



MIDDLETOWN
Rhode Island

PLANNING DEPARTMENT

TOWN OF MIDDLETOWN

350 East Main Road, Middletown, RI 02842
(401) 849-4027 | MiddletownRI.com

Notice of Planning Board Decision/Recommendation

To: James Miller, Chairman
Middletown Zoning Board of Review

From: Paul A. Croce, Chairman
Middletown Planning Board

Date: January 25, 2022

Re: Application of Newport National Real Estate, LLC for Development Plan Review for development of a 9-hole golf course and associated clubhouse, 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. Property fronts on Wyatt Road and Mitchell's Lane, Tax Assessors Plat 124 lot 29.

During its meeting of January 24, 2022, the Planning Board considered the above referenced application. At the conclusion of the public hearing a motion was made and duly seconded and voted unanimously, 6-0-0 to approve the Development Plan Review application and to forward a positive recommendation relative to the Development Plan Review for those elements of the plan requiring relief by the Zoning Board of Review. The plans subject to this review and recommendation include the following:

- Plan set prepared by the applicant revised January 14, 2022, which includes site plans by DiPrete Engineering, landscape plan by Verde Design +Horticulture, and architectural plans by Cordtsen Design Architecture.

The recommendation and DPR approval are subject to the following conditions of approval:

1. Prior to permitting, the Town Engineer and Director of Public Works must review and approve the final stormwater design and Operations and Maintenance plan.
2. Prior to permitting, the Town Engineer and Director of Public Works must review and approve the final sewer system design and flow calculations.
3. Prior to permitting, there must be confirmation, subject to the approval of the Town Engineer, that the soil erosion & sediment control plan includes adequate measures for controlling dust during the construction process.
4. Prior to permitting, golf cart safety signage, crosswalks on Mitchell's Lane, and grading details along the public right-of-way should be submitted for review and approval to the Director of Public Works and the Town Engineer.

5. Prior to permitting the applicant must seek Town Council determination regarding the time in which the parking lot lighting must be extinguished, per condition number 8 of the 2005 approved re-zoning petition recorded in the Middletown Land Evidence Records, Book 897, Page 291.
6. Prior to permitting any legal documents must be reviewed and approved by the Town Solicitor.
7. 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. A note to this effect must be provided on the plans prior to permitting.
8. Prior to permitting, the traffic engineer's recommendations and conclusions from the July 2019 BETA engineering report shall be incorporated into the development plan:

Mitchells Lane at Site Driveway Intersection: Minor clearing of roadside vegetation for sight line enhancement.

Mitchells Lane at Route 138 Intersection:

1. Minor clearing of roadside vegetation for sight line enhancement.
2. Replacement of the Stop sign on Mitchells Lane.
3. Installation of appropriate Stop Ahead sign and/or pavement markings on Mitchells Lane to emphasize the primary traffic control device.
4. Relocation of the Mitchells Lane street name sign for improved visibility of the intersection for Route 138 southbound traffic.
5. Installation of intersection warning signs on Route 138 to alert Route 138 motorist of the approaching intersection.

Mitchells Lane at Wyatt Road Intersection: Replace Stop signs on each approach to the intersection.

Mitchells Lane between Route 138 and Wyatt Road: Installation of crosswalks and applicable warning signs at the golf cart crossing and the Sakonnet Greenway Trail crossing per the concept plans provided.

9. Prior to permitting, the applicant shall initiate discussion with Town staff, including the Town Engineer, Town Solicitor, and Town Planner to determine whether provisions of Town Code Chapter 153 requiring a fence surrounding retention/detention ponds is applicable to the proposed irrigation pond, and if so, the process that must be followed to seek a variance from this requirement if the applicant wishes to seek relief. If a fence is required, but relief is not sought and granted, a fence meeting town requirements shall be added to the plans prior to the issuance of permits. If a fence is not required, alternative measures for addressing public safety shall be investigated and implemented, subject to the approval of the Town Engineer.
10. Prior to permitting, the landscape plan for the entire property shall be submitted to the Middletown Tree Commission for review and approval.

Waivers granted from the commercial development design standards of Section 521 of the *Middletown Rules and Regulations Regarding the Subdivision and Development of Land* as follows:

1. 521.1B.2- For projects with more than 50 parking spaces: Parking broken up into lots of less than 50 spaces. Parking lots are directly connected to each other. Adjacent parking lots separated by a minimum 10' landscaped strip (may be used as walkway). **Proposed parking lot contains 242 parking spaces, not broken into smaller connected lots separated by landscaped strips.**
2. 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). **Trim materials include borol, a synthetic composite.**
3. 521.3C - Screening element such as plantings, stone walls, berms and/or fences (or a combination) provided along all property lines. **Required screening not provided along the Mitchell's Lane property boundary. The landscaping plan does not show entire property and therefore it is unclear if screening is provided along Wyatt Road, or the western property boundary.**
4. 521.3F.1 - 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. A minimum of 4' dbh at time of planting. **Street trees not provided on internal driveway. Unable to evaluate if trees are provided along Mitchell's Lane or Wyatt Road as the landscaping plan does not depict entire property.**

Findings made:

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.



Paul A. Croce, Chairman
Middletown Planning Board

cc. Town Clerk

RECORDED: Jan 25, 2022 02:36P
DOC #: 00000208
RECEIPT #: 63104
WENDY J. W. MARSHALL, TOWN Clerk
TOWN of MIDDLETOWN, RI

**IN RE: PETITION OF AQIDNECK COMMERCE CENTER, LLC
APPLICANT AND OWNER
ASSESSOR'S PLAT 114, LOTS 129 AND 504
809, 811 AND 819 AQUIDNECK AVENUE**

DECISION

This matter came on for hearing before the Middletown Planning Board on January 12, 2022, on the Application and Petition of Aquidneck Commerce Center, LLC for Master Plan Approval of a Mixed Use Development under Article 27A of the Zoning Ordinance proposing to merge lots 129 and 504 on Assessor Plat 114 (the "Property"), raze the existing residence on Lot 129 and replace it with a twelve unit residential apartment building adjacent to the existing office use on Lot 504 and for variances from the Middletown Zoning Ordinance Sections 27A07(E)(1), 27A07(E)(2), 27A07(E)(3), and 27A07(E)(5) to allow a building in the mixed-use development to be approximately 62.8 feet from an abutting residential dwelling where 100 feet is required; to allow the area within the required landscaped buffer to include a driveway; to allow a building height of 39.5 feet where the height limit is 35 feet; and to allow buildings within the development to be separated by 16.3 feet where 20 feet is required.

Christopher C. Bicho, Principal of Aquidneck Commerce Center, LLC testified: (i) that the proposed use was allowed as a matter of right, that the property was approximately 62.8 feet from an existing residence at 833 Aquidneck Avenue where a 100' separation was required, and that in order to address the concerns of the neighbor at 833 Aquidneck Avenue he had agreed to move the existing stone wall on the property to the northerly boundary line. Angelo Botelho, the owner of 833 Aquidneck Avenue testified that based on movement of the wall he now supports the petition; (ii) about the need to have a driveway on the north side of the residential building which would encroach on the 20' required landscape buffer, and that the minimum buffer size would be 10' feet wide including the stone wall and landscaped area; (iii) Bicho went on to explain that to accommodate the stone wall requested by the Botelhos it was necessary to minimally shift the west end of the residential building location closer to the existing medical office on the

property. This resulted in a 16.3' foot setback where 20' is required; he further explained that the rear of the medical office was a cinderblock wall and it was unlikely that the medical office would disturb the residential use; (iv) He also explained that the flat roof of the proposed residential building was designed to match the existing office buildings and that a parapet would be added to soften the appearance; (v) In further testimony he explained that although the building was no more than 35' in height, because of the sloping topography of the land a variance was necessary to allow a height of 39.5' where 35' is required.

In addition to previously submitted plans from Northeast Engineers the Board had received and considered a revised site plan for the project, #C-5 and architectural plans from Jay Grover of Cordtsen Design.

Upon motions duly made and unanimously carried the Board made findings as follows:

- (i) that the requested relief was needed because of the proximity of the property to the neighboring residence on Aquidneck Avenue, the uniqueness of the property and the existing buildings, the sloping topography of the land, the desirability to match the architecture of the existing office buildings and the need to manage traffic entering and leaving the Property and not to the general characteristics of the surrounding area and is not due to a physical or economic disability of the Applicant,
- (ii) that the hardship necessitating the variances are not the result of any prior action of the applicant or owner in that it is a situation that resulted from the characteristics of the property which is already developed, the proximity of a residence and not the desire of the Applicant for greater financial gain,
- (iii) that granting the requested relief for a permitted use will not alter the general characteristics of the surrounding area or impair the intent or purpose of Chapter 27A of the Zoning Ordinance or the Comprehensive Community Plan upon which it is based;
- (iv) that based upon the testimony and the plans submitted, the relief requested is the least relief necessary for the applicant to be able make the reasonable permitted use of the Property;
- (v) that the hardship suffered by the applicant if this petition is not granted amounts to more than a mere inconvenience and not because the proposed use may be more profitable or the structure may be more valuable.

The Board then unanimously approved each of the requested variances.

The Board then inquired for which standards in Section 521 of the Rules and Regulations for Subdivision and Development of Land Aquidneck Commerce Center, LLC would be seeking waivers. Referring to the Memorandum from the Town Planner dated January 4, 2022, Christopher C. Bicho responded that he would be asking for waivers from the following standards (responses in italics):

- 521.2.B – Need calculation of window area on facades visible from Aquidneck Ave, *possibly*.

- 521.2.C. - Use of synthetic exterior building materials proposed. Need elevations to identify proposed exterior building materials, *yes and the Board indicated that the materials must be as identified at the site visit*.

- 521.2.D. – Flat roof proposed for new building, *yes*.

- 521.3.B – Need calculation of landscaped area for the entire site – minimum 25% required, *possibly*. (Stamped Landscape plan must be provided with Preliminary Plan submission.)

- 521.3.D.2 – Required 20-foot landscaped buffer not provided along northly property line (abutting residential use), *yes, variance granted*.

- 521.3.F.1 & 2 – Required street and parking lot trees not provided, *possibly*. (Stamped Landscape plan must be provided with Preliminary Plan submission.)

After further consideration and discussion, the Board found that:

1. The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies;

2. The proposed development is in compliance with the standards and provisions of the Town Zoning Ordinance;

3. There will be no significant negative environmental impacts from the proposed development as shown on the plan, with all required conditions of approval;


4. The subdivision, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. (See definition of Buildable lot).

5. That the development will have adequate and permanent physical access to a public street.

Upon motion duly made, seconded and unanimously carried, the Board granted Master Plan Approval for the project subject to the findings and conditions in this decision and the following conditions of approval:

1. Prior to Preliminary Plan approval, the plans must be revised to demonstrate adequate turning radii for emergency vehicles, subject to the approval of the Fire Department.
2. Prior to Preliminary Plan approval, the applicant must confirm the location, size and slope of the existing sewer main in Aquidneck Ave intended to serve the development.

MIDDLETOWN PLANNING BOARD OF

By: 
Paul Croce, Chairman

Dated: 1/19/2022

This decision was prepared by Patrick O’N. Hayes, Jr., of Corcoran, Peckham, Hayes, Leys & Olaynack, P.C., 43 B Memorial Boulevard Newport, Rhode Island.



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PLANNING DEPARTMENT

TOWN OF MIDDLETOWN

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Notice of Planning Board Decision/Recommendation

To: James Miller, Chairman
Middletown Zoning Board of Review

From: Paul A. Croce, Chairman
Middletown Planning Board

Date: January 19, 2022

Re: Application for Development Plan Review including request for waivers from certain design standards of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land Section 521 by Endeavor Holdings, LLC for redevelopment of a commercial property and construction of a 2,107 square foot 2-story building located at 100 and 102 Valley Road, Tax Assessors Plat 113 Lot 19A

During its meeting of January 12, 2022 the Planning Board considered the above referenced application. At the conclusion of the public hearing a motion was made and duly seconded and voted unanimously to approve the Development Plan Review application and to forward a positive recommendation relative to the Development Plan Review for those elements of the plan requiring relief by the Zoning Board of Review. The plans subject to this review and recommendation include the following:

- Site plans prepared by Principe Company, Inc., revised 12/23/2021
- Building elevations provided to the Board on January 12, 2022 and marked as exhibit #1.
- Landscaping plan by Verde Design & Horticulture, dated 8/16/2021.

The recommendation and DPR approval are subject to the following conditions of approval:

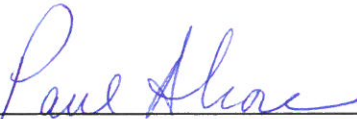
1. Prior to permitting, the stormwater management plan shall be revised to demonstrate that the rate of runoff from the site resulting from the 100-year storm will not increase over existing conditions, subject to review and approval by the Town Engineer.
2. Prior to permitting the plans shall be revised to include required screening of existing and proposed dumpsters and exterior mechanical equipment on the property.
3. The waiver to allow the use of non-traditional or synthetic exterior building materials is granted subject to the condition that selected exterior building materials closely mimic traditional materials and shall not consist of vinyl siding.

Waivers granted from the commercial development design standards of Section 521 of the *Middletown Rules and Regulations Regarding the Subdivision and Development of Land* as follows:

1. 521.1.C Development to be served by underground utilities. *As proposed, the project will be served by existing overhead utility lines on the property.*
2. 521.2.A.2 No façade exceeding 40 feet in length without a break in plane of at least 48 inches. *South façade does not meet this requirement.*
3. 521.2.C Traditional exterior building materials required. *Proposed use of non-traditional materials.*
4. 521.3.C Landscape screening element required along property lines. *Screening elements not provided.*
5. 521.3.D.1 Landscaped buffer of at least ten feet along all property lines. *Required buffer not provided along northerly property line. Existing buffers were reduced by 2019 paving activity. It is unclear if required permits and zoning relief were sought or granted at the time of paving.*
6. 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.*
7. 521.3.F.2 Required parking lot trees, 1 per 5 space. *Parking lot trees not provided.*

Findings made:

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.



Paul A. Croce, Chairman
Middletown Planning Board

cc. Town Clerk



Notice of Planning Board Decision

To: Applicant

From: Paul A. Croce, Chairman
Middletown Planning Board

Date: January 19, 2022

Re: Request of Thomas Welch for Preliminary Plan approval of a 2-lot minor subdivision. Property located at 536 Mitchell's Lane, and also fronting on Fayal Lane, Assessor's Plat 124, Lot 19.

During its meeting of January 12, 2022, the Planning Board voted 6-0-0 to grant conditional Preliminary Plan approval for the above referenced subdivision application (plan dated November 16, 2021 by Northeast Engineers & Consultants, Inc.) subject to the following findings and conditions of approval.

Conditions of approval:

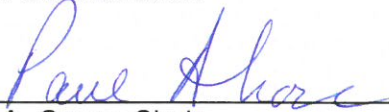
1. Prior to Final Plan approval, the applicant must seek and be granted a special use permit from the Zoning Board of Review to allow the residential development of proposed Lot 2 in Zone 1 of the Watershed Protection District.
2. Prior to Final Plan approval, the plan shall be revised to provide an easement to contain the subdrain which extends from proposed Lot 2 onto abutting Lot 101.

As part of its decision the Board made the following positive findings regarding the proposal as conditioned above:

1. The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies;
2. The proposed development is in compliance with the standards and provisions of the Town Zoning Ordinance;
3. There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions of approval;
4. The subdivision, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. (See definition of Buildable lot). Lots with such physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans;

5. All proposed land developments and all subdivision lots shall have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered compliance with this requirement.

The conditions of approval must be satisfied, and the Final Plan application submitted for Planning Board consideration.



Paul A. Croce, Chair
Middletown Planning Board

cc. Town Clerk
Building Inspector



MIDDLETOWN
Rhode Island

PLANNING DEPARTMENT

TOWN OF MIDDLETOWN

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MEMORANDUM

To: Marc Tanguay, Finance Director

From: Paul A. Croce, Chairperson
Middletown Planning Board

Date: January 19, 2022

Re: Request of Tony Lorusso, applicant for the Morrison Farm Subdivision, Morrison Ave., Plat 114, Lot 820, for the Planning Board to set the amount of performance security per Section 702 of the *Middletown Rules and Regulations Regarding the Subdivision and Development of Land* to secure completion of remaining infrastructure work.

During its meeting of January 12, 2022, the Planning Board voted unanimously to set the amount of the performance security needed to complete the remainder of the public improvements for the above referenced subdivision.

In accordance with the requirements of Section 702 of the Middletown Rules and Regulation Regarding the Subdivision and Development of Land, the required performance security must equal 125% of the approved cost estimate (attached), or \$295,012.50. The applicant intends to record a mortgage deed for one of the proposed subdivisions lots, the value of which has been demonstrated through an appraisal to exceed the amount of the required performance security. This deed will be recorded with the approved subdivision plans, and a copy will be provided to you. The security must be held until all required improvements are certified complete and the Planning Board votes to release the security.

Paul A. Croce, Chairperson
Middletown Planning Board

cc. Town Engineer
Director of Public Works
Town Administrator



BOND REVIEW MEMORANDUM

To: Ronald M. Wolanski, AICP
Director of Planning & Economic Development
From: Steven Cabral
Crossman Engineering
Date: November 29, 2021
Revised December 11, 2021
Re: Utility Bond Estimate
Morrison Avenue Subdivision
Middletown, RI

Upon review of the cost estimate provided by A-1 Stone Masonry, LLC, dated 11-18-21, the JAM Construction Company Invoices and the Site Plans by Principe Company, Inc. for extending the 8 Inch watermain and installing water and sewer services for the six (6) homes in the Morrison Avenue Subdivision, we offer the following independent cost estimate. The estimate is based upon a review of recent public bids with prevailing wages:

Table with 2 columns: Description and Amount. Includes items like 550 LF 8-inch Water Main Extension, 8 Inch Fitting, Sleeves, GV, etc., 1 Hydrant Relocation, etc. Subtotal is \$236,010.00. Final total with 1.25 multiplier is \$295,012.50.

Please note that the above costs reflect average of bids, as opposed to lowest bid and assumes and that new corporations, valves and boxes are required. The cost also assumes that existing sewer stubs are present at each property line.



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Memorandum

To: Hon. Paul M. Rodrigues, President
Town Council Members

From: Paul A. Croce, Chairman
Planning Board

Date: January 19, 2022

Re: Recommended amendments to Town Code Chapter 94 - Streets, Sidewalks and Public Places

In response to a request from the Town Council, during a meeting on January 12, 2022, the Planning Board voted unanimously to forward a positive recommendation to the Town Council on the attached proposed amendments to Town Code Chapter 94 - Streets, Sidewalks and Public Places regarding esplanade sidewalks.

A resident addressed the Town Council recently asking that an ordinance amendment be considered to implement a policy adopted several years ago to require that planting strips be included in new sidewalk designs. The intent is to provide a safer and more pleasant experience for pedestrians by providing greater separation between pedestrians and passing vehicles, particularly along busier streets. The grass strips, which would also provide a location for street tree planting, would also enhance the appearance of the Town's roadways.

If adopted by the Town Council, the amendments would require that when new or reconstructed sidewalks are proposed the design must include a grass strip between the sidewalk and the curb or edge of the paved street where site conditions allow. The grass strip would be required to be at least four feet wide where possible but could be reduced to a minimum of two-feet wide, or waived altogether if site conditions do not allow for the installation, subject to Planning Board approval.

Thank you for your consideration of the proposed amendments. Please contact me with any questions.

Paul A. Croce, Chairman
Middletown Planning Board

Cc: Town Solicitor

**ORDINANCE OF THE
TOWN OF MIDDLETOWN, RHODE ISLAND**

**AN ORDINANCE AMENDING THE TOWN CODE OF THE
TOWN OF MIDDLETOWN**

**TITLE IX: GENERAL REGULATIONS
Chapter 94, Streets, Sidewalks and Public Places**

NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:

FIRST: That Town Code Title IX, Chapter 94, entitled “Streets, Sidewalks and Public Places”, is amended by adding a new Section 94.07 thereto, entitled “Esplanade Sidewalks”, as follows (language to be deleted is stricken out within brackets; language to be added is underlined):

§ 94.07 ESPLANADE SIDEWALKS.

All new streets and significant reconstruction of existing streets shall incorporate provisions to serve bicyclists and pedestrians to the extent possible, including but not limited to the installation of sidewalks. Where sufficient road right-of-way exists, and where site conditions allow, a grass strip at least four feet in width where conditions allow, but no less than two feet in width, shall be installed between the edge of sidewalk and the curb or edge of the paved street when new streets and sidewalks are installed, or when significant reconstruction of existing streets or sidewalks is conducted. All determinations as to whether the road right-of-way and/or site conditions allow for the installation of a grass strip, or as to the width thereof, shall be made by the Planning Board.

SECOND: This ordinance shall take effect upon its adoption and all ordinances or parts of ordinances inconsistent herewith are hereby repealed.