

# TOWNSHIP OF MIDDLETOWN

Planning Board  
3 Penelope Lane  
Middletown, NJ 07748-2504

JOHN DEUS  
Chairman



Organized December 14, 1667  
"Pride in Middletown"

SANYOGITA S. CHAVAN, P.P., A.I.C.P.  
Director of Planning

DEBRA YURO  
Planning Board Secretary

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## PLANNING BOARD MEETING MINUTES September 7, 2016

A Regular Meeting of the Planning Board of the Township of Middletown was held in the main meeting room at Town Hall, One Kings Highway, Middletown, New Jersey, at 6:30 P.M. on September 7, 2016.

The Notice Requirements provided for the Open Public Meetings Act have been satisfied. Notice of this meeting was properly given by transmission to the Independent, the Star Ledger and the Two River Times and by posting at the Middletown Township Municipal building and filing with the Township Clerk on December 4, 2015.

All notification for this meeting was given pursuant to the Open Public Meetings Act at least 48 hours prior to this meeting.

Roll call was taken with the following members present: Messrs. Joseph Cauda, Jr. (7:00 P.M.), Mark Davis, John Deus, John Kardel, Carl Rathjen, Kevin Settembrino and Frank Wilton. Messes. Gail Carroll (6:35 p.m.) and Greta Siwiec. Also present: James Gorman, board attorney, Robert Keady, board engineer and Sanyogita Chavan and Amy Sarrinikolaou, board planners.

A salute to the flag followed.

### APPROVAL OF MINUTES

Motion was made to approve the minutes of August 3, 2016. Motion was seconded and approved with an all in favor vote.

### **Many Neighborhoods. One Middletown!**

Belford ◊ Chapel Hill ◊ Fairview ◊ Harmony ◊ Leonardo ◊ Lincroft ◊ Locust ◊ Middletown Village  
Monmouth Hills ◊ Navesink ◊ New Monmouth ◊ North Middletown ◊ Nut Swamp ◊ Oak Hill ◊ Port Monmouth ◊ River Plaza

RESOLUTIONS

Motion was made to approve the resolution for #2015-104 - Shore Home Builders, LLC, which was a denial for a minor subdivision. Motion was seconded and approved with the following roll call vote:

Ayes: Deus, Siwiec  
Nays: None  
Absent: Little, Perry

Motion was made to approve the resolution for #2015-210 – American Arts Corporate Center, LLC, which was an approval for a minor site plan. Motion was seconded and approved with the following roll call vote:

Ayes: Davis, Deus, Kardel, Rathjen, Settembrino, Wilton  
Nays: None  
Absent: Cauda, Little, Perry

Motion was made to open the meeting to the public for non-agenda items. None appearing the public portion of the meeting was closed.

ADMINISTRATIVE MATTERS

Motion was made to approve 4 vouchers in the amount of \$3,180.40 for James Gorman, Esq.; 4 vouchers in the amount of \$7,553.24 for T&M Associates; 2 vouchers in the amount of \$1,170.00 for Hoder Associates; and 7 vouchers in the amount of \$4,368.50 for Planning Board Professionals. Motion was made to approve a total of 17 vouchers in the amount of \$16,272.14 Motion was seconded and approved with an all in favor vote.

OLD BUSINESS

#2016-400 – 62 Center Avenue, LLC, Block 382, Lot 1, 62 Center Avenue, located in the R-15 Zone. Applicant is seeking preliminary and final major subdivision to create 4 building lots. This will require the following variances: minimum lot area of 15,000 square feet is required where 12,120 square feet and 12,121 square feet are proposed (2 variances); minimum corner area of 17,250 square feet is required where 15,050 square feet and 15,149 are proposed (2 variances) and minimum circle diameter of 63 feet is required where 31 feet is proposed (4 variances).

Application was not heard and was carried to the October 5, 2016 meeting.

#2015-206 – Village 35, L.P., Block 825, Lots 53-57; 59-69; 72-79 & 81; 376-380 Kings Highway East; located in the PD Zone. Applicant is seeking preliminary and final major site plan & preliminary and final major subdivision to construct a commercial shopping center.

Marc Policastro, applicant's attorney, appeared once again.

Mr. Deus stated that when we carried the meeting to tonight we thought Toll would be complete the decision back in June was a consolidated plan was the only way to get through something this large. Toll has still not been deemed complete and cannot move forward. National Realty supplied plans on August 26, 2016 the engineer was on vacation and did not review and our planner did a cursory review and did see a jurisdictional issue on top of that our engineer has a 56 page letter pointing out problems and omissions.

Mr. Deus stated that it will soon be a 30 year term for him and he has never seen a 56 page letter from the engineer and a 41 page letter from our planner. He saw no purpose in moving forward. Mr. Policastro stated that he has their architect. Mr. Deus replied that he did not care there is a 56 page letter. Mr. Policastro stated that the transcript says we can put on our architect. Mr. Deus stated that it says we could pick up his testimony. Mr. Policastro stated that we have all of our witnesses.

Mr. Settembrino asked about the submission of the plans. Mr. Policastro stated that they were submitted in accordance with MLUL and the ordinance. Mr. Deus stated that we had a discussion about Mr. Keady being on vacation. Mr. Gorman stated that 10 days means plans have to be on file it doesn't mean the board has to hear it, it is a notice issue our ordinance does not say it has to be heard that is set by the Chair and the staff. Mr. Gorman stated that Mr. Keady was on vacation and Ms. Chavan was able to do a cursory review in her letter, Toll hasn't caught up, National Realty plans keep rolling in. Mr. Policastro stated that his objection is noted, if Toll is not ready next month. Mr. Deus stated that the plan is when Toll is deemed complete then we can continue both you and Toll will re-notice because we don't know when they will be complete, you can file independently, separately or jointly on the notices. Mr. Policastro stated that the MLUL says you can't, Mr. Gorman I ask your counsel. Mr. Gorman stated that he is doing fine.

Mr. Deus stated that the applications were consolidated on June 15<sup>th</sup> to move forward as a consolidated application you were there don't look surprised. Mr. Deus asked Ms. Chavan if we have a time. Ms. Chavan stated that we have 45 days. Mr. Gorman stated that would be mid-October. Ms. Chavan stated that we have 95 days to schedule them if there are no variances. Mr. Deus stated that you have 45 days and asked what has been missing. Ms. Chavan replied architectural and some engineering items were not submitted. Mr. Gorman stated that the only thing he would like to add is that in his opinion there should be consolidated facts, common legal issues, common notices and in his opinion it should be consolidated there is no practical way to hold two meetings with common issues it is not practical. Mr. Gorman stated that back in March he sent a letter to consolidate or one at a time and Toll Brothers filed, not one of the options, it is confusing to the board and to the public, Toll forced that issue.

Mr. Gorman stated what do we do with two hearings in June where only the people were noticed for National Realty. Mr. Gorman stated that the notice should be sent out jointly and that the hearings start then and there wasn't a lot of progress made. Mr. Policastro stated that he disagreed. Mr. Gorman stated that he didn't want to seem adversarial but Mr. Gasiorowski is here and will go to court with two orphans out there. This was a decision by the board and he would counsel the board to start over and I know it is not what your client wants but I am protecting my client.

Mr. Deus stated that there is a 56 page letter, you can refile as a cleaner issue. Mr. Policastro stated that we will agree with a lot of that letter we have met with your professionals. Mr. Deus stated that we can go line by line if you want to be argumentative we can go line by line.

Mr. Deus stated that if we can pick a date certain it is all hinging on your review of their completeness in mid-October, what do you have to get back. Ms. Chavan stated 15 copies, they make revisions to the plans and they have 95 days for our office to schedule them. Mr. Gorman stated that is to make a decision. Mr. Gorman stated that you can't schedule them until it's complete. Mr. Deus stated that I'm not trying to hold you to, I don't know what you are going to find, I'm trying to give the applicant and the public the soonest date is December. Ms. Chavan stated should they be deemed complete Mr. Keady and I should have adequate time to review, the final decision is the boards. Mr. Deus asked what the December meeting is. December 7<sup>th</sup> is the date of the December meeting.

Mr. Deus asked how quickly are you going to know, when will we know by. Ms. Chavan stated before the October 5<sup>th</sup> meeting we should know if they are complete or not. Mr. Deus stated that would give you time to review the letter. Ms. Chavan stated that the engineer's office and our office need adequate time to review. Mr. Deus asked what a reasonable time is, so the applicant and the public know.

Mr. Rathjen asked if there will be other things on the agenda. Mr. Deus stated this is old business it will go first. Mr. Deus asked Mr. Gorman if it was his recommendation not to set a date. Mr. Gorman stated that the earliest would be December 7<sup>th</sup> and we don't know what other hearings and things might have to be carried I don't know what the board agenda is. Mr. Gorman stated no earlier than December 7<sup>th</sup> not set in stone and decided by the board and sufficient time for reviews.

The board took a five minute break.

#### Review of Ordinance No. 2016-3180

Ms. Chavan reviewed the ordinance for the board. Ms. Chavan stated that the Township Committee introduced the ordinance at their August meeting. The ordinance is to rezone certain properties from B-2 to R-22 and was referred to the Planning Board for consistency with the Master Plan. Ms. Chavan stated that she prepared a memo and reviewed for the board.

Mr. Rathjen asked if the board reviewed this six or seven years ago. Ms. Chavan stated that she wasn't here. Mr. Deus stated that we have wrestled with this over the years. Mr. Rathjen stated that there is a kennel. Mr. Davis stated there is. Mr. Deus asked if this is that property. Ms. Chavan stated this is vacant. Mr. Deus stated that someone owns it. Ms. Chavan replied Mr. Wobito. Mr. Deus asked if there is any objection by Rudy. Ms. Chavan replied no, he sent in a letter to the Township Committee. Ms. Chavan stated that someone from Seton Hall owns other property. Mr. Deus stated that this area has been an issue, there is little to no access to the area and there are wetlands he was not sure how developable the property is. Mr. Davis stated that there are 2 tributaries of Waackaack Creek. Ms. Chavan stated that they will have to get an LOI from the DEP, it was her opinion this is a better use of these properties and are well suited next to the other properties. Mr. Davis stated that he thought it was fine. Ms. Chavan stated building would be limited. Mr. Deus stated that it would be a challenge.

Ms. Chavan stated that the board needs to find that the ordinance is consistent with the Master Plan.

Motion was made that the ordinance was consistent with the Master Plan. Motion was seconded and approved with the following roll call vote:

Ayes: Carroll, Davis, Deus, Kardel, Rathjen, Settembrino, Siwec, Wilton

Nays: None

Mr. Davis stated that he walked the property and there is evidence of dumping and someone should take a look. Ms. Chavan asked Mr. Davis to show her after the meeting.

NEW BUSINESS

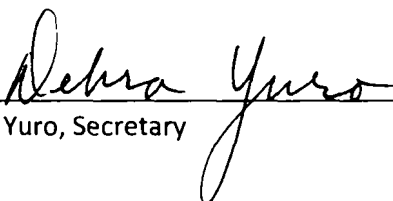
None

Motion was made to adjourn the meeting. Motion was seconded and approved with an all in favor vote.

The meeting adjourned at 7:15 p.m.

ADJOURNMENT

Prepared by:

  
Debra Yuro, Secretary