



Memorandum

To: Paul A. Croce, Chairman
Planning Board members

From: Ron Wolanski, Planning Director

Date: November 22, 2023

Re: **Public Hearing** – Request of the Town of Middletown for Master Plan approval for an affordable housing comprehensive permit application submitted pursuant to Middletown Zoning Code, Article 17 *Low and Moderate Income Housing- Comprehensive Permit*, for development of 35 units of affordable multi-family housing and other uses, constituting a mixed-use development. Property located at **26 Oliphant Lane, Assessor's Plat 111 Lot 36**. The application includes requests for variances from sections of the Middletown Zoning Code as follows: §602, to allow a mixed-use developments where not a permitted use in the public (PA) zoning district; § 27A05 to exceed the allowable density of residential units in a mixed-use development. The Applicant is permitted eleven (11) single-bedroom units and thirteen (13) two-bedroom units. The Applicant proposes 11 (eleven) single-bedroom units and twenty-four (24) two-bedroom units, requiring relief in the amount of eleven (11) two-bedroom units; § 27A04(D) of the Zoning Code (“Mix of Uses”) and § 27A06(A) to allow 88% of the GLFA be designated for residential use where 75% is permitted; § 1304 of the Zoning Code regarding off-street parking to allow 72 parking spaces where 89 spaces are required; § 1507(A) mandates that no off-street parking area shall be located within twenty-five (25) of a property line. Proposed parking is within 10.8 feet, 13.8 feet, and 13.1 feet of property lines; §1507(B) mandates that no off-street parking area shall be located within twenty-five (25) feet of any wall of a principal building used for residential purposes. Proposed parking is within 24 feet, 22.8 feet, 13.4 feet, 10.8 feet, and 10 feet from proposed residential buildings; § 1508(A) mandates that in multifamily dwelling projects, principal buildings shall be separated from any other principal building by a minimum of fifty (50) feet. Buildings are separated by 29.5 feet, 20 feet, 34.4 feet, and 20.4 feet; § 27A07(E)(1) mandates that no new principal building shall be located within 100’ of an existing residential building on abutting property or 50’ of a residentially zoned lot. Proposed buildings are located 17.4 feet from the abutting property to the north, which is zoned R-10. Proposed buildings are located 43 feet and 57 feet from an existing residential structure to the north. §27A07(E)(2) mandates that the area within the required setbacks shall be devoted to a landscaped or natural buffer zone. The required buffer is not provided.

Attached I am providing the application and documentation submitted for the above referenced project. The applicant is seeking to construct 35 units of affordable housing for families on town property that currently includes the Middletown School Dept. administration and maintenance buildings, and a public recreational facility including ball fields and playground. The existing buildings would remain and be converted to housing and other uses. Six new multi-family residential buildings would also be constructed. School administration and maintenance

operations are to be relocated to other properties as part of the ongoing process to reconfigure and consolidate school buildings. The existing public recreational facility on the site would be eliminated, with possible replacement on another site.

The multi-family residential use will include 11 one-bedroom units and 24 two-bedroom units. As proposed, all units will be deed restricted for residents earning 60% or less of area median income (AMI) based on household size (see attached HUD income limits). All proposed units would meet the definition of low- or moderate-income housing under Section 45-53-3 of the RI General Laws. The basement/first-floor of the current school administration building would be renovated for office uses, while the 2nd and 3rd floors would be residential. The current maintenance building would be renovated to house residential units. The application will be reviewed as a mixed-use development project. Since the subject property is located in the public (P) zoning district, which prohibits mixed-use development projects, necessary zoning relief is being requested to allow the use, as well as for other requirements listed below.

In accordance with the Middletown Zoning Ordinance, Article 17, and Section 45-53-4 of the RI General Laws, the applicant has submitted an application for an affordable housing comprehensive permit to allow the development of low/moderate income housing. The zoning ordinance identifies the Planning Board as the local review board empowered to consider such applications. The board has the authority to consider and act on all of the applicant's requests for zoning and/or other regulatory relief, and has the authority to approve the project subject to making the following findings.

Required findings:

1. The proposed development is consistent with local needs as identified in the local comprehensive community plan with particular emphasis on the community's affordable housing 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 municipality's zoning ordinance and subdivision regulations, and/or where expressly varied or waived local concerns that have been affected by the relief granted do not outweigh the state and local need for low and moderate income housing.
3. All low and moderate income housing units proposed are integrated throughout the development; are similar in scale and architectural style to the market rate units within the project; and will be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units.
4. There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.
5. There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including, but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water run-off, and the preservation of natural, historical or cultural features that contribute to the attractiveness of the community.
6. All proposed land developments and all subdivision lots will have adequate and permanent physical access to a public street in accordance with the requirements of R.I. Gen. Laws § 45-23-60(5).
7. The proposed development will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable, unless created only as permanent open space or permanently reserved for a public purpose on the approved recorded plans.

TRC/Committees/Departments Review

Notice of the application has been provided to applicable town committees, departments, and state agencies with an invitation to provide comments. These include DPW, Town Engineer, Building Official, Roads & Utilities Advisory Committee, Tree Commission, Conservation Commission, Open Space & Fields Committee, Fire Dept., Police Dept., RIDEM, Town of Portsmouth, and City of Newport. Comments will be provided to the Planning Board as they are received. To date the Police Dept. has responded that they have no concerns provided that on-street parking is not proposed.

The Technical Review Committee reviewed the project during its meeting on November 22, 2023. Following review the committee voted to forward the application to the Planning Board with a positive recommendation subject to the following recommended conditions of approval:

1. Prior to Preliminary Plan approval the applicant shall demonstrate adequate access for emergency vehicles, subject to the approval of the Fire Chief.
2. Fire hydrant(s) shall be provided on the subject property and shown on the Preliminary Plan, with location(s) subject to the approval of the Fire Chief.
3. Final routing and design for connections to the public sewer system shall be provided at Preliminary Plan stage, subject to the approval of the DPW director.

Requested zoning relief:

The applicant is requesting the following relief from provisions of the Middletown Zoning Ordinance:

1. §602, to allow a mixed-use developments where not a permitted use in the public (PA) zoning district;
2. §27A05 to exceed the allowable density of residential units in a mixed-use development. The Applicant is permitted eleven (11) single-bedroom units and thirteen (13) two-bedroom units. The Applicant proposes 11 (eleven) single-bedroom units and twenty-four (24) two-bedroom units, requiring relief in the amount of eleven (11) two-bedroom units;
3. §27A04(D) of the Zoning Code (“Mix of Uses”) and § 27A06(A) to allow 88% of the GLFA be designated for residential use where 75% is permitted;
4. §1304 of the Zoning Code regarding off-street parking to allow 72 parking spaces where 89 spaces are required;
5. §1507(A) mandates that no off-street parking area shall be located within twenty-five (25) of a property line. Proposed parking is within 10.8 feet, 13.8 feet, and 13.1 feet of property lines;
6. §1507(B) mandates that no off-street parking area shall be located within twenty-five (25) feet of any wall of a principal building used for residential purposes. Proposed parking is within 24 feet, 22.8 feet, 13.4 feet, 10.8 feet, and 10 feet from proposed residential buildings;
7. §1508(A) mandates that in multifamily dwelling projects, principal buildings shall be separated from any other principal building by a minimum of fifty (50) feet. Buildings are separated by 29.5 feet, 20 feet, 34.4 feet, and 20.4 feet;
8. §27A07(E)(1) mandates that no new principal building shall be located within 100’ of an existing residential building on abutting property or 50’ of a residentially zoned lot. Proposed buildings are located 17.4 feet from the abutting property to the north, which is zoned R-10. Proposed buildings are located 43 feet and 57 feet from an existing residential structure to the north.
9. §27A07(E)(2) mandates that the area within the required setbacks shall be devoted to a landscaped or natural buffer zone. The required buffer is not provided

Note that potential waiver requests from the design standards of Section 521 of the Middletown Rules & Regulations Regarding the Subdivision and Development of Land have yet to be identified. Should such waiver requests be necessary, they will be presented to the Planning Board for consideration during the Preliminary Plan stage of review.

The board may choose to deny issuance of the comprehensive permit for any of the following reasons. A denial is appealable to the state housing appeals board, rather than the Middletown Planning Board of Appeals.

1. The town has an approved affordable housing plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing plan;
2. The proposal is not consistent with local needs, including, but not limited to, the needs identified in an approved comprehensive plan, and/or local zoning ordinances and procedures promulgated in conformance with the comprehensive plan;
3. The proposal is not in conformance with the comprehensive plan;
4. The community has met or has plans to meet the goal of 10% of the year-round units as defined in R.I. Gen. Laws § 45-53-3(2)(i) being low and moderate income housing;
5. Concerns for the environment and the health and safety of current residents have not been adequately addressed.

Please contact me with any questions regarding this matter.

Cc: Applicant
Building/Zoning Official
Town Solicitor