



Memorandum

To: Paul A. Croce, Chairman
Planning Board members

From: Ron Wolanski, Town Planner

Date: January 4, 2022

Re: **Public Informational Meeting**- Application by Aquidneck Commerce Center, LLC for Master Plan approval of a major land development project for a proposed mixed-use development including 12 new residential units and approximately 15,000 sq.ft. of office space contained in one new and two existing buildings pursuant to Article 27A of the Middletown Zoning Ordinance and including request for waivers from certain design standards of Section 521 of the Middletown Rules and Regulations Regarding the subdivision and Development of Land, and request 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. The property is located at 809, 811, and 819 Aquidneck Ave., Assessor's Plat 114, Lots 129 and 504.

This item was continued to the January 12th Planning Board meeting at the request of the applicant in order to prepare revised plans to address concerns of an abutting property owner. The revised site plan is attached, which includes a shift in the location of the proposed residential building to the south in order to provide a wider buffer long the northerly property line. This change results in the need for one additional variance request to allow buildings in the proposed development to be separated by less than 20 feet.

The applicant is proposing to merge the subject parcels and construct a 12-unit multi-family building, resulting in a mixed-use development. The property currently contains commercial buildings housing offices, which will be retained. The applicant is requesting approval for this project under the town's mixed-use development ordinance (Article 27A, Middletown Zoning Ordinance). A mixed-use development project is a use allowed by right in the limited business (LB) zoning district. The proposal meets the residential density limitations of Section 27A05. Please see the attached documents provided by the applicant.

Per the mixed-use development regulations, this project must undergo development plan review. The Technical Review Committee reviewed the proposal during its meeting held on

October 6, 2021. Following review, the TRC voted to forward a positive recommendation to the Planning Board subject to the following recommended conditions of approval:

Recommended 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.

Review and comment has also been sought from applicable local and state committees and agencies as required. Comments from others will be provided to the Board as they become available.

Zoning Relief Sought:

Pursuant to Section 27A02(D), the Planning Board has the authority to consider and act on any requests for relief from provisions of the Zoning ordinance. The applicant is seeking the following variance relief:

- Setback to residential building on abutting lot 62 feet where 100 feet is required (Zoning Ordinance section 27A07(E)(1))
- Area within setback to be landscaped not provided (Zoning Ordinance section 27A07(E)(2))
- Building height of 39.5 feet where 35 feet is required (Zoning Ordinance section 27A07(E)(3))
- Buildings within the development separated by 16.3 feet where 20 feet is required (Zoning Ordinance section 27A07(E)(5))

Standards for considering a variance (Zoning Ordinance Section 903):

1. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area and is not primarily due to a physical or economic disability of the applicant;
2. That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;
3. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan upon which this chapter is based; and
4. That the relief to be granted is the least relief necessary.
5. The Zoning Board of Review shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:
 - (a) In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of this chapter. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and
 - (b) In granting a dimensional variance, that the hardship which will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.
 - (c) Dimensional variances granted in conjunction with a special use permit shall be supported by independent evidence on the record satisfying each of the requirements

for a dimensional variance, and the Board shall vote on each dimensional variance before voting on the special use permit.

Potential Waiver Requests:

At this stage of review (Master Plan), with the plans and level of detail submitted, the full list of necessary waivers from the commercial development design standards of Section 521 of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land is unclear. The applicant should be asked to confirm which of the potential waivers I have identified below based on the submitted plans will be requested.:

- 521.1.C – Utility lines installed underground.
- 521.1.D – Exterior lighting must be dark sky compliant.
- 521.1.E.1 - Enclosure for relocated dumpster must be provided.
- 521.1.E.2 – Location and proposed screening of HVAC equipment must be provided.
- 521.1.E.3 & 4 – Location of required trash receptacles and bike racks must be provided.
- 521.2.B – Need calculation of window area on facades visible from Aquidneck Ave.
- 521.2.C. - Use of synthetic exterior building materials proposed. Need elevations to identify proposed exterior building materials.
- 521.2.D. – Flat roof proposed for new building.
- 521.3.B – Need calculation of landscaped area for the entire site – minimum 25% required. (Stamped Landscape plan must be provided with Preliminary Plan submission.)
- 521.3.C – Screening elements must be provided along all property lines as part of landscape plan. (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)
- 521.3.F.1 & 2 – Required street and parking lot trees not provided. (Stamped Landscape plan must be provided with Preliminary Plan submission.)

Required findings (Subdivision rules and regulations section 403)

The following is a list of the required findings the Board must make in approving a subdivision or land development project. The Board should make its own conclusions as to the consistency of the plan with these findings.

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.

Cc: Applicant