



PLANNING BOARD MINUTES
Special Meeting – Airport Overlay Zoning
November 29th, 2022, 6pm
Town Council Chambers – Town Hall
350 East Main Road
Middletown, RI 02842

Board members present:

Paul Croce, Chair
Michael Fenton, Secretary
Art Weber
B.J. Owen
Joe Pierik
John Ciummo

Also present:

Ron Wolanski, Town Planner
Christopher McNally, Assistant Town Solicitor
Anita Guo, Principal Planner

Member absent:

Bill Nash, Vice Chair

Mr. Croce called the meeting to order at 6:00pm and noted that no public input will be taken tonight.

1. Discuss potential amendments to the Middletown Code of Ordinances, Chapter 152, Zoning Code, regarding airport overlay zoning, and consider providing a recommendation regarding adoption to the Town Council.
 - a. The following representatives from Rhode Island Airport Corporation (RIAC) were presented at the meeting: Nicholas Pearson, Brittany Morgan, John Goodman, and Aaron Keller.
 - b. Mr. Wolanski shared that during the last public workshop, the Board received public input and several topics came up that need additional discussion. Mr. Wolanski started by asking about the regulatory framework regarding RIAC, the airport, and the community.
 - c. Ms. Morgan shared the airspace is under the exclusive jurisdiction of the Federal Aviation Administration (FAA), the airport property is maintained by RIAC, and the land outside of the airport property is under the Town's jurisdiction. Ms. Morgan summarized that RIAC cannot regulate airspace and do not have zoning authority. They are limited to

airport property boundary. Therefore, RIAC does not have power in establishing airport overlay zoning and does not have the authority to force the town to adopt a zoning ordinance.

- d. Mr. Weber asked whether other municipalities have adopted airport overlay zoning and what were the responses there. Mr. Goodman shared that implementing airport zoning is a 1999 State law and emphasized that it is not something that RIAC created. RIAC can be a resource for municipalities. Ms. Morgan shared that Westerly, Smithfield, and Lincoln have implemented zoning overlays. Warwick, Portsmouth, Newport, North Kingstown, North Smithfield, and New Shoreham have expressed interest. Ms. Morgan emphasized that FAA's definition of the Runway Protection Zone (RPZ) is focused on protecting property and life on the ground. Part 77 surfaces are focused on the safe comings and goings of aircrafts.
- e. Mr. Weber asked whether homeowners need to notify insurance companies or potential buyers that their home is in the RPZ and asked about the impact on property value. Ms. Morgan responded that RIAC has not gotten involved with those specific questions but spoke about how the RPZ and Part 77 surfaces exists currently via Federal definitions and regulations. They are not new restrictions, and the establishment of airport zoning is an enforcement mechanism.
- f. Mr. Croce talked about the Town's enforcement responsibility and asked whether RIAC could assist in determining the height limitations related to the Height Compliance Area (HCA). Mr. Wolanski stated that the data will help the Town better understand and identity specific properties that will be impacted by the HCA. Mr. Goodman stated that RIAC will assist in providing resources.
- g. There was discussion on how the data will help create a more refined zoning map and hopefully, will reduce the number of properties that are impacted. Mr. Wolanski clarified that it is the homeowner's responsibility to demonstrate compliance with the FAA regulations, like the process for other permit applications.
- h. Mr. Weber asked questions about public notification and obstructions. Ms. Morgan talked about the four lines of defense the aviation industry has in dealing with obstructions which include zoning overlays, navigation easements, eminent domain, and displacing runway thresholds.
- i. Mr. Pierik asked about the cost and timeline it takes for FAA to review an application. Mr. Keller and Ms. Morgan stated that there is no filing fee and recommended a timeline of 60-90 days.
- j. Mr. Pierik and Mr. Wolanski talked about the proposed RPZ, which was modified to reduce two areas to lessen the impact on abutting private properties. They expressed concern that the proposed RPZ is not consistent with FAA definitions and that it will be not in compliance with statutory requirements. Mr. Goodman shared that he understands the Board's concerns, but the exercise of overlay zoning is not to redefine federal definitions. The RPZ areas are federally defined. He iterated that the regulation currently exists and with the establishment of airport zoning, it allows the public to be made aware of the regulations and height restrictions.
- k. Mr. Weber pointed out that establishing airport zoning is in the Town's Comprehensive Plan.

- l. Mr. Fenton asked questions about land condemnation and compensation. Ms. Morgan shared that there are currently no plans to condemn properties in and around Newport State Airport but will be launching a project to obtain voluntary navigation easements.
- m. Mr. McNally shared that one property owner, who currently has a navigation easement in place, is concerned that they will be facing similar restrictions on their land but without compensation if airport zoning is to be established. Ms. Morgan stated that the specific property has an existing navigation easement which already restricts obstructions on the property and thus, with the zoning overlay, there is no additional restrictions. Mr. Wolanski raised concern that the current navigation easement on the property does not cover the entire proposed RPZ zone.
- n. Ms. Owen asked questions about helicopters and the airport's hours of operations. Ms. Morgan stated that the FAA regulates the comings and goings of aircrafts and there are no hours of operations for the airports. RIAC cannot enforce any time or restrictions on those aircrafts in flight.
- o. Mr. Fenton asked questions about the verification process with FAA which Mr. Wolanski shared that the applicant will be responsible for verification with FAA.
- p. Ms. Morgan asked clarifying questions about whether the zoning analysis was based on the original runway threshold which Mr. Wolanski believed it was.
- q. Mr. Pierik spoke about reaching out to other municipalities that are also working on airport zoning overlay.
- r. Mr. Croce thanked the RIAC folks for attending the meeting.
- s. There was discussion about revising the map to reflect the FAA-defined RPZ. Mr. Croce requested that it be noted that the RPZ is defined by the FAA. The Planning Department will be in contact with RIAC to obtain resources to better refine the zoning map and will reach out to other municipalities on their airport overlay zoning statuses.

Motion by Ms. Owen, seconded by Mr. Ciummo to adjourn. **Vote:** 6-0-0

Meeting adjourned at approximately 7:05pm.

Respectfully submitted,
Mike Fenton, Secretary