

## TOWN OF NEWTON

### ORDINANCE 2017-18

#### AN ORDINANCE ADOPTING AMENDMENTS TO THE MERRIAM GATEWAY REDEVELOPMENT PLAN

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

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

**WHEREAS**, in November 2010, after review and comment by the Town’s Planning Board in accordance with the Act, the Town implemented a redevelopment plan (the “Initial Redevelopment Plan”) for a portion of the Rehabilitation Area then identified on the official tax map of the Town as: Block 18.03, Lot 10 (then Block 1104, Lot 22); Block 22.02, Lots 8, 9 and 10 (then Block 1209, Lots 10, 11, 12.01); Block 18.02, Lots 9, 10, 11, 12, 14, 15, 16 and 17 (then Block 1301, Lots 1, 1.04, 10, 11, 12, 13, 14, 15, 16); and Block 22.04, Lots 1, 2, 3, 4, 5 (portion), 13, 14 and 15 (then Block 1308, Lots 1 (portion), 1.01, 1.02, 10, 11, 12, 13 and 14), together with the public streets and rights-of-way adjacent thereto (collectively, the “Plan Area”); and

**WHEREAS**, by Ordinance 2012-23 adopted on September 12, 2012 and Ordinance 2015-8 adopted on March 23, 2015, the Town previously amended the Initial Redevelopment Plan (as amended, the “Redevelopment Plan”); and

**WHEREAS**, the Town now wishes to amend the Redevelopment Plan to permit wireless communication facilities as an additional permitted use or on a permitted structure, and to make certain other amendments as further detailed in the proposed amendments to the Redevelopment Plan (the “Proposed Amendments”); and

**WHEREAS**, by Resolution No. 137-2017 adopted on July 17, 2017, the Town referred the Proposed Amendments to the Planning Board for its review and comment, pursuant to the Act; and

**WHEREAS**, at a duly noticed and constituted public meeting of the Planning Board held on August 16, 2017, Jessica Caldwell, P.P., A.I.C.P. (the “Planning Consultant”) presented the Proposed Amendments and further addressed any questions and comments presented by the Planning Board; and

**WHEREAS**, after due consideration of the Proposed Amendments, testimony regarding the Proposed Amendments, and discussion of the foregoing, the Planning Board recommended the Proposed Amendments be modified to encourage that cables for a wireless communications facility be located on the back of a building whenever practical. The Planning Board also determined the Proposed Amendments are consistent with the Town's Master Plan, and recommended the Town adopt the Proposed Amendments, including the Planning Board's recommended changes, as an amendment to the Redevelopment Plan; and

**WHEREAS**, the Town wishes to adopt the Proposed Amendments with the Planning Board's recommended changes and has incorporated the Planning Board's recommended changes into the Proposed Amendments (including the Planning Board's recommended changes, the "Plan Amendment" attached hereto as EXHIBIT A);

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

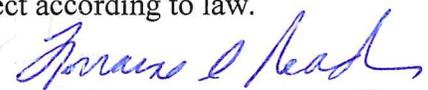
Section 1. The Town concurs with the Planning Board's determination that the Plan Amendment is consistent with the Master Plan. The Plan Amendment as filed in the Office of the Town Clerk, and attached hereto as EXHIBIT A, is hereby approved.

Section 2. The zoning map of the Town of Newton is hereby amended to incorporate the provisions of the Plan Amendment, and to delineate the boundaries of the Plan Area, as amended by the Plan Amendment.

Section 3. This Ordinance shall take effect as provided by law.

### NOTICE

**TAKE NOTICE** that the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on August 28, 2017. It was adopted, after final reading and public hearing thereon, at a regular meeting of the Newton Governing Body conducted at 7:00pm on September 13, 2017 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect according to law.

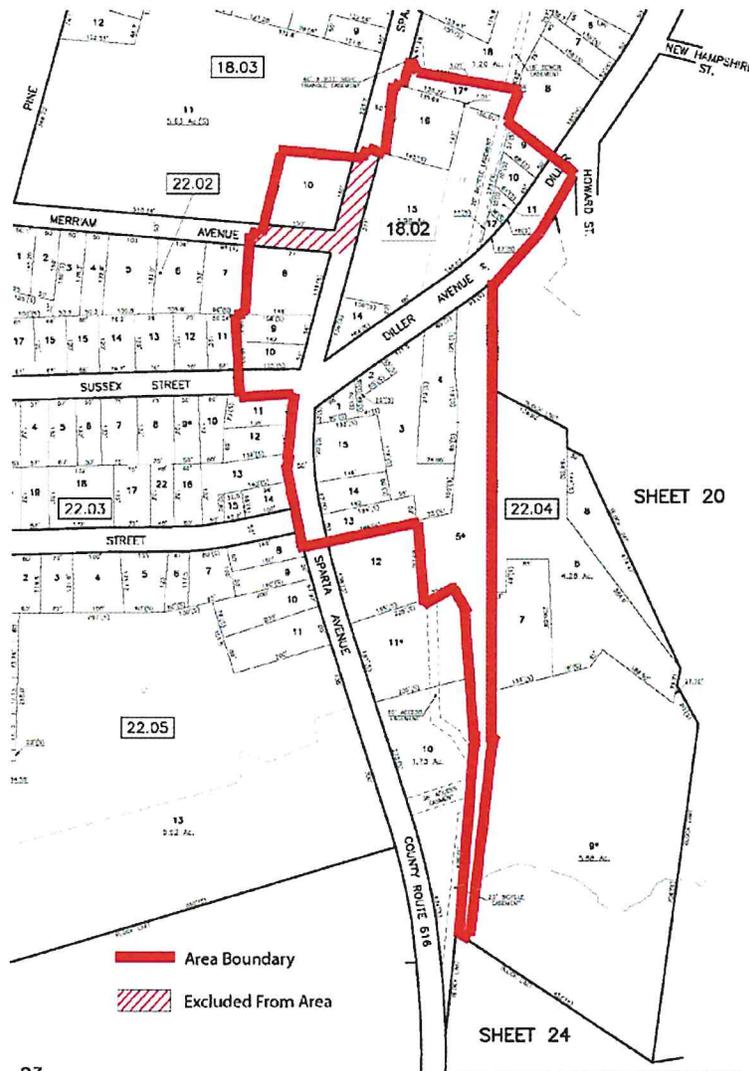


Lorraine A. Read, RMC  
Municipal Clerk

EXHIBIT A

PLAN AMENDMENT

# MERRIAM GATEWAY REDEVELOPMENT PLAN AMENDMENT TOWN OF NEWTON



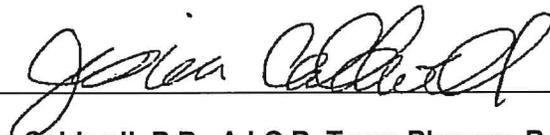
August 23, 2017

 **J Caldwell**  
& ASSOCIATES LLC  
PLANNING CONSULTING SERVICES

**MERRIAM GATEWAY REDEVELOPMENT PLAN AMENDMENT  
TOWN OF NEWTON, SUSSEX COUNTY**

**Table of Contents**

PLAN CONSISTENCY REVIEW..... 3  
    BACKGROUND..... 3  
    AMENDMENTS TO THE REDEVELOPMENT PLAN..... 4  
MERRIAM GATEWAY REDEVELOPMENT PLAN AMENDMENT..... 5



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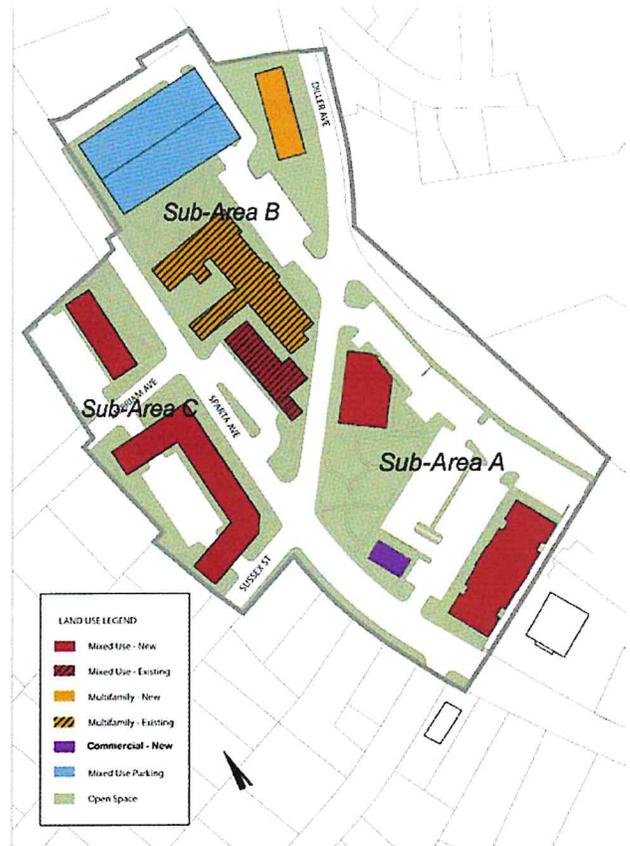
Jessica Caldwell, P.P., A.I.C.P., Town Planner, P.P. # 5944

## PLAN CONSISTENCY REVIEW

### BACKGROUND

The Merriam Gateway Redevelopment Plan (the “Plan”) governs a portion of the Town of Newton Rehabilitation Area, designated by the Town of Newton on April 23, 2007, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “Redevelopment Law”), including parcels, public streets and rights-of-way adjacent to and including Sparta Avenue and Diller Avenue (the “Plan Area”). The Plan was adopted by the Town Council in November 2010 and amended in September 2012 and March 2015.

The Plan Area includes 20 tax lots on portions of four tax blocks, as well as the adjacent street rights-of-way of portions of Sparta Avenue, Diller Avenue, Sussex Street, and Railroad Place. The Town of Newton has updated tax lot numbers since the adoption of the original Merriam Gateway Redevelopment Plan. The new lot and block numbers for the parcels located in the Plan Area are: Block 18.03, Lot 10 (former Block 1104, Lot 22); Block 22.02, Lots 8, 9, and 10 (former Block 1209, Lots 10, 11, 12.01); Block 18.02, Lots 9, 10, 11, 12, 14, 15, 16 and 17 (former Block 1301, Lots 1, 1.04, 10, 11, 12, 13, 14, 15, 16); and Block 22.04, Lots 1, 2, 3, 4, 5, 13, 14 and 15 (former Block 1308, Lots 1, 1.01, 1.02, 10, 11, 12, 13 and 14). The Plan Area covers 10.18 acres. The Plan divides the Plan Area into three (3) sub-areas: A, B and C. The parcels within Block 22.04 (former Block 1308) comprise Sub-Area A, the parcels within Block 18.02 (former Block 1301) comprise Sub-Area B, and the parcels within Blocks 18.03 and 22.02 (former Blocks 1104 and 1209 respectively) comprise Sub-Area C. The figure to the right shows the Sub-Areas along with the originally proposed conceptual layout for the area.



The purpose of this Plan Amendment is to provide for location of a wireless communication facility within the above-referenced area as an additional permitted use on the same lot or on a permitted structure in the area. Currently, the only zones within the Town where wireless communication facilities are permitted are the T-1 and the T-2 zones. The Plan Amendment seeks to provide for the location of concealed wireless communication facilities either building-mounted, roof-mounted or within ground-mounted features, such as a flag pole, subject to the specific criteria outlined in the Plan.

## **AMENDMENTS TO THE REDEVELOPMENT PLAN**

The Redevelopment Plan contemplates the potential for amendments to the Plan. At Section 8.0 of the Redevelopment Plan, it states, “as development occurs within the Area, development priorities and market demands may change. This Plan should have the ability to meet the changing needs of market demand, the Town of Newton and its citizens. Amendments may be required in order to accommodate these changes.” As noted previously, the amendments proposed are being developed to provide for increased access to utilities in the Plan Area, primarily access for wireless communications.

The Redevelopment Goals stated in the Plan focus on creating positive development, rehabilitation and redevelopment within the Plan Area. The focus of these goals is met by creating greater opportunities to redevelop and rehabilitate uses within the Area. Some specific Redevelopment Goals furthered by this Plan Amendment are as follows:

1. To allow more efficient use of land and to expand the Town’s tax base.
2. To create well-planned development that provides for expanded opportunities for a mix of uses within the Town and region and also promotes financially sustainable development.
3. To provide flexibility of design, while incorporating modern technologies and reflecting the architectural design vocabulary (design characteristics) of the surrounding neighborhood and the Town of Newton, and respecting the historic character of Newton.

The proposal is consistent with the Town of Newton’s Master Plan because the proposed amendment furthers Newton’s Master Plan Goals of promoting new development and redevelopment while maintaining the historic character of the area. The proposal is also consistent with the State Development and Redevelopment Plan, which designates the Town of Newton as a Regional Center. As a Regional Center, the Town provides a variety of commercial and residential uses in a compact development pattern. For these reasons, the proposed Plan Amendments continue to further the stated goals of the Plan, the goals of the Town of Newton Master Plan and the State Development and Redevelopment Plan.

The proposed Plan Amendments do not impact the zoning plans of any adjacent municipalities as it does not vary in a significant way from the proposed uses for this area in the Town’s Master Plan, which was reviewed and determined to not have any impacts to the zone plans of adjacent municipalities.

Based upon the foregoing, it is recommended that the following amendments be made to the Merriam Gateway Redevelopment Plan.

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## MERRIAM GATEWAY REDEVELOPMENT PLAN AMENDMENT

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At Section 4.0 Land Use, add the following subsection

### 4.3 Wireless Communication Facility (WCF)

**A. Purpose:** The purpose is to create a mixed-use commercial opportunity to locate state of the art wireless telecommunication facilities within the redevelopment area with minimal or no adverse impact on the character of the Town. The intent of this section is to allow additional economic opportunities for commercial buildings within this area while protecting the historical, scenic and visual character of the Town.

**B. Definitions:** Definitions shall include the following:

*Accessory Equipment:* Any equipment serving or being used in conjunction with a wireless telecommunications facility, including, without limitation, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings or enclosures, cabinets, storage sheds, shelters, or similar structures, but excluding any antennas, antenna arrays, wireless towers or other antenna support structures.

*Building-Concealed Wireless Communication Facility:* A WCF designed and constructed as an existing architectural feature of an existing building in a manner such that the WCF is not discernible from the remainder of the building and is completely enclosed within the architectural feature. Building-Concealed WCF's function as replacements of existing architectural features of a building that extend vertically above the roof of the building in order to position antennas at a greater height. Building-Concealed WCF's can be constructed within, but not limited to, the following architectural features: steeples, church spires, clock towers, bell towers, cupolas and water tanks/towers.

*Concealed Roof-Mounted Communication Facility:* A concealed WCF that is located on top of the roof of an existing or proposed building but is not located within an architectural feature of the building.

**C. Conditionally Permitted Uses:** The following uses are conditionally permitted in the Area:

- (1) Building-Concealed Wireless Communication Facilities;
- (2) Concealed Roof-Mounted Wireless Communication Facilities; and

**D. Regulations and Standards:** Applicable to Building-Concealed Wireless Communication Facilities and Concealed Roof-Mounted Wireless Communication Facilities:

- (1) **Collocation:** A new WCF and related equipment may be designed and constructed to accommodate collocation of additional WCFs when technically feasible and when not in conflict with the height limitations as set forth in this Ordinance.
- (2) **Existing Building - Minimum Height Requirement:** Concealed Roof-Mounted and Building-Concealed WCFs may only be attached on existing or proposed buildings that are at least three (3) stories or forty (40) feet in height.
- (3) **Concealment Elements:** Concealed Roof-Mounted or Building-Concealed WCFs, including any antennas or antenna arrays, shall be camouflaged, screened, and/or obscured within or behind existing architectural features so as to not be readily apparent or plainly visible from public rights-of way and adjacent properties.

Accessory equipment to WCFs must also be concealed. If existing architectural features are not sufficient to screen accessory equipment of a WCF, a parapet wall, cupola, roof screen, or other similar architectural feature must be constructed, as approved by the Planning Board.

All features of a permitted WCF, including the antenna attachment device(s) and antenna(s), shall be finished to match the existing architectural features, texture, materials and color of the building.

- (4) **Accessory Equipment:** Accessory equipment located on the roof of a building shall be designed or located within an enclosure and designed to architecturally match the facade, roof, wall or other architectural features of the building on which they are mounted and blend in with the existing structural design, color and texture of the building in order to provide the least visually obtrusive profile.
- (5) Accessory equipment may be located on the ground within an equipment compound subject to the requirements set forth in this Plan.
- (6) Accessory equipment that is located on the ground must be fenced in for safety and security purposes. A fence of not less than five (5) feet in height from the finished grade shall be constructed around accessory equipment. The fence shall be compatible in design, color and texture to that of the existing building. Access to the equipment shall be through a locked gate. The fence shall be screened from view through use of appropriate landscaping and planting.

E. **Design Standards:** Applicable to Wireless Communications Facilities:

- (1) **Building-Concealed or Concealed Roof-Mounted WCF Maximum Height:** The height of a Concealed Roof-Mounted WCF or Building-Concealed WCF shall not exceed **20 feet** in height. The height of a roof-mounted WCF shall be measured from the existing roof surface of the building (at the location where the antenna attachment device is mounted) to the highest point of the roof-mounted wireless

telecommunications facility, including any antenna or any new created architectural feature designed to enclose the same.

- (2) Concealed Roof-Mounted WCF's including antennas and accessory equipment, shall be stepped back a minimum of five (5) feet from the façade of the building.
- (3) Concealed Roof-Mounted WCF's, including newly created architectural structures designed to enclose or screen same, shall be compatible with the architectural style, color and texture of the façade. Façade design and materials shall be proportional to the scale and size of the building and shall not protrude more than 12 inches beyond the exterior walls of the building.
- (4) Cables for a WCF should be located on the back of a building wherever practical. Alternatively, cables may be located on the side of a building; however cables and conduit shall not be located on the front façade of the building. In all cases, cables shall be enclosed in conduit finished to match the materials and color of the building.
- (5) Where a back-up generator is required for a WCF, the generator must meet the standards of Section 320-24 Emergency Standby Generators.

F **Application Contents:** An applicant for a WCF shall provide applicable documentation and items of information required for major site plans within the Town Land Use Ordinance and Section 320-30G. The following additional documentation and items of information shall be required as part of any WCF site plan application for any site within this redevelopment area.

- (1) **Photo Simulations and Visual Impact Analysis:** Photo simulations of the WCFs, which show the proposed facility from at least four (4) directions within the surrounding area,
- (2) **Detailed Drawings or Renderings of the Proposed WCF:** Detailed drawings or renderings of the proposed WCF which provide the manner in which the proposed facility will be enclosed, camouflaged, screened, and/or obscured to meet the visibility requirements set forth herein. The photo simulations shall include “before” and “after” renderings of the site, its surroundings, the proposed WCF and antennas at maximum height, and any other structures, vegetation, or topography that will conceal or screen the proposed WCF from visibility. Other visual information shall be provided, as necessary, to determine the visual impact of the proposed wireless telecommunications facility on the existing setting or to determine compliance with design standards established herein.

F **Review Standards:** When evaluating whether the proposed WCF complies with concealment criteria, the Planning Board shall consider the following:

- (1) **Visual and Aesthetic Compatibility:** The extent to which the proposed WCF is visually and aesthetically integrated and compatible to the existing structure and surrounding area on which it is located.
- (2) **Blending:** The extent to which the proposed WCF blends into the surrounding environment, is architecturally compatible with existing buildings and structures and is integrated into the building façade and elevation.
- (3) **Screening:** The extent to which the proposed WCF is concealed or screened by existing or proposed architectural features, topography, vegetation and other site features.
- (4) **Size and Height:** The extent to which the size and height of the proposed WCF is compatible and in proportion with the existing buildings and structures.
- (5) **Location:** The extent to which the proposed WCF is located so as to utilize location, the existing building or other structures to provide the greatest amount of visual screening and blending with the predominant visual backdrop.