



**Town of Middletown**  
Planning Department

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

**PLANNING BOARD MINUTES**

**August 10, 2011**  
Town Council Chambers

**Board members present:**

Jan Eckhart, Chairman  
Richard Adams, Vice Chairman  
Audrey Rearick, Secretary  
Betty Jane Owen  
Gladys Lavine  
Charlene Rose-Cirillo  
Pete Marnane

Ron Wolanski, Town Planner  
Frank Holbrook, Assistant Town Solicitor  
J. Russell Jackson, Assistant Town Solicitor

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

• **Approval of the minutes of the July 13, 2011.**

**Motion** by Ms. Owen, seconded by Ms. Rearick, to approve the minutes of the July 13, 2011 regular meeting. **Vote:** 7-0-0.

• **Correspondence**

- Memo of the Planning Director dated July 15, 2011, regarding TRC approval of Kenneth J. Alves, 52 Valley Rd., Plat 107SE, Lot 103, request for parking lot development plan approval.

Mr. Holbrook recused himself from the discussion of this matter.

**Motion** by Ms. Rearick, seconded by Ms. Owen, to receive the correspondence. **Vote:** 7-0-0.

- Memo of the Planning Director dated July 27, 2011, regarding TRC approval of St. George's School, Plat 121SW, Lot 39, request for parking lot development plan approval.

**Motion** by Ms. Owen, seconded by Ms. Rearick, to receive the correspondence. **Vote:** 7-0-0.

**Old Business**

**1. Khent Doon Trust, Proposed 5-lot minor subdivision of property located at 535-591 Indian Ave., Plat 129, Lots 73 & 300. Request for preliminary plan approval**

Ms. Lavine recused herself from discussion of this matter as she is a party to the application.

Mr. Wolanski stated that he had received a phone call from the applicant's representative requesting that the matter be continued to the next Planning Board meeting.

**Motion** by Ms. Rearick, seconded by Ms. Cirillo, to continue the matter to the September 14, 2011 Planning Board meeting. **Vote:** 6-0-0.

**2. Consideration of potential Zoning Ordinance amendments for recommendation to the Town Council, including amendments to sections 1209, 1210, 1211, 605, 1102, 1304, 603.**

Mr. Wolanski stated that the Town Solicitor had provided comments regarding the draft amendments. Additional discussion is required to revise the proposed language.

**Motion** by Ms. Owen, seconded by Ms. Rearick, to continue discussion to the September 14, 2011 Planning Board meeting. **Vote:** 7-0-0.

**3. Update on Comprehensive Community Plan 5-year update process.**

With the consensus of the Board, continued to the September 14, 2011 Planning Board meeting.

**4. Update on activities of the Aquidneck Island Planning Commission.**

With the consensus of the Board, continued to the September 14, 2011 Planning Board meeting.

**5. Update on activities of the Aquidneck Island Reuse Planning Authority.**

With the consensus of the Board, continued to the September 14, 2011 Planning Board meeting.

**New Business**

**6. Summerfield Lane Subdivision (Benjamin Brayton) Request for final release of performance security, and recommendation to the Town Council to accept the road for town maintenance.**

Mr. Wolanski stated that the Town Engineer has certified completion of the required subdivision improvements. If approved by the Planning Board, the performance security will be released and the required maintenance security will be held for a one-year period.

Mr. Brayton requested assurance that the maintenance security will be released promptly upon the expiration of the one-year period.

Mr. Wolanski stated that the process for release of the maintenance security is identified in the subdivision regulations, and release of the security would be processed promptly.

**Motion** by Mr. Adams, seconded by Ms. Owen, to release the performance security, and to recommend that the Town Council accept the subdivision road for town maintenance. **Vote:** 7-0-0.

**7. Thomas & Victoria Settle, Request for extension of subdivision approval, Greene Lane, Plat 105, Lot 652.**

Mr. Wolanski stated that the approval for the subdivision has expired. The applicant is requesting an extension in order to allow him to address all conditions of approval.

**Motion** by Ms. Rearick, seconded by Ms. Owen, to grant a one-year extension of the subdivision approval. **Vote:** 7-0-0.

**8. Lewis Family Partnership III – Request for extension of time allowed for completion of subdivision improvements. 4-lot subdivision, Plat 125, Lot 935**

Mr. Wolanski stated that the applicant/developer of the approved subdivision has requested an extension of the time allowed to complete subdivision improvements to allow for construction on the lots to occur prior to final paving.

**Motion** by Ms. Rearick, seconded by Ms. Owen, to grant a one-year extension of time permitted to complete subdivision improvements. **Vote:** 7-0-0.

**9. Kenneth J. Alves, 52 Valley Road, Plat 107SE, Lot 103, Development Plan Review for parking lot – Request for waiver from tree size requirement.**

Mr. Holbrook recused himself from discussion of this matter.

Mr. Alves stated that he is requesting waivers from the commercial development design standards regarding the size of the proposed parking lot trees and frontage trees, and the spacing of frontage trees. The required 4” caliper trees are difficult to get. He is providing more trees than is required by the regulations. The spacing of trees along the frontage is restricted by the location of the two driveways that will serve the parking lot.

Mr. Eckhart asked if the proposed parking lot was to serve the RI Division of Motor Vehicles.

Mr. Alves confirmed that the DMV has agreed to lease space in the shopping plaza on property abutting the subject lot.

Ms. Rearick requested that the landscaping plan be reviewed by the Middletown Tree Commission.

Mr. Adams suggested that Tree Commission review could be a condition of approval.

**Motion** by Mr. Adams, seconded by Ms. Owen, to approve the requested waivers and the development plan, subject to the following condition:

Prior to issuance of building permits, the applicant shall consult with the chairman of the Middletown Tree Commission regarding tree species selection.

**Vote:** 7-0-0.

**10. Discuss scheduling for Planning Board public hearing to consider request of the Town Council for review and recommendation regarding proposed Third Beach boat ramp improvements.**

Mr. Wolanski stated that the Town Council has requested a Planning Board public hearing and review and recommendation as to consistency with the Comprehensive Plan of the proposed project to improve the boat ramp at Third Beach. An updated description of the proposed project was provided to Board members just prior to the meeting.

Mr. Eckhart recommended, and by consensus the Board agreed, to hold the hearing on September 7<sup>th</sup> at 7pm.

Mr. Adams recommended that the agenda for the meeting state that the purpose of the hearing is only for consideration of consistency of the project with the Comprehensive Plan.

**11. Request of the Town Council for an advisory recommendation on a request of Prescott Point, LLC to amend the Middletown Zoning Ordinance, Zoning Map, by changing the designation of a parcel fronting on West Main Road, Plat 104, Lot 7, from R-20A to residential multi-family, traffic sensitive (RMA)**

Attorney Laurent Rousseau represented the petitioner. He described the proposed development of the subject property, which is a small portion of the larger development located predominantly in Portsmouth. He stated that the proposed zoning amendment is consistent with the Middletown Comprehensive Plan designation for the property, which calls for high-density residential development. The applicant must still secure a special use permit

in order to allow for the proposed development. The special use permit issued to a prior owner of the property to allow for multi-family development has expired.

Mr. Marnane asked the petitioner to confirm that the proposed residential density of the project is less than was proposed for the prior development application which received town approval.

Mr. Rousseau confirmed that the proposed development density would be less than previously approved.

Mr. Eckhart stated that in his opinion the requested change in zoning is consistent with the comprehensive plan. Other board members agreed.

**Motion** by Mr. Adams, seconded by Ms. Rearick, to find that the proposed amendment is generally consistent with the Middletown Comprehensive Community Plan, including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan; and is consistent with the applicable purposes of zoning, as presented in Rhode Island General Laws § 45-24-30, and to recommend that the Town Council approve the amendment. **Vote:** 7-0-0.

**12. Request of the Town Council for an advisory recommendation on a request of Middletown Self-Storage, LLC to amend the Middletown Zoning Ordinance, Zoning Map, by changing the designation of a portion of a parcel at 909 Aquidneck Ave. from R-20 to limited business, traffic sensitive, (LBA).**

Attorney David Martland, representing the petitioner, described the purpose of the proposal. The subject lot is the only lot in that area of Aquidneck Ave. with a split zoning designation. He stated that it appears that the intent of the Comprehensive Plan is for properties fronting on Aquidneck Ave. to be designated for office and limited business use.

Mr. Eckhart stated that the proposal is reasonable and consistent with the Comprehensive Plan. Other board members agreed.

**Motion** by Ms. Rearick, seconded by Ms. Cirillo, to find that the proposed amendment is generally consistent with the Middletown Comprehensive Community Plan, including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan; and is consistent with the applicable purposes of zoning, as presented in Rhode Island General Laws § 45-24-30, and to recommend that the Town Council approve the amendment. **Vote:** 7-0-0.

**Old Business**

**13. Public Hearing – Peter Gallipeau, Proposed 14 lot Major Subdivision, Bailey Ave. & Sachuest Drive, Plat 126, Lots 4, 217, 218, 219 Request for Preliminary Plan Approval.**

Mr. Holbrook recused himself from the discussion of this matter. Mr. Jackson served as solicitor.

**Motion** by Ms. Cirillo, seconded by Ms. Owen to open the public hearing. **Vote:** 7-0-0.

Mr. Eckhart asked Mr. Wolanski to summarize the current status of the application.

Mr. Wolanski summarized the engineering review completed to date and the applicant's efforts to secure special use permits to allow development in the watershed protection district. The permit applications for two lots were denied by the Zoning Board of Review, while one lot was determined to not require a special permit for development in watershed protection district Zone 1 once soils were more accurately map. The review of the latest plan set has yet

to be completed by the Town Engineer. Mr. Wolanski stated that John Shevlin of PARE Corporation was present to answer any questions regarding his review.

The applicant was represented by attorney David Martland. Mr. Martland stated that the application for special use permit for the third lot was withdrawn by the applicant, once the soils determination was corrected, indicating that a permit would not be required. He stated that he understood that the Town Engineer had yet to complete his review of the latest plans, and that his client was not anticipating Planning Board action on the application that evening.

Mr. Martland stated that the RIDEM had approved the proposed plan, as has the Newport Water Department for connection to the public water supply. Legal documents still must be reviewed and finalized.

The applicant's engineer, Lyn Small of Northeast Engineers and Consultants, provided a description of the existing conditions of the property and described the proposed development. Public water and sewer service will be provided to the development. Sewer main stubs will also be provided to abutting properties along the length of the sewer main extension.

Mr. Eckhart asked if water main stubs would also be provided.

The applicant, Mr. Gallipeau, stated that water stubs would be provided along the new proposed road, Saltwood Drive, but not along Bailey Ave.

Ms. Small stated that the storm water drainage system was designed to comply with the Dec. 2010 RIDEM stormwater design manual, which was in draft form and not yet in effect at the time of submission of the preliminary plan application. All concerns of the Town Engineer and PARE were considered and addressed through the Technical Review Committee process.

Ms. Small stated that required water quality treatment is provided. Runoff peaks and volumes to all receiving waters will be reduced. Runoff to Bailey Ave. will be reduced by 75% by redirecting exist runoff to flow through the drainage system for the development. The drainage design is conservative, including anticipation of possible foundation drains for the homes in the development.

Mr. Martland asked Ms. Small to describe the changes to the plan since the master plan approval.

Ms. Small stated that the number of development lots has been reduced from 14 to 12 and easements were added where needed, otherwise the plan is the same configuration as the approved master plan.

Mr. Martland asked if the plan is consistent with the Middletown Zoning Ordinance. Ms. Small stated that it is.

Mr. Martland asked if there are physical constraints that would prevent development. Ms. Small stated that there are not.

Mr. Martland asked if the development lots will have access to public streets. Ms. Small stated that they would.

Mr. Martland asked if the development would result in significant negative environmental impacts. Ms. Small stated that it would not.

Mr. Martland asked about the results of the TRC review. Ms. Small stated that revisions to the storm water drainage plan were made as requested.

Mr. Eckhart asked about water table information at the eastern area of the property.

Ms. Small stated that the water table was at approximately 18 inches, but the drainage system design assumed water table at the ground surface.

Mr. Eckhart asked if the sub-drains would daylight. Ms. Small stated that the sub-drains would daylight to vegetated areas.

Mr. Marnane asked if the new houses would require sump pumps. Ms. Small stated that they probably would.

Mr. Eckhart asked if Planning Board members had additional questions. There being none, he recognized attorney Vernon Gorton, representing the Paradise Valley Homeowners Association.

Mr. Gorton questioned how the hearing would proceed given that the Town Engineer has yet to complete his review of the latest plans. He asked if he would be permitted to question Ms. Small again once the town review is complete.

Mr. Jackson advised that with the continuance, the hearing should remain open, and additional questioning should be permitted once the review is complete. Mr. Eckhart agreed that the public hearing should remain open to allow for additional questions.

Mr. Gorton asked Ms. Small to confirm that the Zoning Board of Review had denied the two special use permit applications related to the watershed protection district.

Ms. Small confirmed that the applications were denied.

Mr. Gorton asked if all lot lines associated with the two development lots that were eliminated have been removed from the plan.

Ms. Small stated that an earlier proposed lot line had not been removed, but would be. The plan will be revised to combine the three open space parcels into a single parcel.

Mr. Gorton, referencing the purposes for conservation development as contained in the zoning ordinance, asked if buffers are provided along the perimeter of the development.

Ms. Small stated that the configuration, including the location of the proposed new road was discussed with the planning board. The Board recommended placing the road in the proposed location.

Mr. Wolanski stated that he recalled that prior to submission of the master plan application there was discussion with the applicant regarding options for the location of the proposed new road. Ultimately the master plan application that was submitted by the applicant and approved included the current configuration.

Mr. Martland objected to the questioning. The configuration of the lots and road were reviewed and approved at the master plan stage.

Mr. Wolanski stated that the subdivision configuration was approved during master plan approval. That plan is vested. Preliminary plan review focuses on the engineering and other details presented by the applicant based on the configuration approved at the master plan stage.

Mr. Gorton disagreed, stating that the review process anticipates the need to modify the plan. Requiring modification to the plan is permitted. The approved plan is protected only from changes in the town's regulations.

Mr. Martland stated that if that were the case, there would be no need for the three review stages. The applicant has spent a large amount of money to complete engineering design based on the master plan approved by the Planning Board.

Mr. Jackson advised the board that the discussion should focus on the review of the preliminary plan application presented by the applicant.

Mr. Eckhart asked Mr. Gorton to get to the point of his questioning.

Mr. Gorton stated that the point of the questioning was to show that the proper subdivision design process required by the subdivision regulations, including the configuration of the open space was not followed. Buffers are not provided.

Mr. Martland stated that the open space configuration was reviewed and approved at the master plan stage.

Mr. Gorton stated that the plan could still be altered to include buffers.

Mr. Jackson again advised the Board to focus the discussion on the preliminary plan application.

Mr. Gorton asked if the open space area calculations excluded the drainage facilities and wetland areas as is required?

Ms. Small indicated that they do.

Mr. Gorton requested that the calculations be confirmed by the Town Engineer.

Mr. Gorton asked if easements are provided to allow for runoff from the proposed Saltwood Drive to cross the development lots.

Ms. Small stated that the road drainage would sheet-flow across the lots. No easements are proposed, but could be added if necessary.

Mr. Gorton asked if all drainage facilities, including swales, were deducted from area calculations.

Ms. Small stated that the ponds were deducted. Swales were not deducted.

Mr. Gorton discussed the assumed 2,500 square foot impervious area per lot used to design the drainage facilities, which was requested by the TRC. He questioned whether the drainage improvements would function as designed if impervious area assumptions were exceeded.

Ms. Small confirmed that the subdivision covenants would restrict impervious area.

Mr. Martland stated that the plan also calls for use of pervious pavement for driveways.

Mr. Gorton stated that he would hold additional questions until the Town Engineer and PARE complete review of the latest plan set.

Mr. Eckhart recognized John Shevlin of PARE Corporation. Mr. Shevlin stated that the latest plan set results in the elimination of two of the previously proposed development lots. Given the limited change there are no new concerns. He will meet with Warren Hall to complete final review.

Mr. Gorton asked if the plan results in an increase in peak runoff at Cross Country Drive.

Mr. Shevlin stated that he will review that item with Mr. Hall.

Martha Koziara of 8 Miller Street stated that that area of town has experienced the negative impacts of development over the past several years. She stated that the storm drainage system in the Bailey Ave/Miller Street area has collapsed. She provided 27 photographs to the Board illustrating road and drainage conditions in the area. The proposed development should not be allowed to tie into this system.

Mr. Wolanski stated that the DPW Director and the town administration is aware of Ms. Koziara's concerns regarding the condition of the road and drainage system. He stated that it appears that the proposed development would reduce the amount of runoff to the area of concern.

Ms. Koziara stated that a hydrology report is needed to assess the impacts of development in the area. She expressed concern about contamination of the drinking water supply from various sources.

Mr. Eckhart asked Ms. Koziara to direct her comments to the subject application.

Ms. Koziara continued to express general concerns about the impacts of development on water quality.

Mr. Wolanski stated that the purpose of the public hearing is to accept comment on the subject application.

Ms. Koziara stated that she is opposed the proposed development.

Mr. Adams asked Ms. Small to address the concern about storm water impact on Bailey Ave.

Ms. Small stated that the proposed development would result in a 75% reduction in stormwater flow rate to Bailey Ave. Much of the runoff now impacting Bailey Ave. would be collected and treated by the subdivision drainage system.

Sam Howell of 110 Sachuest Way stated that as a former member of the Aquidneck Land Trust Board, he is generally in favor of land conservation efforts, including conservation development, but the current application demonstrates the need to revise the regulations. He stated that the conservation value of the proposed open space is questionable. The proposed development is not consistent with the Middletown Comprehensive Plan. The location of the proposed new road is a concern.

There was no one else wishing to speak.

**Motion** by Mr. Adams, seconded by Ms. Rearick, to continue the matter, keeping the public hearing open, to the September 14<sup>th</sup> 6:30pm Planning Board meeting. **Vote:** 7-0-0.

**14. Sulky Rhode, LLC, (Nunes Properties, LTD), 909 East Main Rd., Plat 118, Lot 25B. Development Plan Review regarding proposed building and site alterations**

John Nunes, representing the owner, described the project, which would allow for expansion of the winery.

Mr. Wolanski described the waivers from the commercial development design standards that would be needed to allow approval.

There was discussion of the proposed landscaped buffer at the front of the property. The applicant proposed the installation of grape vines rather than a stone wall to provide the required screening. Street trees are not proposed along East Main Rd.

Following discussion by the Board, there was general agreement that the requested waivers were appropriate.

Motion by Ms. Rearick, seconded by Ms. Cirillo, to grant the requested waivers and approve the plan subject to the following conditions:

- Prior to issuance of building permits, the Town Engineer shall complete review and approve the storm water management plan and calculations.

- Proposed windows on the west and north-facing elevations must be of true or simulated divided-light design.

The waivers approved include the following:

- Section 521.3.D.1 – The required 10’ landscaped buffer along the East Main Rd. frontage is not provided. The waiver was granted subject to the installation of grapevines rather than a stone wall in the location identified on the approved plan.
- Section 521.3.D.2 – The required landscape buffer along lot lines abutting residential property is not provided. The area of non-compliance abuts vineyard land to the south, which is protected with a conservation easement, though it is zoned residential (R-30A).
- Section 521.3.F.1 – Street trees (4” caliper deciduous, spaced 30’ apart) are not provided along the East Main Rd. frontage.
- Section 521.3.F.2 – Proposed parking lot trees do not meet the 4” caliper minimum requirement.

**Motion** by Ms. Owen, seconded by Ms. Rearick to adjourn. **Vote:** 6-0-0

The meeting adjourned at 9:00 pm

Respectfully submitted:  
Ronald M. Wolanski  
Town Planner