

Town of Middletown

Planning Department

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



PLANNING BOARD MINUTES

January 10, 2018

Town Council Chambers, 350 East Main Rd., Middletown, RI

Board members present:

Paul Croce, Chair
Art Weber
Bill Nash
Terri Flynn
B.J. Owen
Liz Drayton
Jim Williams

Rita Lavoie, Principal Planner
Peter Regan, Town Solicitor

Paul Croce called the meeting to order at 6:00pm

1. Election of Officers

A. Nomination by Ms. Owen for: Mr. Croce for Chair, Mr. Nash for Vice Chair, and Ms. Flynn for Secretary, seconded by Mr. Weber.

- Ms. Flynn offered her support
- Vote: for Mr. Croce as Chair 6-0-1, with Mr. Croce abstaining
- Vote: for Mr. Nash as Vice Chair 6-0-1, Mr. Nash abstaining
- Vote: for Ms. Flynn as Secretary 6-0-1, with Ms. Flynn abstaining

2. Minutes

A. Motion to approve minutes of the Regular meeting of December 13, 2017 with typo corrections, as amended made by Mr. Weber, seconded by Ms. Owen.

- Vote 7-0-0

B. Motion to approve minutes of the special meeting of December 13, 2017 made by Ms. Owen, seconded by Mr. Nash

- Vote 7-0-0

3. Correspondence – Emails to Planning Board

Jan 2, 2018:

A. Ed Sisk: requests public input on the impact of present level of new home development proposals.

Not Dated:

B. Peter Horvath requests public input on the level of development in Middletown.

Jan 5, 2018:

- C. Burt and Cathy Quist (cc: S Brown, Town Council): concerns and opposing the proposed Peckham Lane and Mitchell's Lane subdivisions.
- D. Timothy Ely (cc: S Brown, Town Council w/ response from Ron): concerns on the proposed Peckham Lane and Mitchell's Lane subdivisions with a request for public comment.
- E. Judy Knowles: concerns about the proposed Peckham Lane and Mitchell's Lane subdivisions and requests for reduced scope and studies of outcomes.
- F. Kay Kosinski (with Jan 8 response from Ron cc DPW): follow up on questions on the proposed Mitchell's Lane subdivision and safety concerns (no hydrants nor snow fences).

Jan 6, 2018:

- G. William Hitchcock (cc: S Brown, Town Council): hydrology concerns about the proposed Peckham Lane and Mitchell's Lane subdivisions and his request to the Hydrology Group at the URI Geology Department.

Jan 8, 2018:

- H. Patty Martin: a septic system study by URI (2 web addresses provided).
- I. George Day: concerns about the proposed Mitchell's Lane and Peckham Lane subdivisions and requesting public comment on the moratorium agenda item.
- J. Sara Poirier (cc Town Council): supports a moratorium of development on the east side.
- K. Judy Knowles: requests 1) public discussion on a construction applications moratorium and 2) development studies on town growth.
- L. Steve Hambly (cc Town Council): concerns about, and stating opposition to, the proposed Mitchell's Lane and Peckham Lane subdivisions.

Jan 9, 2018

- M. Dirk Johnson (cc Town Council): concerns about the proposed Mitchell's Lane and Peckham Lane subdivisions, his well's condition and report excerpt of Aquidneck Island Watershed report (1 web address provided).
- N. Marilyn Hennessey: supports a development moratorium and recommends URI Septic System Study be reviewed.
- O. Kathy Giblin Stark & Peter D Stark (cc S Brown, Town Council): concerns about approval process, disproportionate residential development, and the Mitchell's Lane and Peckham Lane subdivisions. Requests public comment at the January 10, 2018 meeting be allowed and supports a temporary moratorium on development applications.

Jan 10, 2018:

- P. Regina Schwarzenberg: development concerns and requests for public discussion on residential development.
- Q. Jan Schwarzenberg: concerned that Planning Board decisions might be made without public discussion.
 - Motion to receive all the correspondence made by Mr. Nash, seconded by Ms. Owen.
 - Mr. Nash asked for the correspondence to be forwarded earlier.
 - Vote: 7-0-0

4. Continuances

- A. **Public Hearing** - Prospect Avenue Subdivision, Eugene Goldstein, applicant. - Request for combined Preliminary and Final Plan approval for a proposed 8-lot major subdivision of property fronting on Prospect Ave. The property is identified as Assessor's Plat 121NW, Lot 66-A and is located approximately 0.3 miles to the east of the intersection of Prospect Ave. and Aquidneck Ave.
- Request by the applicant to continue the item to the February 14, 2018 Planning Board meeting. Motion to continue to the February 14, 2018 Planning Board meeting made by Mr. Nash, seconded by Ms. Owen.
 - Vote: 7-0-0
- B. **Public Informational Meeting** – Peckham Lane Subdivision, Sean Napolitano, applicant. - Request for Master Plan approval for a proposed 24-lot major subdivision of property fronting on Peckham Lane. The property is identified as Assessor's Plat 124, Lots 39, 105, 106 and is located approximately .3 miles to the north of the intersection of Peckham Lane and Wapping Rd.
- Request by the applicant to continue the item to the February 14, 2018 Planning Board meeting. Motion to continue to the February 14, 2018 Planning Board meeting made by Mr. Nash, seconded by Mr. Williams.
 - Vote: 7-0-0
5. Application by Ronald Corriveau for Preliminary Plan approval for a proposed 2-lot subdivision of property located at 566 East Main Road, further identified as Plat 113, Lot 160A.
- Attorney for the applicant, Mr. David Martland requested that the item be continued to the February 14, 2018 Planning Board Meeting to allow for the site plans to be updated.
 - Motion to continue to the February 14, 2018 Planning Board meeting made by Mr. Weber, seconded by Mr. Nash.
 - Vote: 7-0-0
6. Application by Steven Shelton and Sandra Gowett for Preliminary Plan approval of a 2-lot minor subdivision of land located at 535 Tuckerman Ave., Plat 122, Lot 129.
- Attorney for the applicant, Mr. Bob Silva, requested that the item be continued to allow for the site plans to be updated and reviewed by planning staff.
 - Mr. Weber asked if the amended plan would have frontage for both lots.
 - Mr. Silva provided an overview of the proposed changes including easements and frontage and zoning relief.
 - Motion to continue to the February 14, 2018 Planning Board meeting made by Mr. Nash, seconded by Mr. Williams.
 - Ms. Drayton requested a site visit prior to the next planning board meeting.
 - Motion amended to include a site visit prior to the next Planning Board Meeting.
 - Vote: 7-0-0
7. Request of the Town Council for a recommendation on proposed amendments to the Middletown Zoning Ordinance, sections 400 & 602, and Article 27 regarding gravel processing and bulk storage
- Motion to continue this topic to the January 22, 2018 Supplementary Planning Board meeting made by Ms. Owen, seconded by Mr. Weber.
 - Vote 7-0-0

8. Application of Turner Road Realty Trust, LLC for Preliminary Plan approval of a proposed 3-lot subdivision of land located at 305 Turner Rd., Plat 113, Lot 227.
 - Attorney for the applicant, Mr. David Martland provided an overview of the application including variances necessary for frontage, current and previous uses and that the lots would be larger than what zoning requires.
 - There was discussion by the Board related to:
 1. Providing a road extension to eliminate the need for frontage relief.
 2. Potential waiver request for construction of a road.
 3. Feedback from the Fire Department and Department of Public Works.
 4. Accessory structure setback variances.
 - Attorney for the applicant, Mr. David Martland requested that the item be continued to the February 14, 2018 Planning Board meeting to allow further review of possible road/lot configurations and to get additional input from appropriate Town Staff.
 - Motion to continue to the February 14, 2018 Planning Board meeting made by Mr. Weber, seconded by Ms. Owen.
 - Vote 7-0-0
9. Application of 2nd Street Construction, LLC for Preliminary Plan approval of a proposed conservation development to consist of 6 dwelling units on land located at 308 Chases Lane, Plat 106, Lots 6A & 516.
 - Mr. Bob Silva, attorney, and Mr. John Bragga, Jr. engineer provided background of the properties and an overview of the plans including paved access, parking, public sewer and water, stormwater management systems, open space, rain gardens and underground power and communications
 - Owner Matthew Zoloumis and attorney Sean Bouchard were introduced.
 - There was discussion by the board related to:
 1. If the property is historic
 2. If the plans can be adjusted to not require zoning relief
 3. Garages
 4. The compliance with the multifamily dwelling ordinance
 5. Site visits
 6. Recommendations from the Tree Commissions
 7. PVC drains
 8. Connections to public sewer and water
 9. Review of the minor subdivision application by the Technical Review Committee
 10. Location of buildings on abutting properties
 - The Planning Board requested the item be continued to the February 14, 2018 Planning Board meeting in order to commence review by the Technical Review Committee and set up a site visit prior to the next Planning Board Meeting.
 - Motion to continue to the February 14, 2018 Planning Board meeting made by Ms. Owen, seconded by Mr. Williams.
 - Vote 7-0-0

10. Consider request to Town Council for authorization for studies of east side development impacts and temporary moratorium on development applications.

- Mr. Croce mentioned that he drafted a memo requesting discussion by the board but will also open the discussion to the public due to the interest.
- Mr. Weber offered an informational meeting with town staff and town solicitor to provide an overview of the state planning regulations and role of the TRC. He also addressed concerns regarding drinking water quality and fire protection in areas without Town water, read Section 8 excerpts from the 2014 Comprehensive Plan and mentioned a wastewater management plan including low cost loans, regular inspections and required maintenance. He noted that the Town previously asked residents about connecting to public water which was not well received, but he would like to be proactive on the issues.
- Mr. Croce noted that he wanted to 1) get a sense of the board 2) ask Staff to look into a workshop for residents on the east side of town 3) have Board discussion on fire protection, water quality and capacity on the east side.
- Members of the public were invited to speak
 1. Mr. Don Chishlom-1367 Wapping Road: supports a new applications moratorium, mentioning impacts on traffic, services' costs and study how to best move forward.
 2. Mr. Henry Williams-127 Mitchell's Lane: spoke of the owls he hears when he goes to sleep and the need to protect them.
 3. Ms. Theresa Spangler-1111 Wapping Road and business on 143 Peckham Lane: concerns of impacts on runoff, hydrology, wells, flooding, nitrates, fire safety, snow removal, traffic, the narrow width of Peckham Lane. She provided statistics of Fire Department calls.
 4. Mr. Edward Sokol-148 Fayal Lane: noted Paradise Brook is protected and signed and spoke of the impacts more homes will have on Little Creek Pond. He likes his well water and does not support expanding Newport water to his area.
 5. Ms. Sara Poirier 127 Mitchell's Lane: a traffic study is needed, mentioning potential golf course expansion and assessing capacity of the Town.
 6. Ms. Robi Faria-9 Cardoza Terrace: supports the workshop idea and prefers well water, citing concerns with the strain of the aquifer and impacts on existing wells, runoff, fire safety. Notes Island reservoirs are surface-water fed.
 7. Mr. Bill Welch-Mitchell's Lane: spoke of the features of Mitchell's Lane including the Fire Department, Golf Course, Farms, and more. Mentioned cumulative development and both current owners' and residents' rights.
 8. Mr. Bill Gormly-395 Mitchell's Lane: supports moratorium noting conservation subdivisions allow the developed ground area to have to service higher density configurations since the open space area is serving as the back yards.
 9. Mr. Jason Evans-129 Mitchell's Lane: spoke of money spent on cleaning up drainage and water quality issues. He encouraged a moratorium on development to address the issues before they become bigger.
 10. Mr. Dave Huntoon-64 Peckham Lane: referenced values in the Comprehensive Plan including beaches, water, natural, wildlife, and undeveloped, noting this is not a "Not In My Back Yard" issue, but a big picture of Middletown issue.
 11. Ms. Marilyn Hennessey-408 Mitchell's Lane: in favor of a workshop to learn more and was encouraged that the Planning Board allowed the public to speak. She offered assistance and thought it important to protect the land for the future, supporting a moratorium while exploring all options for the future.

12. Mr. Dirk Johnson-68 Riverview Ave: asked about architectural review.

- a. Mr. Regan explained the commercial development and residential development review.
 - b. Mr. Johnson suggested adding architectural review to the planning board review process.
- Mr. Williams read from a prepared statement referencing the quantity of development he has seen before the board in the past year. He mentioned overdevelopment on the West side, land owner rights, the desirability and affordability of Middletown for future generations, impacts of development, infrastructure, and homeowners associations. He referenced the Middletown Comprehensive Plan.
 - Ms. Drayton supported the moratorium on east side development to perform impact studies: traffic, country lanes, wildlife, hydrology, runoff, streams, golf courses, golf course contiguous properties, aquifer capacity, well-health, infrastructure, conservation development density, and development guidelines for areas of prime farmland.
 - Mr. Croce noted that there is a study on surface water. He mentioned that he did not want the study to be too big, but instead be focused on capacity, water supply, aquifer, and traffic in order to make progress.
 - Ms. Owen supported a moratorium and referenced Coventry, RI where deliberate focus on what could be achieved during a moratorium prevented town exposure to any legal action. She read out loud the draft memo by Mr. Croce to the Town Council.
 - Mr. Nash asked staff for advice on imposing a moratorium, noting it is the Town Council who decides.
 - Mr. Regan advised that moratoriums on development are allowable under very limited circumstances because it interferes with property rights. It can be imposed following the adoption of a Comp Plan (but that would not apply in this case) or in response to a direct threat to public health, safety, or welfare. Developing an undeveloped land does not satisfy that unless there is adverse impact or not enough capacity of infrastructure, such as sewer or roads. Courts look for a less drastic remedy. A moratorium should be short term with a specific purpose and start and end dates. Town Council must impose the moratorium, it is not under the ability of the Planning Board. It does not apply to applications currently before the board.
 - Mr. Regan noted conservation developments do not allow for a greater density of development, but for smaller lots, and that the Planning Board must focus on adverse impacts or threats.
 - Mr. Nash referenced traffic capacity, water potability and supply, and fire safety studies. He felt studies tend to be costly and drawn out, so though he agreed with limited scope studies, was hesitant to support a moratorium because of the impacts on land owners. The Town is bound by rules and regulations and any changes take time and could open the Town to liability.
 - Mr. Croce noted that the Planning Board would work with staff to scope the project.
 - Ms. Flynn mentioned a desire to support our Comprehensive Plan by changing current rules and regulations such as zoning. She supported assessing capacity, working backwards from the problems to the causes, and mentioned defining a timeframe, or limiting the moratorium to not accepting applications where public water and sewer are not available.
 - Mr. Weber mentioned zoning, aquifers, the cost of the studies, and utilizing a partnership with the Aquidneck Land Trust to protect open space. He mentioned a support of traffic and water studies but not a moratorium.

- There was further discussion by the board regarding:
 1. gaps in the Comprehensive Plan vs Zoning regulations.
 2. including wetland setbacks research.
- Motion to forward the memo to the Town Council modified by the Chairman to include working with staff on the scope made by Mrs. Flynn, seconded by Mr. Williams.
- Mr. Weber suggested splitting the recommendation into separate votes on:
 1. Water study
 2. Traffic study
 3. Moratorium
- Mr. Nash expressed a desire to get the opinion of the Town Planner in the discussion.
- Ms. Lavoie reported that the Town Planner had mentioned the Board could change zoning such as expand R40 to R60, which would not require a Comp Plan change, or create a R80 which is common elsewhere.
- Motion to table the discussion to the February 14, 2018 Planning Board meeting with a request to staff for a written advisory opinion made by Mr. Nash, seconded by Ms. Drayton.
- Vote: 5-2-0, with Ms. Owen and Mr. Williams voting against.

11. Updates

A. Comprehensive Plan Implementation items

- Future Land Use Plan & Zoning Map consistency – Potential Comprehensive Plan, Future Land Use Plan amendments
 1. Mr. Croce asked about 131 6B, a privately-owned beach.
 2. There was agreement to remove all of map 4 and 5, addressing those inconsistencies by changing the zoning.
 3. Motion to schedule a public hearing on maps 1-3 at the February 26, 2018 Supplementary Planning Board meeting made by Ms. Flynn, seconded by Mr. Nash.
- Agricultural Business Overlay
 1. No updated provided.

B. Update on activities of the Aquidneck Island Planning Commission.

- No updated provided.

C. Update on BRAC Navy Surplus Land reuse planning process.

- Mr. Regan updated the board that the Navy Lodge Property may close on January 30, 2018 and a potential reception.

D. A draft Marijuana Ordinance will be distributed by Mr. Regan.

E. Committee reports

- Use Table Subcommittee: Mr. Nash indicated that there are two meetings scheduled for February
- Inclusionary Zoning for Adorable Housing Subcommittee: Ms. Drayton mentioned that the subcommittee is meeting on January 11, 2018 at 4pm in Conference Room with a second meeting at the end of January.

- Tree Commission: Ms. Owen mentioned that the Commission is meeting on January 11, 2018 at the library at 4pm
 - Open Space and Fields Committee: Mr. Nash offered nothing notable to report
 - Conservation Commission: Ms. Flynn mentioned that both applicants before the Commission requested continuances.
- F. Ms. Lavoie informed the board of the Town Council request for Planning Board participation in the February 5, 2018 council meeting to review plans on the lower Aquidneck Avenue improvements project.
- Plans will be provided the week before and the Planning Board's Atlantic Beach District Master Plan should be reviewed.
 - Mr. Weber asked about supervision of the work and working with RIDOT.
- G. Mr. Nash requested that the individual votes be mentioned in the decisions.

12. Adjourn

Motion to adjourn made by Mr. Nash second by Ms. Owen.

- Vote 7-0-0

Meeting adjourned at 8:46pm

Respectfully submitted:

Terri Flynn

Planning Board Secretary