

**Town of Middletown
Planning Department**

350 East Main Rd., Middletown RI 02842 (401) 849-4027

PLANNING BOARD MINUTES

June 14, 2006

Board members present:

Art Weber, Chairman Ron Wolanski, Town Planner

John Tucker, Vice Chairman

Jan Eckhart, Secretary Vernon Gorton, Asst. Town Solicitor

Richard Adams

Audrey Rearick

Colleen Aull

David Lawrence

The meeting was called to order at 6:30 pm.

Minutes

The minutes of the regular meeting of May 10, 2006 were reviewed.

Motion by Ms. Rearick seconded by Mr. Tucker to approve the minutes. Vote: 7-0-0.

Sitting as Planning Board

Old Business

1. Public Hearing - George P. Lewis, Proposed 5-lot minor subdivision & extension of Trout Dr., Plat 125, Lot 935, Preliminary Plan

Attorney Brian Bardorf, representing the applicant, stated that with the determination that a portion of Bailey Ave. is privately owned, the subdivision plan has been redesigned to provide for required frontage on town roads. DEM will be contacted to review wetlands delineation. He requested preliminary approval of the plan.

Mr. Wolanski stated that the revised plans were submitted the previous week and have been distributed to departments for review. The board should await comments prior to granting approvals.

By consensus, and with the agreement of the applicant, the Board continued the matter to the July 12, 2006 meeting and established a subcommittee to conduct a site visit on June 19th at 9am.

2. D & B Valley Associates, LLC, Proposed 2-lot minor subdivision, Valley Rd & William Dr., Plat 114, Lot 4A. Preliminary

Attorney Brian Bardorf represented the applicant. He stated that his client is prepared to proceed to the Zoning Board of Review to request the necessary relief if the Planning Board would grant preliminary approval.

Mr. Weber stated that the subcommittee met at the site. He reviewed the recommended conditions of approval contained in a memo from the Assistant Town Planner.

Motion by Mr. Adams, seconded by Mr. Tucker, to grant preliminary

subdivision approval subject to the following conditions:

- 1. Documentation from the RI Department of Environmental Management indicating that the proposed subdivision does not violate provisions of the Freshwater Wetlands Act, as applicable, must be provided prior to final approval.**
- 2. Permanent markers shall be placed along the wetland buffer to provide notice to future property owners of the limits of the RIDEM regulated wetland. The design and placement of the markers is subject to Planning Board approval.**
- 3. Any zoning relief required related to the existing use of, and proposed reduction in the size of AP 114, Lot 4A, must be secured from the Middletown Zoning Board of Review prior to final plan approval.**
- 4. Any zoning relief required related to the existing paved parking area on Lot 4A, AP 114, and the required 25 foot vegetated buffer must be secured prior to final plan approval.**
- 5. The proposed building lot is located within Zone 1 of the Watershed Protection District. The required special use permit to allow for the development of the proposed lot must be secured prior to final plan approval. Unless the special use permit is granted the proposed lot would not be considered a buildable lot.**

Vote: 7-0-0

3. Emily F. Foster, Proposed 2-lot minor subdivision, Plat 114, Lots 198 & 199, Preliminary Plan

There was no one present to represent the applicant.

Mr. Wolanski stated that there were no unresolved issues with regard

to the proposal.

Motion by Mr. Adams, seconded by Mr. Tucker, to grant preliminary and final approval of the subdivision plan. Vote: 7-0-0.

4. Omni Land Development Company, Request for revision to previously approved major subdivision plan, West Main Rd. Plat 111, Lots 8, 9, 9A, 10

Attorney Bob Silva represented the applicant. He described the history of the application and described the request to amend the plan to remove a section of landscaped berm along the easterly property line and to remove condition #4 of the Board's decision of final approval regarding the restriction on issuance building permits pending adoption of commercial design regulations or final adoption of comprehensive plan amendment which will redesignate the area for light industrial development. The developer has not been able to secure financing for the project due the building permit restriction.

Mr. Silva stated that if the Town proceeds with commercial design regulations, they would be in place prior to his client seeking building permits. Therefore any development on the lots in the subdivision would have to comply with the new regulations.

Mr. Silva stated that he would address the Town Council to request that a condition that they had placed on the comprehensive plan amendment be removed, allowing the amendment to be finalized.

Mr. Weber stated that he agreed that the conditions should be removed to allow the owner to proceed with the project.

The public hearing was opened. There was no one in the audience wishing to speak. The hearing was closed.

There was discussion that an approval to remove condition #4 should be contingent upon final adoption of the comprehensive plan amendment by the Town Council.

Motion by Mr. Adams, seconded by Mr. Tucker, to approve the proposed plan amendment regarding the removal of a section landscaped berm, and to approve the removal of condition #4 of the Board's final plan approval provided that the comprehensive plan amendment to redesignate the property for light industrial use becomes effective. Vote 7-0-0.

Motion by Mr. Adams, seconded by Ms. Rearick, to send a memo to the Town Council advising them of the Planning Boards action and recommending in favor of final adoption of the Comprehensive Plan amendment. Vote: 7-0-0.

5. Discuss proposed mixed-use district comprehensive plan & zoning ordinance amendments.

Mr. Wolanski stated that, as result of a meeting with the Planning Board subcommittee, the Town's consultant, attorney Andy Teitz, is expected to provide a draft ordinance following the July 4th holiday.

6. Old Business – Mr. Weber stated that the Atlantic Beach District planning project is underway with funding granted by Statewide Planning. Mr. Wolanski stated that the RFP for consultant assistance will be drafted.

7. Public Hearing – Church Community Housing Corporation - Application for Comprehensive Permit under Article 15B of the Middletown Zoning Ordinance, Low & Moderate Income Housing Comprehensive Permit, to allow construction of 2 two-family

dwelling, Sunset Lawn Road, Plat 108NW, Lots 344 & 345.

Attorney Steve Haire, representing the applicant, stated that the applicant was seeking approval of the comprehensive permit to allow two 2-family dwelling units. The proposal complies with zoning requirements, and is consistent with the town's comprehensive plan. The proposal would not have an adverse impact on traffic conditions. All concerns with regard to storm drainage will be addressed as the road and drainage system is completed.

The public hearing was opened.

Kathy Hallgring of 124 Maple Ave. stated that she is aware of drainage problems and basement flooding that has occurred since construction of the road began. The permit for the duplex units should not be approved.

Mr. Wolanski stated that he has discussed the concerns with the Town Engineer, DPW Director and Building Official. The developer must determine the cause of the problems and fix the problems if related to the road construction. The Building Official has stated that no building permits will be issued for construction of the dwellings until the drainage issue is resolved.

Marsha Gavry of 113 Maple Ave. stated that her basement has flooded causing property damage. This type of flooding has not occurred in the past.

Mr. Haire stated that no significant grading has occurred at the development site. Church Community would address any problems cause by their activities. The drainage system has yet to become operational, but will improve the existing storm drainage conditions.

With the installation of the base course of pavement within 2 weeks the storm system will be operational.

Mr. Haire stated that the Town holds performance bonds for the road construction. Church Community must address any problems, and will continue to work with Town Officials.

Mr. Eckhart asked if the proposed dwellings will include foundation drains to address possible basement flooding.

Mr. Haire stated that foundation drains are included.

Mr. Lawrence asked if the drainage problems being discussed are new to the area.

Mr. Haire stated that the runoff patterns from the site have not changed, but there have been recent heavy rains.

Ms. Gavry stated that grading has occurred on the site and recent rainfall has not been unusual compared to historical records.

Mr. Haire stated that any problems resulting from his client's development will be fixed.

In response to a question Mr. Haire stated that the duplex units will be rental units owned by Church Community Housing. The single-family units will be ownership units.

Janet Champagne of 110 Maple Ave. stated that there is standing water in her yard that should be addressed.

Manny Mello of Beacon Terrace stated that the duplex units should be owner occupied. When asked by the Board about his experience with the drainage in the neighborhood, he stated that there have been drainage problems for many years.

Arthur Benner, a Middletown resident, stated that the bonds for the

road construction should not be released until all problems are resolved.

Mr. Weber recommended that a subcommittee be established to review the application and the concerns raised by the abutting property owners.

Mr. Wolanski stated that concerns regarding the road construction and drainage must be addressed, but are separate from the issue of whether to grant approval to construct duplex units on the subject lots. The approval could be conditioned to restrict the issuance of building permits until the road and drainage issues are resolved.

Mr. Haire stated that a delay in the issuance of the approval will impact the project financing, including the ability of the developer to address the drainage problems. He requested a conditional approval.

Mr. Lawrence stated that there is no need to delay the approval of the comprehensive permit.

Mr. Adams suggested that a subcommittee be established to address the drainage issues, but that the board could proceed with approving the comprehensive permit.

Ms. Aull stated that the drainage concerns must be resolved.

Motion by Ms. Aull, seconded by Ms. Rearick, to continue the matter, keeping the public hearing open, to the July 12, 2006 Planning Board meeting, and schedule a site visit for July 5th at 9am inviting the Town Engineer, Roads & Utilities Committee, and the applicant's engineer. Vote: 4-3-0, with Mr. Adams, Mr. Lawrence, and Mr. Tucker voting in opposition.

8. Omnipoint Communications, Request of the Zoning Board of

Review for an advisory recommendation regarding a proposed wireless telecommunications facility under Article 21A of the Middletown Zoning Ordinance, 116 Johnnycake Hill Rd., Plat 114, Lot 600

Brian Grossman represented Omnipoint. He stated that the proposed antenna would be located inside faux vent pipes. The equipment will be located on a concrete pad adjacent to the building, rather than on roof as shown in one of the renderings. A wooden security fence will limit access to the equipment. Access to the roof is through the building. The facility will include battery backup.

There was discussion of the purpose of the faux vent pipes. Mr. Grossman stated that the pipes are strictly cosmetic.

Motion by Mr. Tucker, seconded by Mr. Adams, to forward a positive recommendation to the Zoning Board of Review with regard to the application for special use permit. Vote: 7-0-0.

The Planning Board adjourned and reconvened as the Town Center Review Board

Sitting as the Town Center Review Board

1. Middletown Taco Inc. (Taco Bell) – Request to modify existing internally illuminated pole sign, 641 West Main Rd., Plat 107, Lot 15.

Bob Paige of Beaumont Signs represented the applicant, who was also present. Mr. Paige presented a proposal that would result in the reduction in height of the existing internally illuminated pole sign from 24' to 16', consistent with the request presented at the May Planning Board meeting.

Mr. Wolanski suggested that the applicant consider reducing the height to 10' as this would eliminate the need to seek zoning relief for the height, which is limited by Article 12 of the Zoning Ordinance. The Planning Board might consider waiving the design requirements of Article 24, but they cannot grant relief from the height limit of 10 feet.

Mr. Paige indicated that his client might consider reduced the height to ten feet, but desires to maintain the internal illumination. He stated that much has been done to improve the appearance of the building.

Mr. Weber stated that the Board must be consistent. It has not approved the installation of internally illuminated signs.

Others on the Board stated that the Board must be consistent.

Motion by Mr. Tucker, seconded by Ms. Aull, to deny the request to install the proposed pole sign. Vote 7-0-0.

2. Tim Horton's (New England) Inc., Proposal to demolish existing commercial building, and construct new commercial building, including a drive-up window, for use as a restaurant. Plat 107SE, Lot 401. 159 East Main Rd. Final approval.

Attorney Amy Oberg, representing the applicant, stated that the required relief has been granted by the Zoning Board of Review. The site plans have not changed. Revised signage plans were submitted.

Mr. Wolanski stated that, contrary to a statement contained in his memo to the Board, the revised signage proposal does comply with the specific design requirements of Article 24.

Motion by Mr. Tucker, seconded by Mr. Adams, to grant final approval subject to the following condition:

Prior to granting of building permits the applicant shall provide

confirmation from the Finance Director that all review fees have been paid, including those required for application review by the Town's consulting engineer, Pare Engineering.

Vote: 7-0-0

2. Island Hotel Group, LLC, Proposal to demolish a portion of an existing hotel, and construct a new 97-room hotel. Plat 108, Lots 97G, 131, & 193, 317-351 West Main Rd. Final approval

Attorney Bob Silva, representing the applicant, stated that the required zoning relief to allow for the development had been granted by the Zoning Board of Review. Pare Engineering has given its sign-off on the traffic report as revised.

The applicant has decided to not proceed with a request for approval for proposed signage at this time.

Mr. Wolanski stated that there remain some engineering details identified by Pare that must be resolved. Resolution of these issues prior to the issuance of building permits should be a condition of approval.

There was discussion of the grade of the proposed driveway from High Street. Pare has identified the 10% slope as a potential problem. Mr. Wolanski stated that he has asked the Fire Department to review and comment on this issue.

The applicant's engineer, John Caito, stated that the grade is not excessive, but could be reduced resulting in the loss of parking spaces.

Mr. Eckhart requested that a stop bar be provided at the intersection of the driveway with High Street.

Motion by Mr. Tucker, seconded by Ms. Rearick, to grant final approval to the application, subject to the following conditions:

1. Approval of the Town Center Overlay District application is subject to the approval of the necessary administrative subdivision application proposed to alter lot boundaries of the subject properties prior to building permits .

2. Prior to the issuance of building permits, all utilities connections, including water and sewer must be approved by the applicable agencies. A 24-hour sewage holding must be installed, with the design to be approved by the Public works director. Certification from the City of Newport that public water is available to serve the proposed development must be provided.

3. All utilities serving the proposed development must be installed under ground.

4. Any HVAC and other equipment to be located on the roof of the proposed building must be screened from public view.

5. All site work must be done in strict compliance with all RIDEM requirements with regard to mitigation of contaminated soil on the subject property. Measures to control blowing dust and soil shall be employed at all times during project construction.

6. This approval does not apply to proposed signage, which must be presented for review and approval under the provisions of Article 24, Town Center Overlay District, prior to permitting and installation.

7. Comments provided by the Town's consulting engineer (Pare Engineering) dated April 7, 2006, April 11, 2006, May 15, 2006, and May 26, 2006 shall be satisfactorily addressed prior to the issuance of

building permits.

8. The design of the of the proposed driveway from High Street, particularly the slope, shall be reviewed and approved by the Fire Department.

Vote: 7-0-0

**3. Public Hearing - KF Middletown SH LLC (d/b/a Blenheim – Newport)
Request for approval for minor building addition and site alterations,
303 Valley Rd. Plat 108, Lot 3**

Tara Vargish of Northeast Engineers & Consultants represented the applicant. She described the proposal for building alterations and site work. Pavement will be reduced, but the site will still meet the parking requirements. Documentation regarding the status of the “public driftway” will be provided.

By consensus the Board continued discussion of the matter, keeping the public hearing open, to the July 12, 2006 Planning Board meeting, and established a subcommittee to conduct a site visit on June 27th at 9am.

4. WMR Group LLC (Office Depot), 379 West Main Rd., Request to install a new wall sign on an existing commercial building. Plat 108, Lot 130

Jeremy Waycott of Arnco Sign Co. represented the applicant. He requested that a waiver for the height of the proposed sign be granted, and proposed that materials for the sign would be revised to be entirely aluminum, rather than the plastic faced letters originally proposed. The sign will be lit with gooseneck style lighting.

Motion by Mr. Tucker, seconded by Ms. Aull, to grant a waiver from section 2404.5 (e) – Wall sign exceeding two feet in height, and grant approval of the proposed sign subject to the following condition:

The sign face for the individual letters shall be constructed of aluminum, rather than the proposed “plex face” indicated on the graphics.

Vote: 7-0-0

Motion by Mr. Tucker, seconded by Ms. Rearick, to adjourn. Vote: 7-0-0

The meeting adjourned at 8:00pm