

Meeting Minutes Newport Planning Board

Monday, November 12, 2019
Newport City Hall, Council
Chambers
43 Broadway, Newport, RI

I. Call to Order

II. Roll Call & Determination of Quorum

The Secretary called the roll and determined a quorum of board members present.

Members Present:

Kim Salerno, Chair

Liam Barry, Vice Chair

Jeff Brooks, Secretary

Paul Marshall

John Oliveira

Melissa Pattavina

Members Absent:

Elizabeth Fuerte

Staff Present:

Peter Friedrichs, City Planner

Nancy Simoes Caron, Stenographer, Allied Court Reporters

The Board voted unanimously to hear item C first under Section V.

III. Review, Discussion, and/or Action of Minutes of Preceding Meetings

A. [October 15, 2019](#)

The minutes were approved unanimously.

IV. Communications

A. Notice of Major Subdivision in Middletown

1. [Request of Ellery Yahia for Master Plan approval of a 4-lot subdivision including a proposed new road and request for waivers from certain provisions of Article 5 and 6 of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land. The property is located at 206 Peckham Avenue, Tax Assessor's Plat 128, Lot 31.](#)

Received.

V. Business

C. Demolition Permit Public Hearings and Possible Action:

1. [Petition of Harbour Realty LLC, Tomorl LLC, 20 West Extension LLC, and Thomas B. Abruzese, applicants and owners, regarding demolition of a nightclub and restaurant, warehouse, warehouse, and a single-family home, respectively, at 25 and 1 Waites Wharf, 16 Waites Wharf, 20 W Extension Street, and 23 Coddington Wharf, respectively, Assessor's Plat 32 Lots 155 and 268, 248, 267, and 293, respectively.](#)

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J. Russell Jackson, attorney for the applicant, requested the matter be continued to a special meeting on Monday, November 18, 2019.

Citing a possible conflict of interest (direct family member owning property in the notice area), Ms. Pattavina recused herself from this item.

The Board voted 5-0 to continue the matter to a special meeting at 7:00pm on Monday, November 18, 2019.

A. Minor Subdivision combined Preliminary and Final Approval:

1. [Petition of Schoolyard Properties, LLC, applicant and property owner, regarding subdivision of former school property at 90 Harrison Avenue, Assessor's Plat 41 Lot 14, into five \(5\) residential properties, ranging from 40,463 square feet to 82,685 square feet in size.](#)

Citing concerns raised in the staff report, the applicant requested a continuance to the December regular meeting to provide more information to the Board. Citing a possible conflict of interest (abutter), Ms. Pattavina recused herself from this item. Upon a motion by Secretary Brooks, seconded by Vice-Chair Barry, the Board voted 5-0 to continue the matter to the December regular meeting.

B. Findings and Recommendation to the City Council regarding a Zoning Ordinance Amendment:

1. *(Continued from September 9, 2019)* [Petition of ARC HTNEWRI001, LLC to rezone 2 Kay Street Assessors Plat 21 Lot 123 to change the zone of the property from R-10 Residential to General Business.](#)
 - [Proposed Floor Plan and Menu](#)
 - [Applicant's Planning Expert Analysis](#)
 - [Staff Report](#)

Russell Jackson, attorney for the applicant, summarized the events of the September 9, 2019 Planning Board meeting.

Staff presented the proposed conditions by which the project was requesting to be considered.

Opposing counsel, Patrick Doherty, presented himself and identified the several dozen property owners within the notice area he was representing.

Paige Bronk, applicant's planning expert, re-summarized his report. He mentioned that his use of single-family was as a land use that did not include properties with more than one unit. He expressed his opinion that the Comprehensive Plan does not capture the full

spectrum of possible land uses and that this property could be rezoned in compliance with the Comprehensive Plan.

Mr. Oliveira asked Mr. Jackson if a meeting had been conducted with neighbors by the applicant prior to the submission of the rezoning application. Mr. Jackson informed that no meeting had been held.

Chair Salerno reminded everyone that no notice is required by state law for the Planning Board's advisory review of a zoning amendment. Abutter and newspaper notice is provided for the Council hearing, scheduled for November 13, 2019.

Mr. Jackson presented Elizabeth Lavoie, a traffic engineer from Bryan Associates. She presented her previously submitted traffic study, conducted on October 16, 2019 (a Wednesday) according to the Institute of Traffic Engineers manual, 10th edition. They looked at the Saturday peak usage (assuming 6:30 and 8:30 pm seatings), and identified 21 trips per hour.

Chair Salerno opened the meeting for public comment.

Mr. Doherty cited the rezoning's inconsistency with the Future Land Use Map and Goal LU-1 and Policy LU-1.7.

Richard Fisher, abutter at 130 Touro Street, a 35-year resident, thought the traffic study was insufficient and that Mr. Bronk's report has many issues. He expressed concern about the recently constructed patio.

Joseph Schaefer, 11 Whitfield Place, cited his concerns about noise and the increases in bars and hotels with amplified music.

Christa Durand, resident and owner of 5 Whitfield Place, shared the coherence of Whitfield Place and the affect of the proposed restaurant on their tranquility.

Judy Schaefer, also 11 Whitfield Place, mentioned 2 Kay Street's former resident, the first female Rhode Island Supreme Court Justice.

Michael Bowers, 11 Kay Street, expressed concern about the kitchen fumes, reduction in real estate values, and precedent set by such a zoning change.

Philip A. Young, abutter at 8 Kay Street, mentioned the proximity of his and his tenant's windows to the proposed kitchen location. He also mentioned the noise from events, like the recent one during Concourse week, and outdoor security and task lighting. He suggested all abutting properties will suffer a loss in value. Mr. Young's updated letter was accepted by the Board as Exhibit A.

Janette Spentzos, 6 Whitfield Place, shared the darling nature of Whitfield Place and the three generations of her family living under one roof. She saw the R-10 zone as a buffer to hold back the GB uses.

J. Stephen Bohan, 7 Whitfield Place, presented a lay report. He expressed Whitfield Place as a stable neighborhood. He presented his concerns about the size of the restaurant and the setbacks of the garage and patio. Light, scent, and air pollution are a direct effect of restaurants. He said the effect of the air pollution is greater than cars. The presence of the valet doubles traffic. Peak pollution is within 100 meters. He also mentioned the cigar smoke from the Concourse event.

Mr. Jackson mentioned the building permit received for the construction of the patio and the event license, accepted as Exhibit C.

Chris DelGuercio, 3 Kay Street, expressed his concern about parking, safety, and a changing neighborhood.

Marianne DelGuercio, also 3 Kay Street, mentioned the trolley parked on the sidewalk for the Concourse event. She said the traffic is already bad; ambulances and fire trucks have a tough time getting through. Her driveway was blocked during the construction of the patio.

Jennifer Thomas, 10 Kay Street, mentioned her trouble sleeping due to her medical condition, which would be made worse by the restaurant. She expressed concern about restaurant goers parking on Kay Street.

Connor Bohan, also 7 Whitfield Place, thought this a dangerous law change in practice and principle. Houses date to the early 1800s here.

Niamh Bohan, also 7 Whitfield Place, shared that she did not think the proposed restaurant is progress. The applicant's properties at the Casino or the Canfield House are better options. Mr. Bronk's analysis ignores neighbors. She and her family love the characteristics of their street and feel they would be negatively impacted by the change. The windows will have to be shut when the prep cooks arrive.

The public comment having concluded, the Board took up the requisite considerations of the purposes of zoning.

- A. Secretary Brooks summarized the comments that this will not promote public health, safety, and welfare. Vice-Chair Barry and Chair Salerno mentioned their agreement.
- B. No comments.
- C.

1. Ms. Pattavina thought a restaurant was not appropriate. Chair Salerno mentioned this is not consistent with the Future Land Use Map. Mr. Marshall noted the Future Land Use Map is a fluid document.
 2. Not Applicable
 3. Not Applicable
 4. Not Applicable
 5. Secretary Brooks thought the change would overburden the roadway. Vice-Chair Barry thought access from Touro would have been more appropriate. Chair Salerno thought it very important that the R-10 boundary remain firm and perform its act as a buffer.
 6. Secretary Brooks thought the existing condition is a good balance.
 7. Not Applicable
- D. Ms. Pattavina expressed concern regarding air and noise pollution. Vice-Chair Barry thought the outdoor seating particular concerning.
- E. Secretary Brooks thought this purpose has not been met. Ms. Pattavina thought the area has been well defined through public comment and the restaurant would not support the protection of this area. Chair Salerno mentioned the Clarke Cooke house's difference between front and back and its rear's impact on surrounding properties. She expressed similar concerns about this proposal.
- F. Secretary Brooks thought local sourcing of food would help meet this purpose, but that this statement was not supported by the proposed menu.
- G. Mr. Marshall expressed concern about a dumpster.
- H. Not applicable
- I. Not applicable
- J. Vice-Chair Barry expressed concern about emergency vehicle access.
- K. Mr. Brooks thought this was supported. Chair Salerno said she was not convinced; restaurants are tough due to their mechanical requirements.
- L. Secretary Brooks noted this would be visited later in the review.
- M. Not applicable
- N. Not applicable
16. Vice-Chair Barry noted that more detailed plans would be necessary to determine this applicability. Secretary Brooks did not think the project was yet at this point.

Regarding the required finding of general consistency with the Comprehensive Plan, Chair Salerno led the Board through the staff report, addressing relevant posed questions.

Goal LU-1: Ms. Pattavina noted the neighborhood's strong objections and the over reliance on conditions to attempt to make the project fit. Chair Salerno thought the proposal a commercial intrusion into a balanced area.

Policy LU-1.6: Secretary Brooks did not think this was being met. Mr. Marshall noted the property has already been upgraded.

Policy LU-1.7: The existing business is supportive of this policy. Vice-Chair thought it did not meet the first part, but met the second part. Chair Salerno agreed.

Goal ED-1: Ms. Pattavina thought this was not a great contributor to economic development. Vice-Chair Barry thought is met this goal at the cost of others.

Policy ED-1.1: There was agreement that this policy is not met.

Policy ED-1.5: Secretary Brooks thought this policy was being met.

Action ED-1C: Secretary Brooks and Vice-Chair thought this Action was consistent. Chair Salerno noted the many steps between the present state and a Michelin rating.

Goal H-1: Chair Salerno noted the testimony of the neighbor who would not have purchased her home if there was a restaurant here.

Policy H-1.3: Secretary Brooks noted the housing in close proximity.

Goal T-2: Ms. Pattavina noted the large number of single car drivers and the lack of rideshare.

Goal T-4: Ms. Pattavina did not think this goal was being met.

Goal T-5: Chair Salerno thought the parking was not suitably located. Ms. Pattavina thought the parking was insufficient.

Upon a motion by Ms. Pattavina, seconded by Vice-Chair Barry, the Board voted unanimously to find the proposed amendment generally inconsistent with the Comprehensive Plan, noting Goals LU-1, ED-1, H-1, T-2, T-4, T-5, Policies LU-1.6, LU-1.7, and Action LU-1C.

Upon a motion by Ms. Pattavina, seconded by Secretary Brooks, the Board voted unanimously to recommend against changing the zoning to accommodate this petition.

Upon a motion by Ms. Pattavina, seconded by Secretary Brooks, the Board voted unanimously for staff to draft a letter enumerating the Board's actions for review by the Board at their next regular meeting.

- D. Consideration and Possible Action Regarding
 - 1. Transportation Master Plan Public Forum

The Forum will be held at 6:30 pm on Thursday, November 14, 2019 at Innovate Newport. Chair Salerno and Ms. Pattavina noted the importance of transportation. Mr. Marshall asked how the public has been made aware of the event. Ms. Pattavina noted website and social media posts, brochures, stickers, communications with community groups, and the tabling at the Broadway street fair. Mr. Marshall hoped additional advertising could be explored to secure the attendance of traditionally underrepresented groups.

2. [Demolition Approval Application Form](#)

Mr. Friedrichs explained some of the issues earlier in the year regarding review ability by the Board and presented this amendment as a response to those issues and establishing the form as a request for simple information, with links to the required documentation. The importance of a pre-application meeting is stressed. Chair Salerno asked how the form is an improvement over the old form. Mr. Friedrichs noted the specific references to the intents outlaid in the ordinance and the notification of the involvement of the Preservation Planner. He mentioned the general concern for the loss of vernacular architecture in the city. Vice-Chair Barry asked about the Board's ability to review proposed designs of new construction enabled by the demolition. Mr. Friedrichs noted that it is an application requirement. The Board's ability to review the proposed new construction is within their purview as established through the review of the demolition. They need to explain the relevancy for each petition. Mr. Marshall asked this to be in the application. Mr. Friedrichs thought this could be included. He will amend the draft accordingly.

VI. Presentation and Discussion of Reports

A. Chair's Report

The Board voted unanimously to add the Community Resiliency Update to the agenda for informational purposes.

Chair Salerno requested Liaison's Reports to the agenda for future meetings.

1. North End Innovation

The Zoning Working Group has been meeting and is making progress. An effort has been made to add Ward 1 Councilor Angela McCalla and meeting times are being changed.

B. Staff Report

Two new members are on the agenda for appointment at tomorrow's City Council meeting. Vice-Chair Barry, Secretary Brooks, and Mr. Oliveira were reappointed at the October 23, 2019 City Council meeting.

1. SNEAPA Conference

Director Reynolds and Mr. Friedrichs attended the Southern New England American Planning Association Conference in Springfield, MA on October 17 and 18, 2019. Sessions

included focus on topics such as utilities, Opportunity Zones, and Form-Based Codes. Staff will utilize the information they learned from this conference in their work in Newport.

2. CNU Transportation Summit

Mr. Friedrichs attended the Congress for New Urbanism's Transportation Summit in Alexandria, VA on October 24 and 25, 2019. He will be sharing what he learned at Thursday's Transportation Planning Committee meeting.

3. Elevating historic properties in the flood zone

The Historic District Commission held a workshop on elevating historic properties in the flood zone on November 5, 2019. Mr. Friedrichs expects the Chair will present the project at a Planning Board meeting in the near future.

C. Community Resiliency Update

Mr. Marshall noted the Community Resilience Specialist's work on grant applications to update the Hazard Mitigation Plan and install tide gates on Wellington Avenue, resiliency assistance for defense communities, electric charging stations, Shoreline Adaptation Mitigation Projects, Census hard to count communities, RI Infrastructure Bank resilient communities application in coordination with Middletown, food waste at Pell School, and coordination between the Island communities and the Navy base. Sarah Atkins is in the Department of Planning and Economic Development with Mr. Friedrichs and Director Reynolds.

VII. Adjournment

Upon a motion by Ms. Pattavina, seconded by Secretary Brooks, the Board voted unanimously to adjourn the meeting at 9:26 pm.