

**CITY OF MIDDLETOWN
PLANNING BOARD
MINUTES**

November 1, 2023

A meeting of the Planning Board was held in the Common Council Chambers, City Hall, 16 James Street, Middletown, New York on November 1, 2023 at 7:00 P.M., Mr. Anthony Capozella presiding.

Members Present: Anthony Capozella, Richard McCormack, Nicole Hewson, Gretchen Witt, Dave Madden, Andy Britto.

Members Absent: Dan Higbie.

Other Attendees: Richard J. Croughan, Planning Board Attorney; Theron Adkins, Fire Inspector; Sixto Martinez, Building Inspector.

The Pledge of Allegiance was said.

Motion to approve the October 4, 2023 minutes by Ms. Witt, seconded by Mr. Britto.

Motion passed. Minutes approved.

Mr. Capozella pointed out that all first-time applicant appearances are considered a preliminary hearing and the Planning Board may or may not chose to act or vote on those applications tonight.

**Buttercup Jewelry
119-143 Dolson Avenue
Jewelry store**

Mr. Capozella: Please step forward.

Ms. Pomerantz: Good evening.

Mr. Capozella: Good evening. Please state your name for the record.

Ms. Pomerantz: My name is Ruth Pomerantz.

Mr. Capozella: And what do you plan on doing?

Mr. Croughan: You have to speak in the microphone, please.

Mr. Capozella: Yeah. You could bend that down. There you go. Thank you.

Ms. Pomerantz: My name is Ruth Pomerantz. I'd like to open a jewelry store.

Mr. Capozella: Okay. Ms. Tu, do we have the mailings?

Ms. Tu: Yes, we do.

Mr. Capozella: Okay. We're going to open the public hearing. Anyone present wishing to speak on this application, please step forward.

The public hearing was opened.

Mr. Capozella: All right. Ms. Tu, do we have anything in writing?

Ms. Tu: Nothing in writing.

Mr. Capozella: Anyone on the telephone?

Ms. Tu: No.

Mr. Capozella: Okay. Then we'll go to the Board for any questions, comments, or concerns. This is located in the ShopRite Plaza on Dolson Avenue. We have done several stores in this area before through the Planning Board. It's kind of a routine item, but any questions?

Ms. Hewson: I have one question. Will you be selling high end jewelry where you will need some sort of additional security?

Ms. Pomerantz: What does that mean?

Ms. Hewson: Security systems. Will you have an armed guard?

Ms. Pomerantz: Armed guard, no, but I have alarm system.

Ms. Hewson: Okay. Thank you.

Ms. Pomerantz: You're welcome.

Mr. Capozella: One thing I did not see on the application is your hours of operation.

Ms. Pomerantz: I would like 9:00 to 6:00, Monday through Friday, Saturday, and Sunday.

Mr. Capozella: So daily, Monday through Sunday, 9:00 a.m. to 6:00 p.m.?

Ms. Pomerantz: Yeah.

Mr. Capozella: Okay.

Ms. Pomerantz: But if it gets busy, I could stay later, till 8:00.

Mr. Capozella: Yeah. We could make it all 9:00 a.m. to 8:00 p.m.

Ms. Pomerantz: Yeah.

Mr. Capozella: This way, you could choose whatever hours you'd like.

Ms. Pomerantz: Okay.

Mr. Capozella: All right? This way, you don't have to come back before the Board.

Mr. Croughan: In between those hours.

Mr. Capozella: In between those hours; okay?

Ms. Pomerantz: 9:00 to 8:00. Yes.

Mr. Capozella: 9:00 a.m. to 8:00 p.m. daily.

Ms. Pomerantz: Mm-hmm.

Mr. Capozella: Okay. I'll go back to the public hearing again. Anyone present wishing to speak on this application, please step forward. Yes, sir.

Mr. Cohen: Hi. My name is David Cohen. I reside at 9 --

Mr. Capozella: Please step up to the mic, sir.

Mr. Cohen: How are you? My name is David Cohen. I live at 9 Pine Street, Middletown, New York. I've known Ruth and her husband for many years, and I think it would be a valuable asset to the community. Thank you.

Mr. Capozella: Thank you, sir.

Ms. Pomerantz: Thanks, David.

Mr. Capozella: Okay. Anyone else wishing to speak on this application? Okay. I'm going to close the public hearing and go to the Board one more time for any questions, comments, or concerns.

The public hearing was closed.

Resolution for Buttercup Jewelry, 119-143 Dolson Avenue, jewelry store. Subject to City of Middletown DPW and City Middletown Fire Department inspections, approvals and, when necessary, approval of the Commissioner of Public Works. The applicant will obtain all necessary permits and follow the permitting process, codes and ordinances of the City of Middletown, the County of Orange, and the State of New York, if applicable.

Hours of operation will be Monday through Sunday, 9:00 a.m. - 8:00 p.m.

Any items as stated in or submitted PB application, Public Hearing, Board discussion, City Inspectors' input, PB Engineer, and PB Attorney's recommendations, information submitted within the application will become part of the record, and the applicant will follow through on and to be held to.

In addition; if throughout any of the review process the project is deemed to require Bulk Requirement Tables, the applicant will supply said tables through an architect or engineer licensed in the State of New York.

Whereas: Pursuant to City of Middletown Code: Chapter 475 Article VI Administration and Enforcement, §475-53 paragraph E (6): Unless work is commenced and diligently prosecuted within six months and completed within two years of the date of the granting of a special use permit, such special use permit

shall be null and void. Basically, if you can't get your business up and running within a six-month period you have to send a letter to the Board with the reason why you need an extension.

Motion by Ms. Hewson, seconded by Mr. Britto.

Roll Call Ayes: David Madden, Richard McCormack, Andy Britto, Nicole Hewson, Gretchen Witt, Anthony Capozella.

David Cohen
14-20 Academy Avenue
Offices, storage, and workshop for construction business

Mr. Cohen: Hello.

Mr. Capozella: How you doing? Please state your name for the record.

Mr. Cohen: My name is David Cohen.

Mr. Capozella: And what do you plan on doing?

Mr. Cohen: Moving my roofing company to Academy Avenue.

Mr. Capozella: Okay. Ms. Tu, do we have the mailings?

Ms. Tu: Yes, we do.

Mr. Capozella: Then we're going to open the public hearing. Anyone here -- oh, excuse me. Ms. Tu, do we have anything in writing?

Ms. Tu: No.

Mr. Capozella: Anyone on the telephone?

Ms. Tu: No.

Mr. Capozella: Then we'll move to the public. Anyone here wishing to comment on this application, please step forward.

The public hearing was opened.

Mr. Capozella: Okay. Yes, sir. Please step forward.

Mr. Matuszewski: Michael Matuszewski. I'm just hoping that David can get approved here tonight. He's going to be a big asset to the community and big improvements to the building.

Mr. Capozella: Thank you, sir. We'll move on to the Board for any questions, comments, or concerns.

Ms. Witt: I have a question. What will your hours of operation be, and how many employees and that type of thing?

Mr. Cohen: Yup. Roughly we operate from 8:00 a.m. to 6:00 p.m. Most days, we're not opening the office till 8:30, and we're closing at about 5:00.

We have seven employees, four of which will be working at the location.

Mr. Capozella: Okay. I just have a question about your hours, sir.

Mr. Cohen: Sure.

Mr. Capozella: According to your application, it was Monday through Friday, 7:30 to 5:00 p.m., and on Saturday you'd be open 9:00 a.m. to 1:00 p.m., Sunday closed. If you want to change those, now is the time to do it.

Mr. Cohen: Sure. Sure. No. I guess a wider variety of hours is better, so let's call it 7:30 and 6:00 p.m.

Mr. Croughan: Is that daily?

Mr. Cohen: That is daily. Not Sundays. We don't work Sundays. The only time we are open on a Saturday is if we lose a day to rain or something during the week.

Mr. Capozella: So would you like 7:30 a.m. to 6:00 p.m. Monday through Saturday?

Mr. Cohen: Sure. Sure. That sounds good.

Mr. Capozella: And Sunday closed.

Mr. Cohen: Yes, sir.

Mr. Capozella: The only thing that I have a comment on and about, sir, is on your site plan, you have parking designated.

Mr. Cohen: Yeah. Okay.

Mr. Capozella: We're just going to have to make sure that the DPW, when they review your property for a CO, that each one of these spaces has to be 9' wide by 18'. I mean, you have plenty of spaces. I just want to make sure that they're proper size by code.

Mr. Cohen: Yeah, sure.

Mr. Capozella: They should be lined.

Mr. Cohen: Mm-hmm.

Mr. Capozella: All right? And marked accordingly --

Mr. Cohen: Sure.

Mr. Capozella: -- so that everyone knows, either your customers or anyone coming onto your property knows where to park; okay?

Mr. Cohen: Yup. Sure. Absolutely.

Mr. Capozella: The other couple of items, you gave us a nice laundry list that you are going to store.

Mr. Cohen: Well, things that we use as a business.

Mr. Capozella: No. That's fine. Thank you. The only thing on there that may draw attention, and when the DPW and the Fire Department come to inspect, I see you had some paint, stain, which is normal.

Mr. Cohen: Right. Yup.

Mr. Capozella: You'll have to properly store those --

Mr. Cohen: Certainly.

Mr. Capozella: -- in a fire rated cabinet, whatever, or whatever the Fire Department determines exactly.

Mr. Cohen: We have one.

Mr. Capozella: Thank you.

Mr. Cohen: It's a 60-gallon. It's pretty big.

Mr. Capozella: Okay. That is all I had for comments for my comments.

Mr. Croughan: Theron, any comments? Sixto, any comments?

Mr. Capozella: Okay. I'm going to go back to the public hearing one more time. Anyone here wishing to speak on this application, please step forward.

We're going to close the public hearing.

Mr. Croughan: Make a motion to close.

Mr. Capozella: I need a motion to close the public hearing. Ms. Hewson. I need a second. Mr. McCormack. All in favor. That's what he was berating me about before. We have to make motions to close the public hearing now.

The public hearing was closed.

Mr. Capozella: That being said, I'll go back to the Board one more time for any questions, comments, or concerns. Okay.

Resolution for David Cohen, 14-20 Academy Avenue, for offices, storage, and workshop for construction business. Subject to City of Middletown DPW and City Middletown Fire Department inspections, approvals and, when necessary, approval of the Commissioner of Public Works. The applicant will obtain all necessary permits and follow the permitting process, codes and ordinances of the City of Middletown, the County of Orange, and the State of New York, if applicable.

Hours of operation will be Monday through Saturday, 7:30 a.m. - 6:00 p.m.
Sunday closed.

Any items stated such as proper fire protection for chemicals and lining, marking, and proper dimensions of all parking spaces.

Any items as stated in or submitted PB application, Public Hearing, Board discussion, City Inspectors' input, PB Engineer, and PB Attorney's recommendations. Information submitted within the application will become part of the record, and the applicant will follow through on and to be held to.

In addition; if throughout any of the review process the project is deemed to require Bulk Requirement Tables, the applicant will supply said tables through an architect or engineer licensed in the State of New York.

Whereas: Pursuant to City of Middletown Code: Chapter 475 Article VI Administration and Enforcement, §475-53 paragraph E (6): Unless work is commenced and diligently prosecuted within six months and completed within two years of the date of the granting of a special use permit, such special use permit shall be null and void. Basically, if you can't get your business up and running within a six-month period you have to send a letter to the Board with the reason why you need an extension.

Motion by Ms. Hewson, seconded by Mr. McCormack.

Roll Call Ayes: David Madden, Richard McCormack, Andy Britto, Nicole Hewson, Gretchen Witt, Anthony Capozella.

Sandra Sosa
102-104 North Street, Suite B
Hair salon

Mr. Capozella: Welcome. State your name for the record, please.

Ms. Sosa: Sandra Sosa.

Mr. Capozella: And what do you plan on doing?

Ms. Sosa: Salon.

Mr. Capozella: A hair salon?

Ms. Sosa: Yeah.

Mr. Capozella: Okay. Thank you. Ms. Tu, do we have the mailings?

Ms. Tu: Yes, we do.

Mr. Capozella: Okay. I'm going to open the public hearing. Do we have anything in writing, Ms. Tu?

Ms. Tu: No.

Mr. Capozella: Anyone on the telephone?

Ms. Tu: No.

Mr. Capozella: Okay. Anyone present wishing to speak on this application, please step forward.

The public hearing was opened.

Mr. Capozella: All right. I'll go the Board for any questions, comments, or concerns. This is the building where we have recently approved all three suites, and now the tenants are coming back as the gentleman or person finds tenants. They are now coming back to do the official Planning Board thing.

Mr. Croughan: Theron, any comments?

Mr. Adkins: No comments. It's all good.

Mr. Croughan: Sixto, any comments?

Mr. Martinez: No.

Mr. Capozella: Mr. Madden, any questions?

Mr. Madden: No.

Mr. Capozella: Oh, okay. Yes, Ms. Hewson.

Ms. Hewson: Will you be doing just hair or nails and hair?

Ms. Sosa: Just hair.

Ms. Hewson: Okay. And everybody that will be doing haircuts will be New York State licensed?

Ms. Sosa: Yes.

Ms. Hewson: Perfect.

Mr. Capozella: Anyone else from the Board? We'll go back to the public. Anyone from the public wishing to comment on this application, please step forward.

I'll need a motion to close the public hearing. Ms. Witt, second Mr. Britto. All in favor.

The public hearing was closed.

Mr. Capozella: All right. I'll go back to the Board one more time. Nothing from the Board. Okay.

Resolution for Sandra Sosa, 102-104 North Street, Suite B, hair salon. Subject to City of Middletown DPW and City Middletown Fire Department inspections, approvals and, when necessary, approval of the Commissioner of Public Works. The applicant will obtain all necessary permits and follow the permitting process, codes and ordinances of the City of Middletown, the County of Orange, and the State of New York, if applicable.

Hours of operation will be Monday through Saturday, 8:00 a.m. - 10:00 p.m.; Sunday, 8:00 a.m. to 7:00 p.m.

Any items as stated in: Submitted PB application, Public Hearing, Board discussion, City Inspectors' input, PB Engineer, and PB Attorney's recommendations. Information submitted within the application will become part of the record, and the applicant will follow through on and to be held to.

In addition; if throughout any of the review process the project is deemed to require Bulk Requirement Tables, the applicant will supply said tables through an architect or engineer licensed in the State of New York.

Whereas: Pursuant to City of Middletown Code: Chapter 475 Article VI Administration and Enforcement, §475-53 paragraph E (6): Unless work is commenced and diligently prosecuted within six months and completed within two years of the date of the granting of a special use permit, such special use permit shall be null and void. Basically, if you can't get your business up and running within a six-month period you have to send a letter to the Board with the reason why you need an extension.

Whereas: This application is located in the DMU Zone:

Therefore: Applicants must submit and receive approval from Dept. of Public Works according to Chapter 407 Solid Waste, Article II Collection, §407-3, Collection, and comply with this section and any other sections enacted by the Common Council from this date forward.

Therefore: Applicants must receive approval from the Architectural Review Board on all façade work, exterior work in general and exterior signage.

Therefore: The property is located in the DMU, as such, the Planning Board has the authority to waive the parking regulations.

Motion by Mr. Madden, seconded by Ms. Hewson.

Roll Call Ayes: David Madden, Richard McCormack, Andy Britto, Gretchen Witt, Nicole Hewson, Anthony Capozella.

Janice Liu
22 Orchard Street
Bookstore with food and drink

Ms. Liu: Yes. My name is Janice Liu.

Mr. Capozella: How are you?

Ms. Liu: Fine. Good evening, everyone.

Mr. Capozella: And you're planning on a bookstore?

Ms. Liu: Yes.

Mr. Capozella: Great. Thank you very much. Ms. Tu, do we have the mailings?

Ms. Tu: Yes, we do.

Mr. Capozella: Thank you. I'm going to open the public hearing. Anyone present wishing to speak on this application, please step forward.

The public hearing was opened.

Mr. Capozella: Do we have anything in writing, Ms. Tu?

Ms. Tu: No.

Mr. Capozella: Anyone on the telephone?

Ms. Tu: No one on the telephone.

Mr. Capozella: I'm going to move to the Board for any questions, comments, or concerns. Mr. Madden.

Mr. Madden: Are all three floors of the building going to be used for public space, like the bookstore, eating, and drinking, you know, basement, first floor, second floor, all three floors?

Ms. Liu: Well, basically the first floor will be the bookstore, and we will use the basement as the inventory, to put the inventory, and also the rest room. And for the second floor will be used as the office, our own office.

Mr. Madden: So the public will not be going to the second floor.

Ms. Liu: No.

Mr. Madden: Thank you.

Mr. Adkins: Can I address that question?

Mr. Capozella: Sure.

Mr. Adkins: So yes, you're right, but there's like a mezzanine type floor that's in there --

Mr. Capozella: Okay.

Mr. Adkins: -- that the public will be using, so yes and no they won't be using the second floor. So most of it's office space, and then there's a mezzanine type, but the only access is directly from the first floor display area. I did a site visit and everything over there, so --

Mr. Croughan: Any concerns?

Mr. Adkins: The only concern I have, and we talked about it that day, is I'm going to need an engineer's report because some of the wood structure, some of the wooden floor joists and stuff like that are deteriorated, so before they go to, you know, to get permits for the building part of it, we're going to need an engineer's report to see the structural stability and, you know, if any repairs need to be made, but they're aware and they're going to take care of it.

Unidentified Male: The engineer has taken the survey, and we're waiting for the report.

Mr. Croughan: Mr. Chairman, that would have to be a condition of the approval.

Mr. Capozella: I will add it. Required is an engineer's report on the structure.

Mr. Croughan: A satisfactory engineer's report and any repairs to be made as suggested by said report.

Mr. Capozella: Okay. Anyone else? Yes, Ms. Witt.

Ms. Witt: I have a question. How many -- you said the bathroom would be on the basement. Is that the only bathroom within the building? I'm looking at your plans, and is there a bathroom on the second floor?

Unidentified Male: There's one restroom -- one bathroom in the basement, and there's one restroom on the first floor and one on the second floor.

Ms. Witt: Okay. So each floor has a bathroom.

Unidentified Male: Yes.

Ms. Witt: Okay. Thank you.

Mr. Croughan: Sixto, any comments?

Mr. Martinez: I noticed that there's a ramp making it handicapped accessible.

Unidentified Male: Yeah. There's a ramp and an elevator. We will repair the elevator.

Mr. Croughan: So the elevator currently is not usable?

Unidentified Male: We don't know because there's no electric, so we will check.

Mr. Croughan: And, Theron, is that under your control?

Mr. Adkins: Yes, that is. They've got to get an elevator permit and stuff. That's a retrofitted elevator. It's not very old, so once they get power back on the building, I don't see an issue with it.

Mr. Croughan: Do we have hours of operation?

Mr. Capozella: No, we do not. What hours do you plan on operating?

Ms. Liu: We plan from 9:00 a.m. to 11:00 p.m., from Monday to Sunday.

Mr. Capozella: You say 9:00 a.m. to 11:00 p.m.?

Ms. Liu: Right. Because we plan to provide free lectures in the evening.

Mr. Capozella: Okay. That falls within the DMU code.

Mr. Croughan: What type of food and drinks are you going to be having there?

Ms. Liu: Well, we have a plan to serve coffee and beverages.

Mr. Croughan: And food?

Ms. Liu: Some snacks and --

Unidentified Male: Yes, and lunch -- lunch box.

Mr. Croughan: Is that premade food?

Unidentified Male: Yup. Premade.

Mr. Croughan: You're not cooking on the --

Ms. Liu: No.

Ms. Witt: Any alcohol will be served or no?

Ms. Liu: No.

Ms. Witt: Okay. Thank you.

Mr. Capozella: Yes, sir.

Mr. Madden: The site plan has proposed parking, some of which has been crossed off on the plan that I received. I'm sure that we would waive parking for this project regardless, but how much parking are you proposing?

Unidentified Male: Seven parking spaces.

Mr. Madden: So nothing in the front along Orchard Street.

Unidentified Male: No.

Mr. Madden: Just on the side of the property?

Unidentified Male: Yup.

Mr. Capozella: What I'll do, Mr. Madden, is I'm going to add for the site plan that they properly have the dimensions, 9' by 18', and that'll have to be approved by the DPW before they get their CO. I don't know exactly how many spots they'll have at that point in time, but they'll be legal.

Mr. Madden: And we're going to waive parking if needed.

Mr. Capozella: We have to waive parking, but they do have it on their -- you are correct. They do have it on their site plan, and the parking along Orchard Street has been omitted.

Mr. Madden: There is one additional spot that appears to be coming off of Orchard Street.

Mr. Capozella: Yeah.

Mr. Madden: Will that one remain?

Mr. Capozella: By this, possibly, but once they line it out and they figure it out as

far as the proper dimensions, it may go away.

Mr. Madden: Okay.

Ms. Witt: Will one of those spaces be handicap accessible since they have the ramp?

Mr. Capozella: That would be determined by the DPW after they finish laying this out. Yes. They have to follow all the code. Yes. Do you understand that? Yes. Thank you.

Okay. Back to the public hearing, I believe. I have to close it yet.

Back to the public hearing. Anyone present wishing to speak on this application, please step forward.

I need a motion to close the public hearing. Mr. Britto. I need a second. Mr. Madden. All in favor.

The public hearing was closed.

Mr. Capozella: I'll go back to the Board for any more questions, comments, or concerns.

Resolution for Janice Liu, 22 Orchard Street, bookstore with food and drink, no liquor and no cooking on premise. Subject to City of Middletown DPW and City Middletown Fire Department inspections, approvals and, when necessary, approval of the Commissioner of Public Works. The applicant will obtain all necessary permits and follow the permitting process, codes and ordinances of the City of Middletown, the County of Orange, and the State of New York, if applicable.

Hours of operation will be Monday through Sunday, 9:00 a.m.-11:00 p.m.

Any items as stated in and submitted PB application, Public Hearing, Board discussion, City Inspectors' input, PB Engineer, and PB Attorney's recommendations. Information submitted within the application will become part of the record, and the applicant will follow through on and to be held to. Elevator permits, parking conformance, and engineer's report on the structure of the building are required.

In addition; if throughout any of the review process the project is deemed to require Bulk Requirement Tables, the applicant will supply said tables through an architect or engineer licensed in the State of New York.

Whereas: Pursuant to City of Middletown Code: Chapter 475 Article VI Administration and Enforcement, §475-53 paragraph E (6): Unless work is commenced and diligently prosecuted within six months and completed within two years of the date of the granting of a special use permit, such special use permit shall be null and void. Basically, if you can't get your business up and running within a six-month period you have to send a letter to the Board with the reason why you need an extension.

Whereas: This application is located in the DMU Zone:

Therefore: Applicants must submit and receive approval from Dept. of Public Works according to Chapter 407 Solid Waste, Article II Collection, §407-3, Collection, and comply with this section and any other sections enacted by the Common Council from this date forward.

Therefore: Applicants must receive approval from the Architectural Review Board on all façade work, exterior work in general and exterior signage.

Therefore: The property is located in the DMU, as such, the Planning Board has the authority to waive the parking regulations.

Therefore: This application is approved for/as:
Eating and Drinking establishment only, No alcohol.

Motion by Mr. Britto, seconded by Ms. Hewson.

Roll Call Ayes: David Madden, Richard McCormack, Andy Britto, Gretchen Witt, Nicole Hewson, Anthony Capozella.

Guadalupe Tomax
360 North Street
Deli

Ms. Tomax: My name is Guadalupe Tomax.

Mr. Capozella: Okay. And what are you trying to do?

Unidentified Male: Open a store, commercial store, at 360 North Street.

Mr. Capozella: Okay. Thank you.

Unidentified Male: I mean, it's open already.

Mr. Capozella: Don't admit it. All right. We're going to open the public hearing. I'm sorry. Ms. Tu, do we have the mailings?

Ms. Tu: Yes, we do.

Mr. Capozella: Now I'll open the public hearing. Anyone present wishing to speak on this application, please step forward.

The public hearing was opened.

Mr. Capozella: Do we have anything in writing, Ms. Tu?

Ms. Tu: Nothing in writing.

Mr. Capozella: Anyone on the telephone?

Ms. Tu: No.

Mr. Capozella: All right. Then we'll move to the Board for any questions, comments, or concerns. We'll wait for Mr. Britto just for a minute.

Mr. Croughan: Theron, any comments?

Mr. Adkins: No comments. I did a site visit with Sixto. Everything's good. I know the site plan looks a little rough, but it's good. They've got plenty of parking, street and otherwise, they're just moving literally like next door from where they were.

Mr. Capozella: Okay. It's only required on the site plan just as long as they obviously have the right size dimensions for their parking, and they should be lined or marked for their business.

Mr. Croughan: Are you going to be doing cooking onsite?

Unidentified Male: No.

Mr. Capozella: And your hours of operation I have in the application as Monday through Sunday, 7:00 a.m. to 8:30 p.m.

Unidentified Male: That's correct.

Mr. Capozella: Is that correct? Okay.

Mr. Croughan: Is anyone going to be eating there, or is it all to go?

Unidentified Male: No. Nobody's eating in there. No. To go.

Mr. Capozella: I have to make a motion to close the public hearing. Ms. Witt, second Ms. Hewson. All in favor.

Ms. Tu, did we get the owner's endorsement straightened out?

Ms. Tu: Yes.

Mr. Capozella: Thank you.

Resolution for Guadalupe Tomax, 360 North Street, Deli. Subject to City of Middletown DPW and City Middletown Fire Department inspections, approvals and, when necessary, approval of the Commissioner of Public Works. The applicant will obtain all necessary permits and follow the permitting process, codes and ordinances of the City of Middletown, the County of Orange, and the State of New York, if applicable.

Hours of operation will be Monday through Sunday, 7:00 a.m.-8:30 p.m.

Parking spaces will be properly lined in the proper dimensions and noted that they are parking for the deli.

Any items as stated in and submitted PB application, Public Hearing, Board discussion, City Inspectors' input, PB Engineer, and PB Attorney's recommendations. Information submitted within the application will become part of the record, and the applicant will follow through on and to be held to.

In addition; if throughout any of the review process the project is deemed to require Bulk Requirement Tables, the applicant will supply said tables through an architect or engineer licensed in the State of New York.

Whereas: Pursuant to City of Middletown Code: Chapter 475 Article VI Administration and Enforcement, §475-53 paragraph E (6): Unless work is commenced and diligently prosecuted within six months and completed within two years of the date of the granting of a special use permit, such special use permit

shall be null and void. Basically, if you can't get your business up and running within a six-month period you have to send a letter to the Board with the reason why you need an extension.

Motion by Mr. Britto, seconded by Mr. McCormack.

Roll Call Ayes: David Madden, Richard McCormack, Andy Britto, Gretchen Witt, Nicole Hewson, Anthony Capozella.

**Estela Aragon Marin
1-7 Courtland Street
Restaurant**

Ms. Aragon: Hi. My name is Estela Aragon.

Mr. Capozella: And you plan on opening a restaurant.

Ms. Aragon: A Mexican restaurant.

Mr. Capozella: Very nice. Okay. Ms. Tu, do we have the mailings?

Ms. Tu: Yes, we do.

Mr. Capozella: I'm going to open the public hearing. Anyone present wishing to speak on this application, please step forward.

The public hearing was opened.

Mr. Capozella: Okay. Ms. Tu, do we have anything in writing?

Ms. Tu: Nothing in writing.

Mr. Capozella: Anyone on the telephone?

Ms. Tu: No.

Mr. Capozella: I'll go to the Board for any questions, comments, or concerns.

Mr. Croughan: Theron, any comments?

Mr. Adkins: Just the one. I did a site visit. We've just got to ensure about the commercial cooking hood, that the exhaust doesn't go into the public park or out the building in that area, and I think you've reached out to some cooking hood companies to make sure that doesn't happen. So I just want to make sure that that's on record.

Mr. Croughan: Is that the only concern?

Mr. Adkins: That's it. Everything else looks good.

Mr. Croughan: Sixto, anything?

Mr. Martinez: No concerns.

Mr. Croughan: You would have to get Orange County Department of Health approval for the kitchen.

Mr. Capozella: Yup.

Mr. Croughan: Do we have hours of operation?

Mr. Capozella: Well, I'm just going to go over that now to make sure I have it straight. I have Monday through Thursday, 7:00 a.m. to 10:00 p.m.? Sound right?

Ms. Aragon: Yes.

Mr. Capozella: Okay. Friday and Saturday, 7:00 a.m. to 11:00 p.m.?

Ms. Aragon: Yes.

Mr. Capozella: And then Sunday I have 7:00 a.m. to 10:00 p.m.

Ms. Aragon: Yes.

Mr. Capozella: Okay. And you're all good with those hours as they are. Okay.

Ms. Aragon: I would like to close Monday through Thursday at 11:00. I changed my mind.

Mr. Capozella: Monday through Thursday to 11:00 p.m.?

Ms. Aragon: Yes.

Mr. Capozella: 7:00 a.m. to 11:00 p.m.

Ms. Aragon: Yes.

Mr. Croughan: Is that permitted in the zone?

Mr. Capozella: Yes.

Mr. Croughan: Okay.

Ms. Witt: So it would really be Monday through Saturday, 7:00 a.m. to 11:00 p.m.

Ms. Aragon: Yeah. That's correct.

Mr. Capozella: I could make a suggestion. How about Monday through Sunday, 7:00 a.m. to 11:00 p.m., and you can choose anything in between that to run. Makes no difference.

Ms. Aragon: Okay. That's good.

Mr. Capozella: That's basically what you're going to be doing anyway; okay?

Ms. Aragon: Yes. Thank you.

Mr. Croughan: Are you serving liquor?

Ms. Aragon: No.

Mr. Capozella: No liquor she says.

Mr. Croughan: No alcohol.

Mr. Capozella: No alcohol at this point in time. Okay.

Board, anything else? I'll go back to the public one more time. Anyone present wishing to speak on this application, please step forward.

None coming forward, motion to close the public hearing. Ms. Hewson, Ms. Witt this time second. All in favor.

The public hearing was closed.

Mr. Capozella: I'll go back to the Board one more time for any questions, comments, or concerns.

Mr. Madden: We're all satisfied with the site plan as it appears? I don't really see much of a kitchen or -- and a 12 sq.ft. bathroom.

Mr. Capozella: Yeah. I was going to leave that up to the DPW. Sometimes we don't get the most accurate descriptions, but our inspectors do go, and that's why we ask them if they have any concerns.

Mr. Madden: Thank you.

Mr. Capozella: No problem.

Mr. Croughan: Just for clarification, when you say no liquor, it's really no alcohol.

Mr. Capozella: No alcohol. Okay. No alcohol. I'll have to change that now; right? You're killing me. No alcohol.

Mr. Croughan: Thank you.

Mr. Capozella: You're welcome.

Resolution for Estela Aragon Marin, 1-7 Courtland Street, Mexican Restaurant. Subject to City of Middletown DPW and City Middletown Fire Department inspections, approvals and, when necessary, approval of the Commissioner of Public Works. The applicant will obtain all necessary permits and follow the permitting process, codes and ordinances of the City of Middletown, the County of Orange, and the State of New York, if applicable.

Hours of operation will be Monday through Sunday, 7:00 a.m.-11:00 p.m.

Any items as stated in and submitted PB application, Public Hearing, Board discussion, City Inspectors' input, PB Engineer, and PB Attorney's recommendations. Information submitted within the application will become part of the record, and the applicant will follow through on and to be held to.

In addition; if throughout any of the review process the project is deemed to require Bulk Requirement Tables, the applicant will supply said tables through an architect or engineer licensed in the State of New York.

Whereas: Pursuant to City of Middletown Code: Chapter 475 Article VI Administration and Enforcement, §475-53 paragraph E (6): Unless work is commenced and diligently prosecuted within six months and completed within two years of the date of the granting of a special use permit, such special use permit shall be null and void. Basically, if you can't get your business up and running within a six-month period you have to send a letter to the Board with the reason why you need an extension.

Whereas: This application is located in the DMU Zone:

Therefore: Applicants must submit and receive approval from Dept. of Public Works according to Chapter 407 Solid Waste, Article II Collection, §407-3, Collection, and comply with this section and any other sections enacted by the Common Council from this date forward.

Therefore: Applicants must receive approval from the Architectural Review Board on all façade work, exterior work in general and exterior signage.

Therefore: The property is located in the DMU, as such, the Planning Board has the authority to waive the parking regulations.

Therefore: This application is approved for/as:
Eating and Drinking establishment only, No alcohol.

Motion by Mr. Britto, seconded by Ms. Hewson.

Roll Call Ayes: David Madden, Richard McCormack, Andy Britto, Gretchen Witt, Nicole Hewson, Anthony Capozella.

Catherine Yaa Yaa Whaley-Williams
37 North Street
An eating and drinking establishment

Mr. Capozella: How are you doing this evening?

Ms. Whaley-Williams: Good evening. Catherine Yaa Yaa Whaley-Williams.
Existing business on 37 North Street.

Mr. Capozella: Ms. Tu, we have the mailings; correct?

Ms. Tu: Yes, we do.

Mr. Capozella: Yes, we do. All right. I'm going to open the public hearing. Anyone present wishing to speak on this application, please step forward.

The public hearing was opened.

Mr. Capozella: Ms. Tu, do we have anything in writing?

Ms. Tu: Nothing in writing.

Mr. Capozella: Anyone on the telephone?

Ms. Tu: No one on the telephone.

Mr. Capozella: Then I'll move on to the Board members while they're looking through the packet for any questions, comments, or concerns.

Ms. Witt: Will your hours of operation be different than what they currently are?

Ms. Whaley-Williams: They will remain the same.

Ms. Witt: Okay. Can you just state them for the record?

Ms. Whaley-Williams: Sure. So our application stated Monday to Sunday from 9:00 a.m. till 10:00 p.m., but our operating hours currently are Thursday through Saturday, 11:00 to 2:00 and then 4:00 to 7:00.

We have discreet special events, about one or two a month, that go from 7:00 to 9:00, but that's rare, probably once or twice a month, but for the most part, those are the operating hours.

Mr. Croughan: So this is the bookstore; right?

Ms. Whaley-Williams: Correct.

Mr. Croughan: That is now coming for the alcohol?

Mr. Capozella: Correct.

Ms. Whaley-Williams: Wine and beer permit, not hard liquor. Yes.

Mr. Croughan: Okay.

Mr. Capozella: Wine and beer.

Ms. Whaley-Williams: And for clarification, it's really to just amplify current existing programming such as book talks. We have Canvas for the Culture which are right now just painting with local artists, but obviously one of the current trends are sip and paint, so we've been doing Sprite and smoothies, nothing alcoholic, but adults are craving between 4 and 6 oz. pours of a local wine or something light like a Prosecco or a Riesling.

Mr. Croughan: So in addition to the books, you're doing painting there as well?

Ms. Whaley-Williams: Yes. One of our hashtags is that we're more than a bookstore. We like to think of ourselves as a bookseum, so we do book talks, we do open mics, we do Canvas for the Culture, which is sip and paints, and we do collaborations with local organizations that rent the space for their organizational meetings if they do not have a storefront or a business of their own.

Ms. Witt: Yaa Yaa.

Ms. Whaley-Williams: Yes.

Ms. Witt: Forgive me. On here it says cash wrap. What is that?

Ms. Whaley-Williams: So that's the area where you would check out, so whether you're purchasing a book, one of our apparel items or sidelines, that's where you physically go. It's a cut open space. It's a room that has a cut out for the receipt of not just dollars, credit cards through our Square, which is our POS.

Mr. Croughan: Theron, any concerns?

Mr. Adkins: I have no concerns.

Mr. Croughan: Sixto, any?

Mr. Martinez: No.

Ms. Whaley-Williams: Would it be appropriate to bring some clarity to the site plan that might be difficult to understand? My predecessor was a nail technician

space, and they used to have a threading or waxing room if you'll recall several years prior to us taking over the establishment. That wall, with the owner's approval, was removed, and so it's that back area that's carpeted parallel to the cash wrap area where the wine and beer would be stationarily stored and served.

Mr. Croughan: For clarification, when you say you're renting it out, but you're still going to be serving the alcohol there?

Ms. Whaley-Williams: So when I say rentals, for instance, when authors come and do book talks, they have three options of how they can engage in the space. They can either provide us with their books on consignment, they can enter a 60/40 split, or they can rent the space and treat it as if it's their own book signing as if it was their store. So they come in and they take over the selling of their products.

Our book talks traditionally do not have wine involved because most of our authors are children's authors, but we do anticipate in the new year having authors like Stan Litow, who's the former president of IBM. He'll be here in November, and he wants to return in the new year, sometime in March around his *Breaking Barriers* book, and as an adult function in the evening with like the option of wine.

And if I just had to, because I'm sensing a little hesitation, if I just had to share, and the data on our social media, our website, and the community can corroborate this, of the programming that currently exists in our bookseum, I'd say less than 25 percent of the events would be catered towards the request for this approval this evening. So this will not be a primary source of revenue. It will not be a primary function in our space. Just to err on the side of caution to stay ready so we don't have to get ready.

And also, the cost of a temporary wine licenses for special events is becoming costly, so that's why we're going this route.

Mr. Capozella: Well, you're sensing hesitation for a reason. We were good with what you were planning. We just got the packet. We understand there were some circumstances. Nowhere is it ever mentioned that you rent your space to other people. It kind of, and you can correct me if I'm wrong, guys, but it sounds like, you know, it was more than a bookstore, you know, and we kind of believed that the beer and wine would be okay, but now we're seeing it as a rental space, which is something a little bit different as far as our code, I believe, is concerned.

Ms. Hewson: Mr. Chairman, we have another business about two or three doors down that is renting out their space, and I believe they may also have alcohol that this Board approved.

Mr. Capozella: And who is this?

Ms. Hewson: I believe it's called môdaSUITE.

Mr. Capozella: Say that again?

Ms. Hewson: I believe it's called môdaSUITE or SUITES.

Ms. Whaley-Williams: Mm-hmm.

Mr. Adkins: So môdaSUITE is Planning Board approved as an event space to rent out as an event space. I can't remember exactly on your original approval for the bookstore. I know that there was discussion about events for book signings and stuff.

Ms. Whaley-Williams: Correct.

Mr. Adkins: So that may be addressed already in her original approval.

Ms. Whaley-Williams: Correct.

Mr. Capozella: Maybe, but the problem is she's now renting the space to someone else. The rentals are primarily for the authors who are coming to the space with their books.

Mr. Capozella: I don't know if that makes a difference. It's still a rental. Go ahead, Theron.

Mr. Adkins: No. That's legalese. That's on you.

Mr. Capozella: Yeah. Thanks. We didn't realize that that was taking place. Your original approval was a bookstore as an eating and drinking establishment which led you to access liquor. Alcohol. Beer and wine. That's how this was originally presented to us, which would be okay. That's the code.

The rental of the event space, I'm not so sure we're mixing uses now to the point where we have to be careful. What we do with one, we have to do with everyone. I'm not so sure at the moment whether the rental of your property as an event space doesn't change your classification.

Ms. Whaley-Williams: Even if that event is tied to books that are sold in that space, so author events?

Mr. Capozella: You're renting it to someone else. It's not you having the event. You're the owner of the property.

Ms. Whaley-Williams: Yes, but, and maybe I'm not communicating this well. I wish that I could bring a PowerPoint or Google slide to show you, because nothing that happens in that space happens secondarily or tertiary to Sadie's Books & Beverages, so it's a collaboration between myself and the author. I am always present as not only the owner but the one of one employee there, and so we collaborate on an event together, but it's really just to help to absorb the cost. No one opens a bookstore for anything lucrative. We're an independent bookstore, and so it's really just an opportunity to have some of the financial burden be absorbed by a collaborating partner to the bookstore which aligns to the initial application of a bookseum.

Mr. Croughan: Right. You had mentioned that there were three ways that you can do a signing.

Ms. Whaley-Williams: Correct.

Mr. Croughan: Is there any way to do it just the two ways?

Ms. Whaley-Williams: Absolutely. Right now, we have 14 local authors. Ten do it the traditional way. One has requested the way that you're asking be removed, so that's merely an email conversation that I can cc members of the Board on for transparency, for integrity, and honoring your request.

Mr. Capozella: So you're saying remove the rental aspect of the space.

Ms. Whaley-Williams: And make it just the consignment and the opportunity for us to frontload the payment of books for reselling.

Mr. Croughan: Yes.

Ms. Whaley-Williams: Correct.

Mr. Capozella: Okay.

Mr. Croughan: So the application -- or the application should be amended to reflect that.

Mr. Capozella: Well, the application doesn't even state that.

Ms. Whaley-Williams: Didn't include that.

Mr. Croughan: So include that.

Mr. Capozella: Include that.

Mr. Croughan: Amend to include.

Mr. Capozella: Amend to include book signings, authors. What else would she say?

Mr. Croughan: With two options. The space won't be rented out.

Mr. Capozella: That's the primary, space not to be rented out.

Mr. Croughan: Yup.

Ms. Whaley-Williams: Do I need to submit another application or an email with the wording?

Mr. Croughan: No. We just amended it.

Ms. Whaley-Williams: Okay. Thank you.

Mr. Capozella: We're going to amend it in the resolution. We'll put that in the resolution also; all right?

Everyone understand that so far? That's the difference between the two facilities the way we originally approved them.

Ms. Whaley-Williams: And thank you for that education. One of the things we pride ourselves on is trying to meet community where they are, and so our diversity of collaboration opportunities is really to just honor that not every author comes and is Viola Davis or John Steinbeck; right? Some are just local self-published authors that are looking for diversity in how they can collaborate and get their books on the shelves, but noted and understood.

Mr. Croughan: Thank you.

Mr. Capozella: Thank you. Anyone else from the public wishing to speak on this application, please step forward.

State your name for the record, sir.

Mr. Kleiner: Jerry Kleiner, 13 Randall Heights. I've been to several events at the store, and they're really well run and very educational, and I would support the application completely, however you decide it.

Mr. Capozella: Thank you. Anyone else from the public wishing to step forward and comment on this application?

I need a motion to close the public hearing. Mr. Britto, second Mr. McCormack. All in favor.

The public hearing was closed.

Resolution for Catherine Yaa Yaa Whaley-Williams, 37 North Street, an eating and drinking establishment, beer and wine only. Subject to City of Middletown DPW and City Middletown Fire Department inspections, approvals and, when necessary, approval of the Commissioner of Public Works. The applicant will obtain all necessary permits and follow the permitting process, codes and ordinances of the City of Middletown, the County of Orange, and the State of New York, if applicable.

Hours of operation will be remaining the same as the original application. Application amended to have only two options for events. No renting of the space.

Any items as stated in and submitted PB application, Public Hearing, Board discussion, City Inspectors' input, PB Engineer, and PB Attorney's recommendations. Information submitted within the application will become part of the record, and the applicant will follow through on and to be held to.

In addition; if throughout any of the review process the project is deemed to require Bulk Requirement Tables, the applicant will supply said tables through an architect or engineer licensed in the State of New York.

Whereas: Pursuant to City of Middletown Code: Chapter 475 Article VI Administration and Enforcement, §475-53 paragraph E (6): Unless work is commenced and diligently prosecuted within six months and completed within two years of the date of the granting of a special use permit, such special use permit shall be null and void. Basically, if you can't get your business up and running within a six-month period you have to send a letter to the Board with the reason why you need an extension.

Whereas: This application is located in the DMU Zone:

Therefore: Applicants must submit and receive approval from Dept. of Public Works according to Chapter 407 Solid Waste, Article II Collection, §407-3, Collection, and comply with this section and any other sections enacted by the Common Council from this date forward.

Therefore: Applicants must receive approval from the Architectural Review Board on all façade work, exterior work in general and exterior signage.

Therefore: The property is located in the DMU, as such, the Planning Board has the authority to waive the parking regulations.

Therefore: This application is approved for/as:
Eating and Drinking establishment-beer and wine only.

Motion by Mr. Madden, seconded by Mr. McCormack.

Roll Call Ayes: David Madden, Richard McCormack, Andy Britto, Nicole Hewson, Gretchen Witt, Anthony Capozella.

91-95 North Street, Inc.
91-95 North Street
4 residential apartments (2nd floor)

Mr. Capozella: Good evening.

Mr. DeGraw: Good evening.

Mr. Capozella: State your name for the record, please.

Mr. DeGraw: Brock DeGraw. I'm speaking on behalf of the client, which is 91-95 North Street, Inc.

Mr. Capozella: Okay. So just a moment.

Mr. DeGraw: Sure.

Mr. Capozella: Martina, do we have the mailings?

Ms. Tu: Yes, we do.

Mr. Capozella: Okay. Then we're going to open the public hearing. Anyone present wishing to speak on this application, please step forward.

Do we have anything in writing, Martina?

Ms. Tu: Nothing in writing.

Mr. Capozella: Anyone on the telephone?

Ms. Tu: No one.

Mr. Capozella: Okay. I'm sorry, sir. Go ahead.

Mr. DeGraw: No problem. So currently this space is approved for use as a commercial space. It was supposed to be office space when it was originally brought up in front of you, I believe. Over the past two years, year and a half or so, they've realized there's not much of an opportunity for commercial real estate on the second floor, so they're trying to change the use to residential apartments.

Mr. Capozella: Okay.

Mr. DeGraw: So it'll be two one-bedrooms, and then two two-bedrooms.

Mr. Capozella: Right. Because we're going to put in the resolution that you don't have a studio apartment. It's going to be a one-bedroom apartment.

Mr. DeGraw: It'll be a one-bedroom apartment.

Mr. Capozella: We don't have studio apartments.

Theron, did you have any comments on this application?

Mr. Adkins: Yeah. I did a site visit the other day, and we spoke about this. So this building needs a sprinkler system, the entire building, so I just want it on record that the entire building will be sprinkled before a CO is given to these apartments, and that's got to be a permit through me.

Mr. DeGraw: Understood.

Mr. Capozella: Okay. And I know there was an issue about square footage?

Mr. Adkins: The square footage that they sent me, everything, the math looks good.

Mr. Capozella: Okay.

Mr. Adkins: Sixto and I looked at it, so --

Mr. Capozella: Great. Okay. Then no issue with square footage.

Mr. Adkins: No issues.

Mr. Capozella: Good. Board members have any questions, comments, or concerns?

Okay. While you're looking at that, I'll go back to the public hearing. Anyone from the public wishing to comment on this application, please step forward.

Mr. Kleiner: Jerry Kleiner, 13 Randall Heights. I'm just concerned about parking. I know you waive parking in the DMU, but we recently had a couple requests for handicapped parking along West Main Street and North Street, and just to be clear that that's probably not going to be available.

Mr. Capozella: No, but it is the DMU, and we have to waive parking.

Mr. Kleiner: Okay. Thank you.

Mr. Capozella: Anyone else from the public?

Okay. I need a motion to close the public hearing. Mr. Britto, second Ms. Witt. All in favor.

Okay. I see the Board studying it. Any other questions, comments, or concerns?

Resolution for 91-95 North Street, Inc., 91-95 North Street, 4 residential apartments (2nd floor). Subject to City of Middletown DPW and City Middletown Fire Department inspections, approvals and, when necessary, approval of the Commissioner of Public Works. The applicant will obtain all necessary permits and follow the permitting process, codes and ordinances of the City of Middletown, the County of Orange, and the State of New York, if applicable.

Any items as stated in and submitted PB application, Public Hearing, Board discussion, City Inspectors' input, PB Engineer, and PB Attorney's

recommendations. Information submitted within the application will become part of the record, and the applicant will follow through on and to be held to, especially with regard to the sprinklers.

In addition; if throughout any of the review process the project is deemed to require Bulk Requirement Tables, the applicant will supply said tables through an architect or engineer licensed in the State of New York.

Whereas: Pursuant to City of Middletown Code: Chapter 475 Article VI Administration and Enforcement, §475-53 paragraph E (6): Unless work is commenced and diligently prosecuted within six months and completed within two years of the date of the granting of a special use permit, such special use permit shall be null and void. Basically, if you can't get your business up and running within a six-month period you have to send a letter to the Board with the reason why you need an extension.

Whereas: This application is located in the DMU Zone:

Therefore: Applicants must submit and receive approval from Dept. of Public Works according to Chapter 407 Solid Waste, Article II Collection, §407-3, Collection, and comply with this section and any other sections enacted by the Common Council from this date forward.

Therefore: Applicants must receive approval from the Architectural Review Board on all façade work, exterior work in general and exterior signage.

Therefore: The property is located in the DMU, as such, the Planning Board has the authority to waive the parking regulations.

Motion by Mr. Britto, seconded by Ms. Witt.

Roll Call Ayes: David Madden, Richard McCormack, Andy Britto, Gretchen Witt, Nicole Hewson, Anthony Capozella.

Jian Hu
33 Fulton Street
Site plan amendment

Mr. Capozella: How are you doing, sir?

Mr. Hu: I'm good. How are you?

Mr. Capozella: Good.

Mr. Hu: Good evening, Chairman and Board members. My name is Jian Hu with JH Architecture. Do you want to talk --

Mr. Capozella: Go ahead.

Mr. Hu: Okay.

Mr. Capozella: You're fine.

Mr. Hu: This is regarding an easement between two properties, which is 21 Fulton Street and 33 Fulton Street. The owner, having two properties obviously, and would like to request to have 47 cars (inaudible) for 33 Fulton Street, another property, from 21 Fulton Street, so that's for this request.

Mr. Capozella: Ms. Tu, do we have the mailings?

Ms. Tu: Yes, we do.

Mr. Capozella: Okay. I'm going to pen the public hearing. Anyone present wishing to speak on this application, please step forward.

Ms. Tu, do we have anything in writing?

Ms. Tu: Nothing in writing.

Mr. Capozella: Anyone on the telephone?

Ms. Tu: No.

Mr. Capozella: Okay. I'll go to the Board members for any comments, questions, concerns.

Mr. Croughan: This is for the site plan approval for all the amendments or changes that were made to the property plus the cross parking easement.

Mr. Capozella: Right. Kind of just cleaning things up a little.

I'll go back to the public hearing. Anyone present wishing to speak on this application, please step forward.

I'm going to need a motion to close the public hearing. Mr. Britto, Ms. Witt. All in favor.

The public hearing was closed.

Mr. Capozella: It's the typical resolution, but with addition to.

Mr. Croughan: Subject to.

Mr. Capozella: Subject to. Right.

Subject to/conditional on:

1. To ensure the meeting of the Planning Board parking requirements for 33 Fulton Street St. due to the addition of and the extension of the first floor cafeteria, garage, carport parking, and the addition of a fountain.

2. The submission to the acceptance of the parking easement documents by the Common Council and/or the Planning Board attorney between 33 Fulton and the former Acme Bus Company, 21 Fulton Street, which will run with the land to the benefit of 33 Fulton Street.

3. The issuance of all required City of Middletown building permits and inspections of an approval by the City of Middletown DPW, also the Fire Department if necessary.

3. The issuance of Certificate of Occupancy for all improvements and items added after original Planning Board approval by the City of Middletown DPW.

Motion by Mr. Britto, seconded by Ms. Hewson.

Roll Call Ayes: David Madden, Richard McCormack, Andy Britto, Gretchen Witt, Nicole Hewson, Anthony Capozella.

Shen Yun Foundation, Inc.

29-35 North Street

Rebuilding existing roof deck area to create offices on the 3rd floor

Mr. Capozella: Please state your name for the record.

Mr. Lee: Jonathon Lee. I represent the owner for Shen Yun.

Mr. Capozella: Okay. And what do you plan on doing, sir?

Mr. Lee: We have been here before to have a store. We're going to open the store on the 13th of this month, so it's like a grand opening.

The first floor is the store. The second floor is also part of store, and the third floor has only -- it used to be apartments, but they made it offices. So part of the second floor and the third floor is offices right now. Part of the third floor is roof. Half of the third floor is roof, so the plan here, if you go to the third floor, is to add a structure to make sure that the -- there's some issues with the roof, so they don't want leaks, so they want to put a structure over there to make offices on the third floor as well.

So the only thing that's changed is adding a structure on the third floor.

Mr. Capozella: Right. Okay. Ms. Tu, do we have the mailings?

Ms. Tu: Yes, we do.

Mr. Capozella: Okay. I'd like to open the public hearing. Anyone present wishing to step forward and comment on this application.

The public hearing was opened.

Mr. DeStefano: Yes. Joe DeStefano, Mayor of the City of Middletown. I know some of the issues that we've been facing with large buildings in downtown has been reused because there's not adequate parking, especially like the Classy Leather building. You got a cross easement for the residential component of it, and this is the former Tompkins building that was renovated maybe about five years ago, just pre-COVID, and the business failed.

This is another opportunity to reinvent that building with both a commercial and, well, totally commercial, removing one of the prior uses, which was residential on the upper floors.

There are six dedicated parking spots in the back with an easement through the parking lot on the East Main Street side of the building, but consistent with the redevelopment of some of these large buildings, I don't think parking should be an issue.

In some previous meetings that we've had with the Chairman and the attorney, we've also clarified some of the issues of air rights where the proper notice is given to the adjoining property owners. It's their responsibility to exercise any air rights they may have. So we had this experience on King Street where the City was the adjoining property owner, and we raised the air rights issue, but it's

not up to the City to do the deed searches or to research one's deed or the adjoining property owner's deeds to see if there are any air rights issues.

So that's been clarified moving forward, so I think it's a great use for downtown. It's something that we've been, as I said, taking a building that has a lot of history in our city and renovating it for the similar type purpose to what it was many, many years ago, and this is an added benefit so they can centralize their operations of their Shen Yun products into downtown Middletown.

This is a worldwide organization, and it's consistent with our downtown redevelopment plan, and we would appreciate your support on it.

Thank you.

Mr. Capozella: Mr. Mayor. Okay.

Mr. Croughan: Theron, any concerns with it?

Mr. Adkins: I do not have any concerns. Just make sure you get the sprinkler and fire alarm permits so we can update those.

Mr. Lee: Yes, we will. Yes.

Mr. Adkins: Okay.

Mr. Capozella: Sixto?

Mr. Martinez: Our discussion with Walter today, he mentioned that they have not received any plans for any construction.

Mr. Capozella: Okay. All right. Well, they would need this approval tonight to probably move forward. I mean, our only concern is, and I'm sure that these gentlemen would do it, they need to have an engineer's report to make sure whatever they're building on top of the roof meets structural --

Mr. Croughan: Will structurally support it?

Mr. Capozella: Right. And that's not the City's responsibility, that's their responsibility, but --

Mr. Lee: We will submit a plan for the structure and everything.

Mr. Capozella: I'm going to go back to the public hearing. Anyone present wishing to speak on this application, please step forward.

Mr. Kleiner: Hi. Jerry Kleiner again. I want to say they have been in, speaking as president of the Middletown Historical Society, they have been in to the VanDuzer Museum many different weeks finding out about Tompkins and downtown, and they're very excited about bringing that back, so I fully support it. Thank you.

Mr. Capozella: Thank you.

Mr. Lee: One of the things that they are doing is they're restoring the clock. There seems to be a lot of history with it, so it's a local guy who is going to fix the clock.

Mr. Capozella: Thank you. Anyone from the public wishing to comment, please step forward. I think we're done with the public.

I'd like to have a motion to close the public hearing. Mr. Britto, Ms. Witt. All in favor.

The public hearing was closed.

Mr. Croughan: Are the hours of operation going to change at all?

Mr. Lee: No.

Mr. Croughan: And third floor hours of operation will be consistent with the rest of the building?

Mr. Lee: Yes.

Resolution for Shen Yun Foundation, Inc., 29-35 North Street, rebuilding existing roof deck area to create offices on the third floor. Subject to City of Middletown DPW and City Middletown Fire Department inspections, approvals and, when necessary, approval of the Commissioner of Public Works. The applicant will obtain all necessary permits and follow the permitting process, codes and ordinances of the City of Middletown, the County of Orange, and the State of New York, if applicable.

Hours of operation will be as original approved application.

Any items as stated in and as submitted PB application, Public Hearing, Board discussion, City Inspectors' input, PB Engineer, and PB Attorney's recommendations. Information submitted within the application will become part of the record, and the applicant will follow through on and to be held to.

The City will need something to make sure that the structure can withstand the addition that's being put on.

In addition; if throughout any of the review process the project is deemed to require Bulk Requirement Tables, the applicant will supply said tables through an architect or engineer licensed in the State of New York.

Whereas: Pursuant to City of Middletown Code: Chapter 475 Article VI Administration and Enforcement, §475-53 paragraph E (6): Unless work is commenced and diligently prosecuted within six months and completed within two years of the date of the granting of a special use permit, such special use permit shall be null and void. Basically, if you can't get your business up and running within a six-month period you have to send a letter to the Board with the reason why you need an extension.

Whereas: This application is located in the DMU Zone:

Therefore: Applicants must submit and receive approval from Dept. of Public Works according to Chapter 407 Solid Waste, Article II Collection, §407-3, Collection, and comply with this section and any other sections enacted by the Common Council from this date forward.

Therefore: Applicants must receive approval from the Architectural Review Board on all façade work, exterior work in general and exterior signage.

Therefore: The property is located in the DMU, as such, the Planning Board has the authority to waive the parking regulations.

Motion by Mr. Madden, seconded by Ms. Hewson.

Roll Call Ayes: David Madden, Richard McCormack, Andy Britto, Gretchen Witt, Nicole Hewson, Anthony Capozella.

Motion to adjourn by Mr. Hewson, seconded by Ms. Witt.

Roll Call Ayes: David Madden, Richard McCormack, Andy Britto, Gretchen Witt, Nicole Hewson, Anthony Capozella.

Adjourned 8:30 p.m.

Respectfully Submitted,
Diane Genender, Transcriber