

**Town of Middlebury  
Development Review Board (DRB)  
Town Office Large Conference Room  
Minutes of November 26, 2018  
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**Members Present:** Kevin Newton, chair, Gary Baker, Rick Emilo, Donald Keeler, John MacIntyre and Anne Taylor

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**Members Absent:** David Hamilton

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**Staff Present:** Jennifer Murray, Dave Wetmore

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**Others Present:** Anthony Neri, Jonathon Ashley, Eric and Helen McFerran, Amy Ryan, Jamie Montague, Katie McMurray, Bridget Gosselin, Carol Ramsayer and Kelley Lamb, Katherine Wheatley (videographer)

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**MEETING AGENDA**

- a. Application (file # 2018-24:199/24:201) request by Anthony Neri for final conditional use approval of his proposal to resume the retail grocery store/deli/café use on the property formerly known as Greg's Market. The property is located at 3 Elm Street and 30 MacIntyre Lane in the Village Residential Commercial (VRC) District, parcel ID #24:199 and 24:201.
- b. Application (file #2018-05:107.000) request by the Aurora Learning Center for amended conditional use approval pursuant to Section 540 and 610, to add the Middlebury Area Land Trust (MALT) business offices to the property and expand educational opportunities for Pre-K-6<sup>th</sup> grade programming. No changes are requested to the building footprint or site plan. The property is located at 238 Peterson Terrace in the High Density Residential District (HDR), parcel ID# 005:107.000.

**I. Call to Order**

Kevin Newton, DRB Chair, called the meeting to order at 7:00 pm, reviewed tonight's agenda, and asked there are any non-agenda items/public communications. None expressed.

**II. Approval of Minutes-**

**Motion by Gary Baker-** moved to approve the minutes of 11/5/2018 as presented, Don 2nds. No changes or discussion. **Motion passed 5-yes, 0-no, Rick abstained.**

**III. DRB public hearings:**

1. Application (file # 2018-24:199/24:201) request by Anthony Neri for final conditional use approval of his proposal to resume the retail grocery store/deli/café use on the property formerly known as Greg's Market. The property is located at 3 Elm Street and 30 MacIntyre Lane in the Village Residential Commercial (VRC) District, parcel ID #24:199 and 24:201.

Kevin Newton opened the hearing, read the warning and administered the Oath to those present who intend to submit testimony.

Kevin asked about conflicts of interest and ex-parte communication? None expressed

Tony Neri- provided a brief overview and confirmed location of infrastructure.

Jonathon Ashley- project engineer- outlined that Mr. Neri is proposing to re-open the grocery store previously known as Greg's. The store building includes 4820 sq. ft. of retail space and the balance is work/storage space. No expansion of the building is planned at this time. The main entrance will be moved to the west side of the building adjacent to the parking lot. The site plan shows a future covered entrance for this entry, but it is not proposed to be added at this time. The original front entrance will remain as well. Parking in front will be eliminated and replaced with covered outdoor café seating. The 6 parking spaces along Exchange Street will remain.

43 In order to develop the required parking spaces the Pool World building will be removed, providing 37  
44 additional parking spaces. The total parking available on site will be 49. Thirty-three (33) parking spaces are  
45 required per Parking Standards for retail spaces. The Site Plan shows a truck unloading zone that is designed to  
46 allow large box trucks access and turning radius sufficient for ingress and egress. The Pool World property was  
47 surveyed by Tim Short. The balance of the property has not been surveyed.

48 Tony Neri- Front entrance and café area needs to be ADA compliant- not sure how this will be accomplished  
49 while still providing access to handicap parking.

50 DRB questions/comments- Will the parking lot be paved? Yes it will be paved with striping to delineate parking  
51 spaces and traffic circulation.

52 Tony Neri suggested that he hopes that a future deal could be made with RK Miles that would allow traffic to  
53 exit onto Exchange Street, but it is not part of this application.

54 Tony Neri expressed that the new Grocery will largely be a “grab and go” market. He doesn’t foresee the  
55 extensive inventory of grocery items that the former market had. He hopes to focus on meat, vegetables, deli  
56 and deliveries.

57 DRB- Does the parking plan create a conflict between delivery and customer traffic? No most deliveries will be  
58 done in the early morning. Conflicts should be minimal at that time of day. Small truck/van deliveries will also  
59 be made along the Exchange Street side.

60 DRB- Will the parking lot require safety lighting? Not planned at this time. West side of building is well lit and  
61 those lights will help to illuminate some of the parking lot area.

62 DRB- Where is the proposed sidewalk along Exchange Street located? It will be on the east side up to RK Miles  
63 and then cross to the west side. Are any of the parking spaces on east side of building in the Exchange Street  
64 right-of-way (ROW)? Mr. Neri- Not sure, Jonathon working from his civil drawings concluded that the 9 by  
65 20-ft spaces shown are located outside of the ROW. The limits of the ROW shown on the drawings were  
66 received from ACRPC.

67 DRB- Will required parking lot landscaping reduce the number of available parking spaces- Yes by at least 2.

68 DRB- Will the hedge/trees along the east side of the parking lot be removed? Yes and replaced with a 10-ft.  
69 high privacy fence.

70 DRB- How is stormwater managed? As proposed there is no increase in stormwater. Stormwater is presently  
71 direct to existing catch basins and into the Towns stormwater system. Building stormwater runoff flows across  
72 the existing paved parking area and into the culvert under the railroad underpass.

73 DRB- are there any improvements to the east side of the building planned? None at this time. This area sees a  
74 lot of heavy truck traffic and therefore receives a lot of exhaust pollutants.

75 DRB- Tell us about the café, will exterior lighting be required? The café will be a summer thing. No additional  
76 lighting is anticipated. The goal is to keep the area open in hopes of getting the front parking back at some point  
77 in the future.

78 DRB- When will the Pool World building be removed? The lease with Pool World is month to month. Tony  
79 shared that he is working to find a new home for them. He hopes that can be accomplished within 3 months and  
80 certainly by spring 2019.

81 DRB- When is your target opening? Tony expressed that he hopes it can be within 30 days. All inside  
82 infrastructure is ready to go.

83 DRB- reminded Applicant that without Pool World removed, they can’t count those parking spaces.

84 DRB- expressed reservation about the first 2 parking spacing on Exchange Street side. They are narrow,  
85 difficult to access with the intersection and maybe in Exchange Street ROW. Mr. Neri responded that they are  
86 not in the ROW and traffic has slowed or stopped and that there has never been an accident related to the  
87 parking along the east side of the building.

88 Staff comments- recommended that if the DRB moves to enter deliberative session, they should do so without  
89 closing the hearing in order to leave the option for a continuation open.

90 Public comments-

91 Amy Ryan- expressed that she shopped at Greg's for years and has never seen a parking problem on the east  
92 side. The exception is when people cross traffic and park in a north facing direction. As far as improvements to  
93 the east side of the building, Amy expressed that the blank building façade along Exchange Street fits well with  
94 the surrounding residences and improvements should not be required. She encouraged the DRB to promote  
95 business activity and commended Mr. Neri for his plans.

96 **Motion by Anne Taylor-** I move that the Middlebury Development Review Board enter deliberative session  
97 to discuss the application after Aurora hearing. Gary Baker 2nds. Motion carries 6-yes, 0-no  
98

99 **2. Application (file #2018-05:107.000) request by the Aurora Learning Center for amended**  
100 **conditional use approval pursuant to Section 540 and 610, to add the Middlebury Area Land Trust**  
101 **(MALT) business offices to the property and expand educational opportunities for Pre-K- 6<sup>th</sup> grade**  
102 **programming. No changes are requested to the building footprint or site plan. The property is**  
103 **located at 238 Peterson Terrace in the High Density Residential District (HDR), parcel ID#**  
104 **005:107.000.**

105  
106 Kevin Newton opened the hearing, read the warning and administered the Oath to those present who intend  
107 to submit testimony.

108 Kevin asked about conflicts of interest and ex-parte communication? None expressed

109 Jamie Montague, MALT Director and Katie McMurray, Aurora Leaning Center presented the application  
110 to the DRB. Presently, the Aurora School is permitted (July 24, 2001) as a K-6<sup>th</sup> grade private school for  
111 up to 30 students and 6 staff members.

112 Jamie expressed the Middlebury Area Land Trust (MALT) has grown over recent years to include  
113 outdoor/nature based educational. Presently they have a small office space in the Marbleworks. MALT is  
114 requesting to amend the Aurora School's existing conditional use approval to allow MALT to merge all  
115 elements of their operations with the School. No exterior changes are proposed to the building.

116 For the past year Aurora has expanded their program offerings to include pre-K children focusing on  
117 nature based programing. Ms. Montague referred to the table in their application which explains the  
118 permitted intensity of use and the proposed use with MALT on site. As proposed, they anticipate less  
119 students (25) and 5 FTE employees. Hours of operation would remain about the same. Parking  
120 requirements remain the same as well. Jamie has met with the Jennifer and David and she understands that  
121 the School property is located in the High Density Residential district where business and professional  
122 offices uses are not permitted.

123 DRB- Would MALT be a tenant of the Aurora School? Yes.

124 Staff- Describe what MALT's operations look like? The day to day operations includes coordination of  
125 trail maintenance activities, fundraising, grant writing, meeting with landowners regarding land  
126 conservation opportunities, monthly Board meetings and nature based education programs and camps.  
127 Presently Jamie is teaching a program at Aurora one day/week. The education piece is just a part of  
128 MALT's overall mission but it is growing. Recent program offering filled quickly and resulted in a waiting  
129 list. Child care and programing needs are increasing.

130 DRB- Why is the Aurora property attractive to MALT? It is located near the "Trail around Middlebury"  
131 (TAM), Chipman Hill and Means Woods. The Aurora School is currently not used to capacity and  
132 Applicant expressed MALT's use of the property would be similar. Space is available in the School for  
133 MALT office and secure equipment storage. Large equipment would not be stored on site but small hand  
134 tools and chainsaws would be. With the retirement of MALTs trail master, they will be looking to hire an  
135 AmeriCorps intern to coordinate volunteers to complete this work. Volunteers rarely come to MALT's  
136 office in the Marbleworks and Jamie does not expect that to change. Trail maintenance is usually  
137 accomplished May-October. Staff usually meets the volunteers with the tools at the work site.

138 DRB- What is the amount of parking available? The site plan submitted with the application shows 15  
139 spaces. The 2001 site plan shows parking for 7-9 vehicles. The bus barn was approved in 2009. Parking is  
140 also available at Coop Fire insurance and Chipman Hill trail head.

141 DRB- What is the current relationship between MALT and the School? Presently they are piloting a nature  
142 based program 1x/week.

143 DRB- Will MALT's educational mission change if Aurora is providing similar programming? Yes, Ms.  
144 Montague would not spend her time teaching.

145 DRB- What is the future for MALT? Ms. Montague expressed that she does not see MALT's operations  
146 growing significantly. They are not the VT Land Trust and don't have the resources or programming that  
147 would require staffing increases. They do expect to expand trail systems

148 Public comment-

149 Carol Ramsayer- As a member of Audubon, she is here to express support for MALT's application. Carol  
150 shared her experience with past collaborations with MALT that sought to bring nature based programming to  
151 Middlebury residents.

152 Bridget Gosselin-Supports this application and programs offered. Described her children's experience at  
153 the school.

154 Kelly Lamb-Member of Aurora School Board. She stated the Board fully supports this request.

155 Amey Ryan and Bridget Gosselin- believe the board should consider the MALT office part of the Aurora  
156 School use.

157 Jamie Montague expressed further that much of the educational programs offered would not be conducted  
158 at the School, but the School would provide space for materials and MALT resources.

159 DRB- Is MALT seeing conflicts between bikers and hikers and trail maintenance? Yes and they are  
160 working to solve them.

161 Staff comments-

162 -Wants to let everyone know that the DRB clearly supports the mission of both organizations. However,  
163 the DRB is bound to administer the regulations as written, and not allow a use if that use is prohibited in  
164 that district.

165 -Your proposal is asking us to classify this use- business/professional office under the umbrella of the  
166 existing educational/school use, yet many of the office activities you've described are not school-related.  
167 If the board felt they could approve an office within the school for educational purposes, but you would  
168 have to maintain an office elsewhere to receive mail and conduct the activities typical of a  
169 business/professional office, would that be something you could make work? No that really would not be  
170 ideal. If that were the decision handed down, it would force MALT to have to consider a different option.

171 - Want to know more about how the presence of the MALT office within the school is instrumental to the  
172 success of the MALT/Aurora School partnership on programming. Do Jamie and Katie work together  
173 during the day to develop programming? No, Katie is teaching during the day so most of those  
174 conversations happen after hours. Does Jamie teach in the after-school program, such that she would need  
175 to be at Aurora every afternoon? No, her primary focus is MALT administrative operations. Jamie  
176 expressed that sharing space and administrative assistant would economize both the School and MALT  
177 operations. Jamie stated that their use would be similar to governmental and church uses.

#### 178 **IV. Deliberative Session**

179 **Motion by Anne Taylor-** I move that the Middlebury Development Review Board enter deliberative session  
180 to discuss the applications (8:45 PM). Gary Baker 2nds. Motion carries 6-yes, 0-no

181

182 **Motion by John MacIntyre-** I move that the Middlebury Development Review Board exit deliberative  
183 session to conduct the following business. Rick Emilo 2nds. Motion carries 6-yes, 0-no

184

185 1. Application (file # 2018-24:199/24:201) request by Anthony Neri for final conditional use approval  
186 of his proposal to resume the retail grocery store/deli/café use on the property formerly known as  
187 Greg’s Market. The property is located at 3 Elm Street and 30 MacIntyre Lane in the Village  
188 Residential Commercial (VRC) District, parcel ID #24:199 and 24:201.

189 **Board decision on the Neri application**

190 **Motion by Anne Taylor- I move** that the Middlebury Development Review Board continue the application for  
191 conditional use approval to resume a grocery store/deli use and add outdoor cafe located on parcels #24:199 and  
192 24:201, at 3 Elm Street and 30 MacIntyre Lane, to December 10 or January 14, with proper notification to all  
193 interested parties, in order to review a complete application for final conditional approval presenter after input  
194 from staff.. 2<sup>nd</sup> by Rick. **Motion passed, 6-yes and 0-no.**

197 2. Application (file #2018-05:107.000) request by the Aurora Learning Center for amended conditional use  
198 approval pursuant to Section 540 and 610, to add the Middlebury Area Land Trust (MALT) business offices  
199 to the property and expand educational opportunities for Pre-K- 6<sup>th</sup> grade programming. No changes are  
200 requested to the building footprint or site plan. The property is located at 238 Peterson Terrace in the High  
201 Density Residential District (HDR), parcel ID# 005:107.000.

203 The DRB acknowledges that the Aurora/MALT application specifically requests two (2) amendments to the  
204 Aurora Schools existing conditional use. Therefore the DRB considered the proposed amendments to this  
205 application in 2 parts:

206 A. **Motion by John MacIntyre- I move** that the Middlebury Development Review Board, having  
207 reviewed the application submitted and having heard and duly considered the testimony presented at  
208 the public hearing of November 26, 2018 determines that the proposed use is a non-conforming use  
209 in the HDR district and hereby **DENIES** this request for amended conditional use approval to add  
210 MALT’s business office operations located on parcel # 05:170.000, 238 Peterson Terrace. Rick  
211 Emilo 2nds. **Motion passed 6-yes and 0-no.**

213 B. **Motion by John MacIntyre- I move** that the Middlebury Development Review Board, having  
214 reviewed the application submitted and having heard and duly considered the testimony presented at  
215 the public hearing of November 26, 2018 **APPROVES** the request for amended conditional use  
216 approval to expand the Aurora’s Schools programing to include pre-K-6<sup>th</sup> grade and after-school  
217 programming on parcel # 05:170.000, 238 Peterson Terrace. Anne Taylor 2nds. **Motion passed 6-  
218 yes and 0-no.**

220 **V. Other business**

221 Next meeting- TBD, either 12/10 or 1/14 depending on Neri’s progress on site plan revisions. Once staff  
222 determines specific date, staff will notify all parties (in writing) present and participating in the Neri  
223 application review.

225 DRB and staff discussed how to deal with those people who fail to take the oath at the beginning of the  
226 hearing and yet still participate. It was suggested that a statement on the sign-in sheet could provide notice  
227 to participants. Additionally, Kevin will reinforce requirements of interested parties participation and  
228 welcomes DRB or staff assistance to making sure parties comply.

230 **VI. Adjournment**

231 **Motion by Gary Baker-** moved the DRB to adjourn at 10:20 PM, 2<sup>nd</sup> by Don Keeler. **Motion passed, 6-  
232 yes -0-no.**

233 Meeting adjourned at 10:20 PM

234 Minutes Submitted by Dave Wetmore  
235