the conditions will be that they have that approval.

Mr. Wink stated: It is premature in my opinion.

Mr. Soloway stated: It's always a tricky issue because with complicated applications there are frequently multiple approvals that are needed. It is kind of a chicken and the egg situation. You've got to start somewhere. As long as they can't actually implement it without getting that approval I don't see any problem.

Mr. Ragsdale questioned: So it is subject to the approval?

Mr. Soloway stated: Yes.

Mrs. Le Frois stated: The testimony provided already is that they don't want to assume any of that liability until other testing has been done. Mr. Graham has already said that Langan and JCP&L aren't going to begin testing until the first quarter 2019. At that point they will come up with a remediation plan that will define the timeline for the next steps. Assuming all that happens, then they can proceed.

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Mr. Soloway stated: And it's not just the remediation plan. Thorlabs, or Punctuated Equilibrium, is not the responsible party. JCP&L is responsible for the remediation of the contamination with a different engineering firm working on that. These guys are just waiting. The one quirk here is with an approved remediation plan they allow you to cap the contamination and a parking lot can work as a cap.

Mr. Donnelly stated: I've had discussions with the JCP&L Counsel about this and frankly this process of us filing, creating a plan, and Mr. Graham reaching out to Langan has sped the process along with JCP&L. The applicant is here and has come with the expense and the pollution they didn't cause. I think an approval tonight would help the process and start the time ticking for JCP&L to start moving on this.

Mr. Regimbal stated: This contamination is very isolated. We were before the Board in 2017 and our application didn't have lot 5. We could do all this work. What we are talking about is isolated to two areas in lot 5.

Mr. Soloway stated: They have been before the Board at different times with this property at different stages of the interim plan. In 2017 the Board approved the interim parking application but it did not include lot 5.

Mr. Ragsdale stated: Why not as a simple solution call it Phase I and Phase II.

Mr. Regimbal stated: This is such a small part of it. What we did is, understanding that the amount of environmental, there is a concern for JCP&L. We reached out to them and they are cooperating and their environmental consultant LSRP.

Mr. Ragsdale stated: I understand that. Why not just call it Phase I and Phase II.

Mr. Regimbal stated: The only driveway access to this site is on lot 5. That area is not contaminated.

Mr. Soloway stated: Mr. Ragsdale is asking an interesting questions that may be helpful to you. If you don't break it into phases you have to do everything. He is essentially offering you a way to do part of it.

Mr. Donnelly stated: For clarification, are you talking about using the bike path as a simple dividing line? Phase I developed below it and Phase II above it?

Mr. Soloway stated: I think his thought is that you carve out the area of concern and make it Phase II. Then you can develop Phase I.

Mr. Flynn stated: I'm not sure why we are talking about phasing their project when they haven't even completed their testimony.

Mr. Donnelly introduced Exhibit A3 the Truck Turning Exhibit dated 12/19/18 and stated: At the TRC meeting, Mr. Simmons asked that we show how the shuttle or van would access the site and turn around.

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Mr. Donnelly introduced Exhibit A4 dated 12/18/18, the Driveway Intersection Sight Distance Plan and stated: We had submitted our plan for sight distance. Again, at the TRC meeting Mr. Simmons asked us to include the sight distance for the bike path.

Mr. Marion questioned: On the truck turning plan there is a blue print. Will the proposed lot in the future be able to accommodate box trucks? Could a 30' box truck come through and make a delivery?

Mr. Graham stated: Yes.

Mr. Le Frois questioned: If there was a plan to reuse this parking layout for whatever building goes there would you be open to having to reconfigure it?

Mr. Donnelly stated: Yes

Mr. Marion questioned: Wouldn't you want to do that now to save yourself?

Mr. Donnelly stated: We don't know what that is yet though. We don't know what trucks will have to come in or if there will be any trucks at all.

Mr. Simmons reviewed his report dated December 13, 2018 and stated: Page number 2 printed out on the wrong exhibit. Under zoning, there is a minimum distance for a parking lot required of 10' and they are proposing 6'.

Mr. Donnelly stated: I think in the amended Redevelopment Plan for this talks about 10' for structures.

Mr. Simmons stated: I will defer and we can check it out. With regards to the site plan, has the County made any additional comments in regards to the proposed plan for Sparta Avenue?

Mr. Donnelly stated: No.

Mr. Simmons stated: Just so the Board knows there have been various generations of this plan in regards to grading and parking. One of the long term plans the County has is to cut back Sparta Avenue in this area. Having said that, the proposed parking is set back a significant distance on this plan but if they are to go forward with a conditional building they should factor that in. I'm not sure what the time frame of that is but I'm throwing that out so they can factor that in. We talked about the merging of the lots and the title search on the property with the various easements. Mr. Donnelly's office provided us with a detailed booklet of all of that. The bottom line is there are some easements that will have to be extended or vacated so that's a process that is going on. There are some common driveways on Sparta Avenue so that is going on. We talked about the parking spaces, bus shelter, right-of-way dedications, deed references and vacations on page 4 of my report. We talked about the bike path and the sight distance. We talked about the contaminated area from JCP&L being adjacent. Item 3n, he did indicate that there may be a revision on some of the open space lawn area in order to use up some of the excess material on the site. With regards to stormwater management, Mr. Graham talked about all that. There are 52" pipes that were constructed in the late 70's early 80's. With regards to lighting, they are using the William & Mary LED lights to carry through the Town's theme for parking lot lights. I indicated that in one area that needs additional lighting.

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Mr. Simmons continued: In regards to the power supply meter for the lights. I'm pointing that out because it is going to be something that has to have its own separate supply. Item 5d, the light will be on until a time indicated by the Board. The applicant agreed to discuss shutoff time.

Mr. Graham stated: Thorlabs is a 24 hour facility.

Mr. Regimbal stated: I believe 11 or 11:30PM is when most of the interior lights shut down and it is just the perimeter lights that stay on. I think we can make it consistent.

Ms. Caldwell stated: There is overnight parking though for the residents.

Mr. Soloway stated: Is there any problem if they leave them on dusk to dawn?

Mrs. Le Frois stated: My thought is it would be safer. There is a 24-hour gym there. Plus there is a high berm on the Sparta Avenue side and the houses across the street will be protected.

Mr. Simmons stated: And finally I suggested that test holes be dug in some of the light foundation areas to confirm there are no conflicts with underground utilities.

Mr. Graham stated: We will come up with a test hole plan to include also the tree planting test holes.

Mr. Simmons stated: Under construction details as Mr. Graham indicated, a lot of those existing storm drainage utilities are very deep so we are going to need some special details for a couple of those structures. In regards to the foundation for the light poles, I recommended that the alternative higher concrete foundation may be more appropriate in areas where there may be damage to bumpers. With regards to landscaping we talked about the test holes. With the environmental impact statement, we talked about that earlier on the soil contamination. We have various approvals needed from the County Engineering Department and others. As Mr. Graham mentioned earlier, by the intersections of Sparta and Railroad Avenues will be under the County's jurisdiction as far as the crosswalks go. And finally an as-built plan when the project is complete.

Ms. Caldwell reviewed her report dated December 13, 2018 and stated: Item 2 under Land Use Regulations we talked about the fact that parking is only permitted on an interim basis. That sets the stage for some of the design waivers and deviations from the plan. Page 2 has the landscaping. In the first paragraph is where the 10' setback comes in. There is a 10' minimum requirement buffered planter strip between the parking area and the street. So that is a design waiver and not necessarily a setback variance. There are also other design waivers for landscaping, including the number of trees for the parking area. You are proposing 16 where 33 are required. There are also some evergreen trees that aren't shade trees but are obviously buffering the parking area and understanding that this is an interim design where you are contemplating the potential to rip up curbs and change things. It doesn't make sense to plant every tree and shrub at this point. We talked about in general the parking area. Are there any signs proposed?

Mr. Graham stated: No.

Ms. Caldwell continued: We talked about the sidewalk and you agreed to widen that so you don't have to change it in the future. We talked about the pedestrian connection and how

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people would walk and pedestrian crossings. We talked about the bus shelter and that is internal to the Town and Thorlabs employees.

Mr. Le Frois questioned: Does the current Thorlabs building have a security company that oversees the parking lot and will they be watching over this parking lot also?

Mr. Regimbal stated: We haven't made a plan for that yet but it would make sense. We also have a current facility behind where Brooks used to be. Our distribution center is moving there at the end of this month. So for the employees that park here it would make sense for us to provide monitored security. My guess is that employees who want to be escorted to that area we would provide an escort. Especially when it's dark.

Mr. Ragsdale questioned: Is stormwater retention required with the project?

Mr. Graham stated: No. In our proposed project, we only have an increase in the impervious coverage of 605 square feet.

Mr. Simmons agreed.

Mr. Ragsdale questioned: If he comes back in a few years and puts a building on that site do the same parameters apply?

Mr. Simmons stated: It would be reviewed at that time. You would have to see what the increase in run off rate is. The chances are that will be clean water as opposed to a parking lot that is going to be salted and sanded, etc..

Mr. Flynn stated: You have to calculate it based on what was there. There was a lot of impervious space that was onsite.

Mrs. Le Frois stated: That is a good point. It looks like you are adding a lot of impervious space, but if you compare it to what was there it is not that much. And it is going to look much better, be much safer and more useful than it is now.

Mr. Regimbal stated: If you look at sheet 3, you can see the existing impervious coverage will be more on the site. So it is basically awash.

Mrs. Le Frois questioned: How many parking spots are you gaining?

Mr. Regimbal stated: About 100.

Mrs. Le Frois stated: As you are aware the Council receives complaints from residents on Pine Street and Merriam regarding parking. Has there been a calculation to determine if the new parking will alleviate this situation for the neighbors?

Mr. Regimbal stated: Yes. We don't have specific calculations but that particular concern is high in our thinking. Our plan is that this will alleviate some of the burden for parking at 56 Sparta Avenue. The distribution center is moving from 56 Sparta Avenue to the Brooks facility at the end of this month. That is 80 people. Then we are adding a net additional 105 spaces here. So the combination of those two is going to gradually improve the need for employees to park on the street. This is one of the things we are trying to accomplish.

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Mrs. Le Frois stated: It will also help with the school traffic in the morning.

Mrs. Vrahnos questioned: If you have an employee that doesn't want to walk far and parks on the street, can you prohibit them from doing that?

Mr. Regimbal stated: Our HR department is very engaged in communicating with our work force on a regular basis regarding our parking policies. Our current policy is that we don't want them parking on the street, but within the lots that are owned by Thorlabs. In addition to the written policy we've also incentivized it by offering free Dunkin Donuts gift cards. Not everyone buys into it but we are very active in trying to make sure our employees find a solution other than parking on Pine Street and other streets. We are hoping that these additional parking plans are going to help.

Mr. Donnelly stated: I would like to go back to the environmental issue before you cut off the discussion. I just want to remind you that we were here last year without lot 5. We've since bought lot 5 from the Town. Again, we did not cause the pollution up there and we are now working with our neighbors JCP&L on the engineering solution to fix the pollution problem. And it is an engineering problem. We have very good engineers on the job. We don't know if it is going to be a short or long process but it is an engineering process. I would like it to be treated as that. If you choose to approve this plan, treat it as a condition to us building subject to the engineers working it out. It is not in our interest to take on any liability there. We are very cautious. We are going to push JCP&L and use this approval to help do that. We would like the ability to work with our engineers, their engineers, and your engineering department until they are satisfied with the conditions. If the engineers come back and say you have to lose a couple of spots then so be it.

Mr. Le Frois stated: That makes sense to me.

Mr. Regimbal stated: The only thing I would add to that is that I'm hoping that as we work on this with JCP&L we will do something great for this bike path which is in lot 5. This used to be Newton's property, which we purchased, and I think as we fix these problems we can fix it for a lot of good reasons and a lot of good uses; not just our parking.

Application opened to the public. No public stepping forward. Portion closed.

Mr. Soloway crafted a motion to grant preliminary and final site plan approval for an interim parking use and all the other improvements shown in the plans subject to compliance with these conditions: correct the plans to indicate the area of sidewalk will be 4.5' wide with 2' buffers instead of 4'; there will be no stop piles except temporarily during construction as approved by the Town Engineer; they will be subject to the usual condition that you obtain all the required governmental approvals, specifically whatever approvals are required under the environmental statutes and regulations to allow you to do any construction in the area of lot 5, which is possibly contaminated; compliance with various recommendations set forth in Mr. Simmons' report; deed of measurement to the satisfaction of the Board Attorney and Mr. Simmons; deeds for the various easements; look into whether you will eliminate some of the private easements; note on the plan the deed references the rights of what were previously deeded to the Town along Diller; grading of the bike path will take place when the parking lot areas are being graded and constructed; you will check the sight distance of the proposed bike crossing onto Diller Avenue to confirm adequate sight distance to the satisfaction of the Town Engineer; grant a 25' wide

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storm drain easement to the Town relating to the existing 42" RCCP pipe; compliance with section 5 of Mr. Simmons' report relating to lighting; there will be no requirement that the lights be turned off, we want them left on from dusk to dawn; on item 5b you will supplement the 0.5 foot candle to the satisfaction of Mr. Simmons; you will provide the construction details outlined in section 6 of his report; you will comply with the recommendations related to landscaping in section 7, specifically that you will do test holes before planting trees particularly in any area where there is a potential conflict with existing utilities; to allow the Town Engineer's office to inspect proposed tree locations before they are planted to make sure they won't obstruct any sight distances; subject to the other approvals and an as-built. You are also going to grant approval for deviations and variances listed in section 3 of Ms. Caldwell's report related to the parking lot buffering and landscaping requirements. The rationale for granting these would be that they are temporary grants because it is a temporary plan. When they come back on the next iteration and you can look at it anew.

Mr. Soloway stated: The only other thing I would raise, is do you want the applicant to submit some kind of written report to the Board if we don't hear anything after a certain amount of time? Maybe one year from the resolution?

Mr. Regimbal stated: I would ask for more clarification on this. There is a lot of work we are proposing to do on the site; the sidewalk, the curbing, etc..

Mr. Soloway questioned: So you are planning on working around that area?

Mr. Regimbal stated: I think we are going to do it at our own risk because I have a high level of confidence that what we are going to do with JCP&L is going to work itself out in an orderly fashion. I've been working with them for two years. There is the contamination of Brooks that they are responsible for that they need our cooperation on.

Mr. Soloway questioned: How about if you periodically update the Town Engineer on the status of the work?

Mr. Regimbal stated: Yes. That would work.

Mr. Le Frois questioned: It sounds like there could be phasing involved?

Mr. Soloway stated: What they are saying is they want to do a work-around.

Mr. Le Frois questioned: Do we need to say anything about that?

Mr. Soloway stated: That only becomes a problem if they don't get approval to construct over the area of contamination and they've built the other stuff. Then, where are we, Mr. Simmons?

Mr. Simmons stated: They will have lost some of the 165 spaces they are shooting for.

Mr. Soloway stated: What I want to avoid is a situation where you have a partially built project and they don't get approval for the rest and it undermines what is there. If it doesn't undermine what's there than it is fine.

Mr. Regimbal stated: It doesn't undermine what's there. We were there in 2017 without lot 5. I have a high degree of confidence that it is going to work out. In the unlikely event that it

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doesn't we will either be back before the Board or I'm going to have some unpleasant meetings with JCP&L.

Mr. Wink questioned Mr. Soloway: Can you give clarification as to how the resolution would read as far as remediation and how much construction can be done before it's complete?

Mr. Soloway stated: They can't do any construction in the area.

Mr. Flynn stated: We wouldn't be the authority that would be regulating that. The LSRP has a far greater level of control over remediating contaminated soil in NJ than this Board does. I wouldn't even touch it.

Mr. Soloway stated: Under the condition that they get all the required environmental approvals. Ultimately the DEP in speaking through the LSRP will determine what happens there. That's in process. Maybe four months from now you'll know; maybe two years from now. I also agree they're smart guys who are not going to dig themselves a hole.

Mr. Russo questioned: What is the time frame of this interim use? We have to define that in the resolution. We have to respect the plan that is in place. We don't go through Redevelopment just for a parking lot. I think three years is sufficient.

Mr. Regimbal questioned: Does that start when the parking lot is completed or when we start working on sidewalks?

Mr. Russo stated: Is it when it's all done, which it may never be done? Or is it when they first start on the sidewalk that the clock starts?

Mr. Regimbal stated: What if it is three years from tonight and they haven't been able to work on it.

Mr. Soloway stated: I agree with Mr. Russo, we should give them a specific period of time and state it in the resolution. That is how long the interim use is approved for. That doesn't mean they can't come back for an extension.

Mr. Donnelly stated: It needs to be flexible. Honestly, if I have to build the facility somewhere else. Every time I speak with Alex Cable that lot is getting built period. If the option was you can't put anything there, you can't do any parking, you can't put that lot to use until you have a building plan, then I wouldn't put it to use and that wouldn't serve anyone.

Mr. Russo stated: So you use it temporarily for parking and at some point it needs a building or you need an extension.

Mr. Soloway stated: We can't be here 10 years from now and it still be a parking lot.

Mr. Russo stated: You can come back in three years and ask for an extension and we will probably grant it. But we have to respect the plan that is in place.

Mr. Regimbal questioned: Is it three years from when we're done building or three years from the application?

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Mr. Soloway stated: Here's my suggestion. Make it three years from the date of the resolution. In three years they have to come back with a permanent plan or a request for an extension. Three years from now, we are not necessarily shutting it down. We just want to see you in three years.

Mr. Regimbal stated: We are ok with that.

Mr. Soloway stated: In three years you will have to appear for either a permanent use or an extension. The Town understands and is trying to work with you.

Mr. Russo made a motion to approve. Mrs. Le Frois seconded the motion.

Aye: Mr. Marion, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Mr. Flynn, Mrs. Le Frois, Mr. Russo, Mr. Le Frois

Motion carried.

CORRESPONDENCE

Ordinance 2018-21 – An Ordinance amending Section 320-2.C "Permitted Uses" of the Newton Town Code to permit existing single-family detached and duplex residential a permitted us in SC-3Zone.

The New Jersey Planner – September/October 2018

Mrs. Le Frois discussed training sessions listed in NJPO Planner for new members.

PUBLIC PORTION

None

ADJOURNMENT

Mr. Marion made a motion to adjourn the meeting. Motion seconded by Mrs. Vrahnos. The meeting was adjourned at 11:14 PM with a unanimous "aye" vote. The next meeting will be held on January 16, 2019 in the Council Chambers of the Municipal Building.

Respectfully submitted,


Katherine Citterbart
Planning Board Secretary