



## Town of Middletown Planning Department

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

To: Paul A. Croce, Chairman  
Planning Board members

From: Rita Lavoie

Date: August 3, 2021

Re: **Public Hearing** – Application for Development Plan Review by Building of Taste, LLC for alterations to a façade of an existing commercial building facing a public right-of-way and accompanying site work, and request for waivers from certain commercial development design standards of Section 521 of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land, and recommendation to the Zoning Board of Review on the application for development in Zone 1 of the Watershed Protection District. Property located at 170 Aquidneck Ave, Tax Assessors Plat 115SE lots 145, 146, and 147.

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The applicant is proposing renovations to an existing commercial building located in Zone 1 of the Town's Watershed Protection District (WPD Zone 1). Alterations include relocation of some parking spaces; changes to the landscaped area; the addition of a 408 sq.ft. rear deck; a new covered entry and stair on the front façade; new lighting on the building and in the landscaped area; replacement of some windows, and interior renovations.

A special use permit for construction within the WPD Zone 1 and a variance application to construct a deck/staircase 27-feet from rear property line where 50-feet is required, has been filed with the building and zoning department. In reviewing this application, the Planning Board will be providing an advisory opinion to the Zoning Board of Review.

No changes to the existing curb cuts are proposed. The applicant provided a note on the plan indicating that the Rhode Island Department of Transportation has planned highway safety improvements including alterations to the sidewalks, curbing and transitions along the Aquidneck Ave property line.

The property is located in the Limited Business- Traffic Sensitive (LBA) zoning district with frontage on Aquidneck Avenue at the Valley Road intersection. It is in the FEMA Flood Zone x – 0.2% Annual Chance Flood Hazard area and has a Rhode Island Coastal Resource Management Council's 3-foot sea-level-rise suggested building design elevation (CRMC SDE-3) designation of 17.1 feet.

Copies of plans have been distributed to the appropriate committees and departments including the Tree Commission and the Technical Review Committee (TRC). The TRC reviewed the application during a meeting held on August 3, 2021, and voted to forward a positive recommendation to the planning board with no conditions.

If the Board chooses to move forward with providing a positive recommendation to the Zoning Board, the board should consider the following **recommended conditions of approval**:

1. Landscape management plan should be updated to include replacement of plantings that die, and a scheduled for pruning and removing deadwood and cross branching of trees.
2. Trash receptacle design should be submitted, or a waiver may be necessary.
3. The builder is required to comply with the provisions of the town's storm water management ordinance (Chapter 153), and construction site runoff and erosion control (Chapter 151). The use of pervious paving and other methods to promote infiltration of storm runoff should be considered as means of meeting the requirements of Chapter 153.
4. The use of lawn chemicals, fertilizers, and other chemicals with the potential to adversely impact ground and surface water quality shall be prohibited within Watershed Protection District, Zone 1.

#### **Requested waivers:**

*Per section 908 of the Regulations the "Planning Board shall have the power to grant such waivers and/or modifications from the requirements for land development and subdivision approval, as may be reasonable, and within the general purposes and intents of the provisions for local regulations. The only grounds for such waivers and/or modifications shall be where the literal enforcement of one (1) or more provisions of the regulations is impracticable and will exact undue hardship, because of the peculiar conditions pertaining to the land in question, or where such waiver and/or modification is in the best interest of good planning practice and/or design, as evidenced by consistency with the municipality's comprehensive plan and Zoning Ordinance."*

1. 521.1.D1 Exterior Lighting - Exterior lighting designed to minimize impact on neighboring properties. Exterior lighting designed to minimize night light pollution.

**Fixture type D on sheet A6 is a sky-ward pointed fixture.**

2. 521.1.E1 - Dumpsters, storage areas, exposed machinery installation designed and screened or located to provide an audio-visual buffer sufficient to minimize adverse impacts on other land uses within the development area and surrounding properties.

**Proposed and existing dumpsters not screened**

3. 521.1.E3 Trash receptacles shall have decorative designs compatible with the overall design theme for the development. **Receptacle design has not been submitted and therefore compliance cannot be determined. It is recommended that design be included on site plans, or a waiver may be necessary.**

4. 521.2C Building exteriors and roofs constructed of traditional materials such as wooden clapboards, shingles, patterned shingles, brick or stone (synthetic materials require Planning Board approval). **Synthetic Azek trim is proposed**

5. 521.3.B Planted landscaping occupies a minimum of 25% of the project area. **Landscaped area is 17% of site area.**

6. 521.3.C Screening element such as plantings, stone walls, berms and/or fences (or a combination) provided along all property lines. **No screening elements along front or rear property line**

7. 521.3.D1 A landscaped buffer at least 10' is provided along all property lines (may be reduced if stone wall used as screening element). **No screening elements along front or rear property line, the landscaped area on southern property line is 9 feet wide, a portion of the northern property line lacks any landscaped area.**

8. 521.3.D3 A landscaped buffer at least 10' wide, which is defined by curbing and may include sidewalks but must include a minimum 5' planting strip, is provided between buildings and parking lots/driveways. **A 10-foot landscaped buffer is not provided between the building and parking lot on all sides.**

9. 521.3.F1 Deciduous Street trees- Planted along street side property boundary, private streets, and internal driveways. Planted in planter strips or tree wells located between the sidewalk and curb. Spaced no further apart than 30' on center. **Only 1 street tree is provided where a tree is required no more than every 30 feet.**

## **Zone 1 of the Watershed Protection District**

In reviewing this application and providing an advisory opinion to the Zoning Board of Review, the Planning Board should consider the potential impacts of the proposed development on the watershed.

The following development design standards are required by Zoning Ordinance Section 1108:

- Surface water runoff shall, to the degree feasible, be directed towards areas covered with vegetation for surface infiltration; and
- Where the premises are partially outside of the WPD, site design shall, to the degree feasible, locate such potential pollution sources as Individual Sewage Disposal Systems outside of the District; and
- Surface water runoff shall be directed, to the degree feasible, towards the lesser restricted district where the premises is located within two (2) or more districts.

Regarding these standards:

- The applicant should be asked to describe how storm water on the property will be addressed. The owner is required to comply with the provisions of the town's storm water management ordinance (Chapter 153), and construction site runoff and erosion control ordinance (Chapter 151).
- The applicant should be asked to describe any potential sources of pollution existing or proposed on the property.
- The applicant should be asked to describe how surface water will be directed away from Zone 1 if possible.

**Required findings:**

In accordance with section 309 of the Middletown Zoning Ordinance, prior to granting any development plan review approval, or issuing a recommendation in favor of approval to the Zoning Board of Review, the Planning Board shall find that:

- (1) The granting of approval will not result in conditions inimical to the public health, safety and welfare;
- (2) The granting of such approval will not substantially or permanently injure the appropriate use of the property in the surrounding area or zoning district;
- (3) The plans for such project comply with all the requirements of this chapter and the Regulations, or that necessary waivers from the requirements of the Regulations have been granted;
- (4) The plans for such project are consistent with the Comprehensive Plan; and
- (5) Any conditions or restrictions that are necessary to ensure that these guidelines have been met have been incorporated into the written approval or recommendation.

Cc: Town Solicitor  
Applicant