



PLANNING BOARD MINUTES
Regular Meeting
August 14, 2024, 6pm
Town Council Chambers – Town Hall
350 East Main Road
Middletown, RI 02842

Board members present:

Bill Nash, Chair
Art Weber, Vice Chair
Michael Fenton, Secretary
B.J. Owen
Leon Amarant
Joe Pierik
Charlie Vaillancourt

Also present:

Ron Wolanski, Town Planner
Michael Monti, Assistant Town Solicitor
Anita Guo, Principal Planner
Peter Skwirz, Conflict Solicitor

Mr. Nash called the meeting to order at 6:00pm.

1. Approval of minutes

- a. July 10, 2024 regular Planning Board meeting.
 - i. **Motion** by Ms. Owen seconded by Mr. Fenton to approve the minutes. **Vote:** 7-0-0

2. Correspondence

- a. Memorandum of the Town Planner dated July 16, 2024 re: Administrative Subdivision approval for Marks Family Trust & Town of Middletown, properties located at 351 & 361 East Main Rd., Plat 113, Lots 22 & 23
 - i. **Motion** by Mr. Weber, seconded by Mr. Fenton to receive said correspondence. **Vote:** 7-0-0.

3. Agenda modifications

- a. The remaining agenda items were heard the following order: 4A, 5G, 4B, 5A, 5B, 5C, 5D, 5E, 5F, and 6.

4. Old Business

- a. **Public Hearing** – Application of 15 Aquidneck Ave, LLC. for Development Plan Review for a second-floor exterior deck addition, including request for waiver(s) from certain provisions of the commercial development design standards of Section 521 of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land. The application includes a request for a special use permit from Middletown Zoning Ordinance Section 602 to allow the expansion of a restaurant with alcohol sales and a request for variance from Section 603, to allow front yard setbacks of 1’ and 0.8’, where 10’ is required. Property located on 15 Aquidneck Ave, Tax Assessors Plat 116NW, Lots 36, 37, 37A, and 38A.
 - i. Mr. Wolanski shared the applicant’s attorney Dave Martland requested to continue this item to the next regular meeting and the applicant is working on addressing the zoning relief.
 - ii. Mr. Amarant recused.
 - iii. **Motion** by Mr. Weber, seconded by Ms. Owen to continue this item to the September 11, 2024 regular meeting. **Vote:** 6-0-0.
 - iv. Mr. Amarant returned.
- b. Recommendation to the Town Council on potential amendments to several sections of the Middletown Zoning Ordinance to address updated procedures resulting from 2023 state legislation, including amendments to sections: 1401 & 1402 regarding motels and hotels; 1501 & 1502 regarding multi-family dwelling; 1801 & 1802 regarding shopping centers; 2102 & 2103 regarding residential care and assisted living facilities; 2202 & 2203 regarding senior independent living facilities; 2301 & 2302 regarding mobile home parks; 2402 & 2403 regarding transient trailer parks; 2502 & 2503 regarding wireless telecommunications facilities; 902 regarding special use permits for farm promotion accessory use, drive-up windows, and the watershed protection district; 719 regarding mixed uses within a building; and 17A01 & 17A02 regarding community residences and family daycare homes.
 - i. Mr. Wolanski shared these amendments are to address updated procedures resulting from the 2023 state legislation. The amendments were missing from the last zoning update. Languages, procedures, and special use permit criteria need to be updated for some uses.
 - ii. Mr. Nash asked whether the Board has any discretion over the amendments. Mr. Wolanski said “no”.
 - iii. **Motion** by Mr. Fenton, seconded by Mr. Weber to forward the amendments to the Town Council for consideration with a positive recommendation, and to make the required findings. **Vote:** 7-0-0.

5. New Business

- a. Request of Gregory Coe of Seascape Holdings LLC for concept review of a potential project to construct a new commercial building on property located at 985 Aquidneck Ave., Tax Assessors Plat 113, Lot 208.
 - i. Mr. Wolanski noted that the property owner is not present and suggested that the Board either table this item until later this evening or continue it to the next meeting.
 - ii. **Motion** by Ms. Owen, seconded by Mr. Weber to continue this item to the September 11, 2024 regular meeting. **Vote:** 7-0-0.

- b. Consideration of a request of the Town Council for recommendation on proposed amendments to Article 4 and Section 602, and addition of new Article 27C to the Middletown Zoning Ordinance, Town Code Chapter 152, to address regulation of short-term rentals.
- i. Mr. Monti recused. Mr. Skritz acted as conflict solicitor.
 - ii. Mr. Amarant shared that he received a recommendation from the Ethics Commission and he will not be recusing since the proposal will not affect existing short-term rental owners. Mr. Weber expressed his opposition.
 - iii. Mr. Nash noted the Board's job is to make the findings whether the proposed amendment is generally consistent with the comprehensive plan and whether it serves the purposes of zoning.
 - iv. Mr. Skritz shared the proposed amendment, which came from the Town Council's Short-Term Rental subcommittee, will regulate new short-term rentals through zoning while existing short-term rentals will be grandfathered in. The proposed amendment will limit new short-term rentals to a six persons occupancy limit, require the property owner to reside in the same building, and require a special use permit.
 - v. Mr. Fenton asked what happens when a property gets sold. Mr. Skritz stated that the use will continue to be allowed unless the use has been discontinued.
 - vi. Mr. Amarant spoke about potential economic impacts and concerns with the owner-occupied requirement. Mr. Skritz shared that the criteria requires the owner to reside in the same building, but not necessarily in the same dwelling. He noted the Council and subcommittee's concerns and having an owner close by could alleviate some of the impacts.
 - vii. There was discussion about various situations whether the amendment would apply.
 - viii. There was discussion about housing affordability, new definition, property owner rights, and enforcement of ordinance.
 - ix. Mr. Nash expressed support for the proposed amendment but discussed the need to review existing ordinance for items such as fees and enforcement.
 - x. **Motion** by Mr. Weber, seconded by Mr. Fenton to provide a positive recommendation to the Town Council and to make the required finding that the draft is generally consistent with the comprehensive plan and it serves the purposes of zoning.
 1. Mr. Amarant suggested adding a recommendation to remove the owner-occupancy requirement to the motion.
 2. **Motion** by Mr. Amarant, seconded by Mr. Vaillancourt to amend the motion to include a recommendation to the Town Council to remove the owner-occupancy requirement.
 - a. Mr. Pierik expressed concerns about the proposal and noted opportunities for Town Council to hear other opinions and thoughts. Mr. Nash expressed not being supportive of the amendment.
 - b. **Vote:** 4-3-0, with Mr. Vaillancourt, Mr. Amarant, Ms. Owen, and Mr. Pierik in favor; and Mr. Weber, Mr. Nash, and Mr. Fenton in opposition.
 - xi. **Motion** to forward the amended motion with the recommendation to remove the owner-occupancy requirement. **Vote:** 3-3-1, with Mr. Vaillancourt, Mr. Amarant, and Mr. Pierik in favor; Mr. Weber, Mr. Nash, and Mr. Fenton in opposition; and Ms. Owen in abstention. **Motion fails.**

- xii. **Motion** by Mr. Weber, seconded by Mr. Fenton to provide a positive recommendation to the Town Council and to make the required findings that the draft is generally consistent with the comprehensive plan and it serves the purposes of zoning.
 - 1. Mr. Amarant expressed his disapproval. Mr. Vaillancourt expressed concern with property owner rights.
 - 2. **Vote:** 6-1-0, with Mr. Amarant in opposition.
- xiii. Mr. Monti returned.
- c. Review and recommendation to the Town Council on a proposed amendment to Article 4, Section 400 of the Middletown Zoning Ordinance, Town Code Chapter 152, regarding the definition for “household” to address recent state legislation.
 - i. Mr. Wolanski shared this item is to amend the Town’s ordinance to comply with recently passed state law. The proposed ordinance mimics the current Town ordinance and defines a household as a person or group of unrelated persons living together not to exceed four, or one per bedroom, which is greater, up to a maximum of five people per dwelling. The maximum does not apply to NARR-certified recovery residences.
 - ii. Mr. Amarant asked for clarification and whether it has an impact on current Middletown standards. Mr. Monti and Mr. Wolanski shared the amendment complies with state law and is consistent with current Town definition.
 - iii. **Motion** by Mr. Amarant, seconded by Mr. Vaillancourt to forward the proposed amendment to the Town Council for consideration, and make the required finding that the draft is generally consistent with the comprehensive plan and it serves the purposes of zoning. **Vote:** 7-0-0.
- d. Review and recommendation to the Town Council on a proposed amendment to Article 4, Section 400 of the Middletown Zoning Ordinance, Town Code Chapter 152, regarding definition for “accessory dwelling unit”, and amendments to Article 16 and Section 602 regarding regulation of accessory dwelling units to address recent state legislation.
 - i. Mr. Wolanski provided an overview of the proposed ordinance. ADUs are allowed by right in residential zoning districts subject to certain limitations such as a maximum of two bedrooms, floor area restrictions, one off-street parking space per bedroom, not allowed for short-term rental use, allowed by right as reasonable accommodation for family members with disabilities, allowed where proposed ADU is located within existing footprint of primary structure, and allowed where lot area is 20,000 square feet or more.
 - ii. Mr. Vaillancourt expressed concern that property owners with lots smaller than 20,000 square feet would not be able to build when they may have the most need. Mr. Wolanski clarified lots smaller than 20,000 square feet cannot have a new separate ADU structure but allowed when it is within existing footprint of the primary structure. ADUs are also by right for family member with disabilities which does not limit to the existing footprint.
 - iii. There was discussion about requiring an affidavit for applications involving family members with disabilities. There was clarification questions about calculating ADU size.
 - iv. **Motion** by Mr. Vaillancourt, seconded by Ms. Owen to forward the proposed amendment to the Town Council for consideration, and make the required finding that the draft is generally consistent with the comprehensive plan and it serves the purposes of zoning. **Vote:** 7-0-0.
- e. Review and recommendation to the Town Council on a petition for proposed Comprehensive Plan amendment to change the future land use designation as depicted on Map L-4 of the Middletown Comprehensive Community Plan from medium density

residential to institutional for town owned property located at 351 East Main Rd., Tax Assessor's Plat 113, Lot 22.

- i. Mr. Wolanski shared the Town purchased the property at 351 East Main Road and this item and item 5f actions are to amend the comprehensive plan and zoning map to allow the Town to build an annex there for office space. Mr. Wolanski shared a public hearing is required.
 - ii. **Motion** by Mr. Vaillancourt, seconded by Ms. Owen to direct the Town Planner to schedule a public hearing. **Vote:** 7-0-0.
- f. Review and recommendation to the Town Council on a petition for proposed amendment to the official Middletown zoning map referenced in Section 502 of Chapter 152 of the Middletown Code of Ordinances to change the zoning district designation of certain property from residential, traffic sensitive (R-20A) to public, traffic sensitive (PA) for town owned property located at 351 East Main Rd., Tax Assessor's Plat 113, Lot 22.
- i. **Motion** by Mr. Vaillancourt, seconded by Ms. Owen to continue to September 11, 2024 regular meeting. **Vote:** 7-0-0.
- g. Review and recommendation to the Town Council on a petition of Aquidneck Mini Golf, LLC to amend the zoning ordinance use table in Section 602 of Chapter 152 of the Middletown Code of Ordinances to allow the following uses by right in the limited business (LB) zoning district: motion picture theaters; video and amusement arcades; bowling alleys.
- i. Mr. Wolanski shared the applicant's attorney Girard Galvin could not make it to this meeting and requested it to be continued to the September 11, 2024 regular meeting.
 - ii. **Motion** by Mr. Weber, seconded by Fenton to continue this item to the September 11, 2024 regular meeting. **Vote:** 7-0-0.

6. Updates

- a. Status Report on Planning Board Action Items. No comments.
- b. Committee reports
 - i. Comprehensive Plan Update Committee – Mr. Wolanski shared a meeting happened last week and the consultant provided the housing element draft. Staff asked the committee to review and provide comments by next Friday and the next step is to work on the other elements.
 - ii. Tree Commission – Ms. Owen shared the Tree Commission is working on restoration efforts at Albro Woods.
 - iii. Open Space and Fields Committee – Mr. Fenton shared they had a meeting last month and the committee provided input on Dunlap-Wheeler Park plans.
 - iv. Conservation Commission – No updates.
- c. Upcoming meetings:
 - i. September 11, 2024, 6pm – Regular Planning Board meeting.
 - ii. September 12, 2024, 6pm – CPUC meeting.

Motion by Ms. Owen seconded by Mr. Vaillancourt to adjourn. **Vote:** 7-0-0

Meeting adjourned at approximately 8:05pm.

Respectfully submitted,
Mike Fenton, Secretary

DRAFT