

**CITY OF MIDDLETOWN
PLANNING BOARD
MINUTES**

November 07, 2018

A meeting of the Planning Board was held in the Common Council Chambers, City Hall, 16 James Street, Middletown, New York on November 7, 2018 at 7:00 P.M., Mr. Anthony Capozella presiding.

Members Present: Anthony Capozella, Vanessa Cid-Morales, Nicole Hewson, Dan Higbie, Dave Madden, Anthony Britto.

Members Absent: John Naumchik.

Other Attendees: Richard J. Croughan, Planning Board Attorney; Walter Welch, Building Inspector; and Adam McCarey, Fire Inspector.

The Pledge of Allegiance was said.

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.

Approval of October 3, 2018 minutes. Motion by Mr. Higbie; seconded by Ms. Cid-Morales.

Roll Call Ayes: David Madden, Vanessa Cid-Morales, Nicole Hewson, Dan Higbie, Anthony Capozella, Anthony Britto.

**Mazel Midland, LLC
55 Midland Avenue Extension
golf carts and lawn equipment storage, distribution and repair facility**

Mr. Capozella: First on the agenda this evening, we're going to change the agenda just slightly. There's been a request. One of the gentlemen has to leave as soon as possible, and that would be the application of Mazel Midland, LLC, 55 Midland Avenue Extension. State your name for the record.

Mr. Eisdorfer: Israel Eisdorfer, Mazel Midland.

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

Clerk: Yes, we do.

Mr. Capozella: Thank you very much.

Clerk: No problem.

Mr. Capozella: Mr. Eisdorfer, go ahead.

Mr. Eisdorfer: We're expecting to have the golf carts company. As you see, it's going to be a major company. They have businesses online, but they're going to do distribution over here local, so they want storage cars indoor and outdoor. Most of it is going to be done somewhere else in a different place. It's going to be delivered over here just (inaudible) and then they're going to distribute all over the place.

Mr. Capozella: Okay. Let's open the public hearing.

Mr. Capozella opened public hearing.

Mr. Capozella: Anyone from the public wishing to speak on this application, please step forward. All right. We'll leave the public hearing open for a little bit. We'll go on to the board members for any questions or comments. Did everyone get the revised -- there was a revised site plan. Everybody get this revised site plan? Okay. Good. Thank you.

Mr. Croughan: The hours of operation you have listed as 6:00 AM to 7:00 PM, Monday through Saturday, closed on Sunday?

Mr. Eisdorfer: Yes.

Mr. Croughan: Is there any retail sales?

Mr. Eisdorfer: No.

Mr. Croughan: Okay.

Mr. Capozella: So this is for distribution only?

Mr. Eisdorfer: Distribution only. Yes.

Mr. McCarey: There's some assembly; correct?

Mr. Eisdorfer: Yes. Just assembly. It comes most of like, like 90 percent, is going to be going somewhere else. Comes (inaudible), make sure everything is in good condition, and then they send it out.

Mr. Capozella: Okay. Just point I want to make of the golf cart area. You have approximately 218 parking spaces for those golf carts. That may or may not have to be amended only based on what I can see here as far as the Middletown Fire Department inspection of any allowances for their trucks, turn arounds, any vehicles that may be parked here. I see some overhead doors, so if you have delivery trucks or anything, this number may have to be amended.

Mr. Eisdorfer: Okay.

Mr. Capozella: All right? And that would be -- that would be up to our DPW inspector and Middletown Fire Department inspection, just so you know, because that number may have to be amended depending upon the travel distances and the turning distances of those apparatus; okay?

Mr. Eisdorfer: (Inaudible). It's going to be between 100 and 150 golf carts between inside and outside, so maybe 100 outside.

Mr. Capozella: No. That's fine. I understand. Just so you understand that that may have to change.

Mr. Eisdorfer: Good.

Mr. Capozella: Okay.

Ms. Hewson: Will you be getting large shipments at once or just small amounts at one time? Like you won't be having big trailers.

Mr. Eisdorfer: No. It's a small (inaudible).

Ms. Hewson: Okay.

Mr. Madden: Golf carts are typically electric or battery operated?

Mr. Eisdorfer: They have gas and electric.

Mr. Madden: They do have gas.

Mr. Eisdorfer: Yes.

Mr. Madden: And you'll have gas-operated golf carts?

Mr. Eisdorfer: Yes.

Mr. Madden: Along with the utility vehicles, turf equipment?

Mr. Eisdorfer: Yes.

Mr. McCarey: Do they plan on putting in bulk storage for fuel?

Mr. Eisdorfer: I'm not sure about it. You asked them? Did you ask them?

Mr. McCarey: No. I'm asking you.

Mr. Eisdorfer: No. I'm not sure.

Mr. Capozella: Mr. McCarey, just make sure your mic is on, please. Thank you.

Mr. McCarey: Any time.

Mr. Croughan: But that would have to comply with the fire department requirements.

Mr. Eisdorfer: Yes.

Mr. McCarey: Right. But if you're going to approve the site plan, I want to know where it is if they're going to do that, if it's going to be underground or above ground.

Mr. Capozella: Well, if we approve anything, it would be contingent upon your inspection.

Mr. McCarey: That's fine.

Mr. Eisdorfer: Good.

Mr. Capozella: Anything else? Questions, comments from the board?

Mr. Higbie: I see that you designated 10 parking spots for your employees. Is there a certain formula like based on square footage or based on -- that we need to -- because I know we've had some parking issues on Midland Park properties before.

Mr. Capozella: I could safely tell you that there's plenty of area here to park.

Mr. Higbie: I didn't know if we need to waive it or anything.

Mr. Capozella: No. If his business expands and he needs more employees, I don't think that's really an issue.

Mr. Higbie: Okay. I just know that some of the other --

Mr. Capozella: You are correct. You are correct, and actually Mr. Eisendorf is working on that.

Mr. Higbie: Okay. I didn't want to throw you under the bus.

Mr. Capozella: No. I threw him under the bus earlier. All right. I'll go back to the public hearing. Does anyone from the public wish to step forward and comment on this application? No? Okay. Then I'm going to close the public hearing and move to the board one more time.

Mr. Capozella closed public hearing.

Mr. Capozella: Any last comments or questions?

Ms. Hewson: I just wanted to revisit something Mr. McCarey said. As far as bulk fuel storage, when we had the Acme Bus, we had to have their bulk fuel storage in the site plan. I just want to make sure we were consistent at that time. I just wanted to make sure with Mr. Croughan.

Mr. Croughan: Yeah. I mean, it would be subject to. The applicant should find out if they're going to have it or not.

Mr. McCarey: It won't be as big as (inaudible).

Ms. Hewson: Okay.

Mr. Capozella: We will include it in the resolution though.

Ms. Hewson: Okay.

Mr. Capozella: Anything else?

Mr. Madden: I have one more question.

Mr. Capozella: Sure.

Mr. Madden: On your plans, you have parts storage with no gas on the interior of the building, but then on a different floor perhaps, equipment storage, more mowers with minimal fuel, so is there fuel storage in these tanks inside the buildings?

Mr. Eisdorfer: What was the question?

Mr. Madden: Are you going to be storing equipment with gasoline tanks inside the building?

Mr. Eisdorfer: Yes.

Mr. Madden: You are.

Mr. Capozella: And Mr. McCarey, does that pose a different problem?

Mr. McCarey: No. There'll be different requirements for -- it's like a shop, an auto shop. It would be under the same premise that they follow those rules and regulations as well because it's not going to be open to the public. It doesn't show (inaudible).

Mr. Capozella: Mr. Britto.

Mr. Britto: Is there any plans for a security fence around the outside parking for the carts?

Mr. Eisdorfer: Yeah. I have a fence over there (inaudible).

Mr. Croughan: It's not open to the public, right?

Mr. Eisdorfer: No.

Mr. Capozella: Okay. Then on the resolution for a storage and repair facility for golf carts and lawn equipment, there'll be storage set up, service and maintenance, distribution of golf carts and utility vehicles and lawn equipment. Working hours will be from 6:00 AM to 7:00 PM, Monday through Saturday, closed on Sunday. The facility is not open to the public for retail sales, distribution only, and of course it has to follow and be under the approval of the DPW and the Middletown Fire Department and through the permitting process of the City of Middletown, which will then determine the number of your parking spaces for your golf carts may be amended and changed based on that inspection, and of course anything inside the facility with gas will also be under that jurisdiction of the Middletown Fire Department.

Mr. Croughan: And all those changes to be provided on a revised site plan.

Mr. Capozella: Right. You're going to have to revise your site plan once that becomes solid, and bulk storage, anything that you have would be on your amended site plan; okay?

Mr. Eisdorfer: Okay.

On motion of Mr. Higbie and seconded by Mr. Britto that the Middletown Planning Board hereby approves Mazel Midland, LLC.

Roll Call Ayes: David Madden, Anthony Britto, Vanessa Cid-Morales, Nicole Hewson, Dan Higbie, Anthony Capozella.

**Hudson Transit Lines, Inc.
6-month extension**

Mr. Capozella: Next up we have Hudson Transit Lines, Inc. It is a 6-month extension. Is there anyone here to represent Hudson Transit Lines? No. Okay. It is a simple extension of time. Does anyone have any questions? It's just their funding and they're not ready to start construction yet, so we're extending their approval. All right.

On motion of Ms. Hewson and seconded by Mr. Higbie that the Middletown Planning Board hereby approves Hudson Transit Lines, Inc.

Roll Call Ayes: David Madden, Anthony Britto, Vanessa Cid-Morales, Nicole Hewson, Dan Higbie, Anthony Capozella.

Szilard Dibble
53-56 Anthony Street
Recommendation to the Common Council - 7-lot subdivision

Mr. Capozella: Next on the agenda -- I apologize on how I pronounce this -- Szilard Dibble, 53-56 Anthony Street.

Mr. Dibble: Yes.

Mr. Capozella: 7-lot subdivision. Good evening.

Mr. Dibble: Good evening.

Mr. Capozella: Do we have their mailings, Ms. Tu?

Clerk: It's for recommendation only, so Common Council is doing the mailing.

Mr. Capozella: Thank you.

Ms. Plass: Hi. Susan Plass, land surveyor, and exactly what he just said. We're looking for a recommendation for a 7-lot subdivision on Anthony Street.

Mr. Capozella: Okay. Public hearing. I'll open the public hearing. Anyone from the public wants to comment on this application, please step forward.

Mr. Capozella opened the public hearing.

Mr. Capozella: I'll move on to the board members. Any questions or comments?
Mr. Madden?

Mr. Madden: Right now, Anthony Street is exclusively single-family homes. If I drive down there, it's all single-family homes. This plan that was provided to us, it appears that there's already been approvals for multi-family homes. Is that what we're looking at?

Ms. Plass: That's correct.

Mr. Madden: So the property that's in question is contiguous with what's already been already approved for multi-family homes.

Ms. Plass: Correct.

Mr. Madden: Okay.

Mr. Capozella: Mr. Welch, any comments on this application?

Mr. Welch: No.

Mr. Capozella: No.

Mr. Welch: It's within reason.

Mr. Croughan: It meets the lot size?

Mr. Capozella: Meets the criteria?

Mr. Welch: Magnolia Park is right behind them, so I see no problem with it whatsoever.

Mr. Capozella: Okay.

Mr. Croughan: Mr. Welch, all the lot sizes are correct?

Mr. Welch: Yes. It's not like a -- a condo or a townhouse is not like a regular house. I mean, the lot area varies, and when I saw the assessor today, everything's okay.

Mr. Capozella: I think the only recommendation that the board would ever have would be that the Common Council verify lot sizes because they are unusual, so when you know there's a square footage requirement as well as front requirement, (inaudible) requirement, so that Common Council would want to make sure it was correct.

Ms. Plass: Okay. No problem.

Mr. Capozella: Mr. Welch has already probably investigated that and has no problem. All right. I'll go back to the public hearing. Anyone wishing to comment on this application, please step forward. All right. I'm going to close the public hearing.

Mr. Capozella closed the public hearing.

Mr. Capozella: One last time for the board members, any questions? Ms. Hewson.

Ms. Hewson: Yes. Just to ask is there any concern of yours, Mr. Welch, about water and sewer impacts on it, like is it too big or anything like that?

Mr. Welch: There's a multiple building -- Magnolia Park is behind that, okay. It's all new water and sewer.

Ms. Hewson: Okay.

Mr. Welch: He's on the (inaudible) existing already.

Ms. Hewson: Okay.

Mr. Welch: So, you know, everything's okay that way.

Ms. Hewson: Thank you.

Mr. Capozella: Mr. Higbie.

Mr. Higbie: Yeah. Can you just explain to me exactly what we're approving. Are we approving the -- because I know this is going to Common --

Mr. Capozella: We're really not approving anything yet. We're making a recommendation because it's a subdivision.

Mr. Higbie: And it goes in front of our Common Council.

Mr. Capozella: And it goes in front of our Common Council, and any recommendations or whatever they need for approval will go to the Common Council because it is a subdivision.

Mr. Higbie: Thank you for the clarification.

Mr. Capozella: No problem. Anyone else? Okay.

On the motion that the Middletown Planning Board recommends that we move 53-56 Anthony Street, 7-lot subdivision, on to our Common Council.

On motion of Mr. Higbie and seconded by Mr. Britto.

Roll Call Ayes: David Madden, Anthony Britto, Vanessa Cid-Morales, Nicole Hewson, Dan Higbie, Anthony Capozella.

Shai Malul
23-27 West Main Street
residential apartments

Mr. Capozella: Next on the agenda is, again I apologize, Shai Malul, 23-27 West Main Street, residential apartments.

Mr. Ryan: Good evening.

Mr. Capozella: Ms. Tu, I assume we have the mailings.

Clerk: Yes, we do.

Mr. Capozella: Thank you.

Mr. Ryan: My name is Tim Ryan with Cirillo Architects here in Middletown. I'm here representing KB Developers who would like to develop eight apartments on the third and fourth floor at 23-27 West Main Street. The apartments would consist of six two-bedroom apartments, one efficiency apartment, and one one-bedroom apartment. From what I understand, we're in the DMU zone, so we are required to seek a special use permit for the requirements. I believe everybody should have copies of the floor plans.

Mr. Capozella: Okay. Also, just note for the record that we do have the owner's endorsement in the packet. We're going to move on to the public hearing and open the public hearing, and anyone who wishes to comment on this application, please step forward.

Mr. Capozella opened the public hearing.

Mr. Capozella: All right. We'll leave the public hearing open momentarily and move on to the board members for questions and comments.

Mr. Croughan: Do you have easements in place for the City as of yet?

Ms. Livesey: Yes. We've spoke with Joe and Maria about easements, and they said that as long as we replace the artificial façade on the front of the building, the City would be welcoming on the easements that are required.

Mr. Croughan: Okay. But do you have those in place yet? Are they signed off by the City?

Ms. Livesey: They said that we needed to come to the Planning Board first.

Mr. Croughan: Okay. It would have to be subject to.

Ms. Livesey: Okay.

Ms. Higbie: Jen, can you just say your name on the record for them.

Ms. Livesey: Jennifer Livesey.

Mr. Capozella: I just wanted to make that clear that easements are required and will be subject to your approval, final approval; okay? Anyone else from the board? All right. I'll go back --

Mr. Higbie: Just this is the old opera house; right?

Ms. Livesey: This is above. This is above Nina's Restaurant. There are four existing apartments already on the second floor, and we just want to do a repeat on the third and fourth floor.

Mr. Capozella: All right. I'll go back to the public. Anyone from the public wishing to speak on this application, please step forward.

Mr. Capozella closed the public hearing.

Mr. Capozella: I'll close the public hearing and go back to the board members one last time for comments and questions.

Mr. Croughan: I think the City needs to have the easements in hand before we can act on it.

Mr. Higbie: (inaudible)

Mr. Croughan: I think we have to wait on it.

Mr. Higbie: Gotcha.

Mr. Capozella: We would like something more than, I mean, we understand that the mayor and Maria have given you permission, but we would like to have something in writing. That would help us. I think it's minor that we have that. Your façade work would be under the control of the Architectural Review Board

regardless. If I'm hearing this correctly, we need to adjourn for future consideration, and really what we need is the easement agreement to make sure everyone keeps up their end of the bargain.

Mr. Croughan: Yes.

Mr. Capozella: Any questions from the board? Okay.

On the resolution to adjourn for future consideration, I need a motion.

On motion of Ms. Cid-Morales and seconded by Mr. Britto.

Roll Call Ayes: David Madden, Anthony Britto, Vanessa Cid-Morales, Nicole Hewson, Dan Higbie, Anthony Capozella.

Mr. Capozella: Please contact our Corporation Council, Alex Smith, so you can get all the proper paperwork.

Daniel C. Higbie
5 Kennedy Terrace
a six-foot high privacy fence

Mr. Capozella: Next on the agency is Daniel C. Higbie, 5 Kennedy Terrace, a six-foot high privacy fence. Good evening.

Mr. Higbie: Hi. Good evening. Dan Higbie, 3-5 Kennedy Terrace. I'm looking to put a fence on the side of my house, non-conforming fence, about six-foot high, about 20 to 25 feet to the side, and then all the way to the, you know. Basically, I have a big side yard that I can't utilize at all now because it's not attached to my yard.

Mr. Capozella: Okay. Just for the record, Ms. Tu, we have the mailings?

Clerk: Yes, we do.

Mr. Capozella: Thank you. All right. Open the public hearing. Anyone wishing to step forward and comment on this application.

Mr. Capozella opened the public hearing.

Mr. Capozella: Okay. We'll leave it open momentarily. Anyone from the board

have questions or comments? Okay. Back to the public hearing. I'll close the public hearing.

Mr. Capozella closed the public hearing.

Mr. Capozella: And I just have one question for Mr. Welch. Obviously, you've looked at it. There's nothing out of the ordinary.

Mr. Welch: It's a corner lot.

Mr. Capozella: Pardon me?

Mr. Welch: It's a corner lot.

Mr. Capozella: Right. Nothing out of the ordinary here.

Mr. Welch: Not at all.

Mr. Capozella: All conforming -- in conformance. Good. All right. Thank you very much. All right.

On 5 Kennedy Terrace, a six-foot high privacy fence installed as per Mr. Higbie's invoicing on final approval with the Middletown DPW, and I think that's all we have to add. On that resolution, I need a motion.

On motion of Mr. Madden and seconded by Mr. Britto.

Roll Call Ayes: David Madden, Anthony Britto, Vanessa Cid-Morales, Nicole Hewson, Anthony Capozella.

Roll Call Recusal: Dan Higbie.

Jianjiang Ye
12-12 ½ William Street
three-family dwelling in DMU zone

Mr. Capozella: Next on our agenda is Jianjiang Ye, 12-12½ William Street, three-family dwelling in DMU zone. How you doing tonight, sir?

Mr. Ye: Hi. Good evening, sir, everyone. This is Jianjiang Ye from 12 William

Street.

Mr. Capozella: Good.

Mr. Ye: So we bought the house last July, the 30th of July before, actually right after that zone was changed to DMU without our knowledge at an auction. So I checked, the you know, the (inaudible) card and also checked the records in the office downstairs. I saw it was three-family. I had to go through the ZBA to, you know, waiver from the DMU. So now I hope I can put it back as three-family.

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

Clerk: Yes, we do.

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

Mr. Capozella opened the public hearing.

Mr. Capozella: Okay. We'll leave the public hearing open. We'll move on to the board for questions and comments. Anyone?

Mr. McCarey: The bedrooms, do you have to walk through one bedroom to get to the other?

Mr. Ye: I don't think so because according to the floor plan, the current plan, no.

Mr. McCarey: No.

Mr. Capozella: You do realize that the DPW and Middletown Fire Department will both inspect your property.

Mr. Ye: Of course.

Mr. Capozella: And you'll have to conform to those codes.

Mr. Ye: Absolutely.

Mr. Capozella: Okay. Anyone else from the board, questions or comments? Okay. I'll move back to the public hearing. Anyone from the public wishing to comment on this application, please come forward. I'll close the public hearing.

Mr. Capozella closed the public hearing.

Mr. Capozella: I'll give the board members one more chance. Any questions or comments?

Ms. Hewson: Nobody is currently living in there; right?

Mr. Ye: No. It's been vacant.

Ms. Hewson: Completely vacant. Okay.

Mr. Capozella: The house is unoccupied at this time?

Mr. Welch: Excuse me?

Mr. Capozella: The gentleman said that no one is living in the building at this time.

Mr. Welch: No. It's empty. He's doing it legally.

Mr. Capozella: Okay. Thank you. Any other questions or comments?

Mr. Madden: Mr. Capozella?

Mr. Capozella: Yes.

Mr. Madden: Are we opening a can of worms with approving a three-family home? I'm just not sure of what the new City laws are for three-family homes.

Mr. Capozella: Actually, in this application, we're actually allowing him to use the first floor, not as commercial as the DMU states, but as residential. The history of the home and the history of the area has presented itself as residential and multi-family, so he's only asking -- we've waiving the commercial use of the first floor basically. Did I get that correct, Mr. Welch? Is that right?

Mr. Welch: Correct.

Mr. Capozella: Okay. Does everybody understand that?

Mr. Madden: Yeah. Much better.

Mr. Capozella: Okay. That's really what we're doing as the Planning Board. We're giving him permission to take the first floor and make it residential.

Mr. Welch: The way it was constructed years ago.

Mr. Capozella: Right.

Mr. Welch: The ZB approved it, so --

Mr. Capozella: Right. That is, yeah.

Mr. Higbie: And this does not have to be owner occupied; correct?

Mr. Capozella: Correct. That is in your packet. It should be the resolution granting the use variance by the ZBA. If you didn't get it, we'll get you a copy.

Mr. Higbie: I have it. Thank you.

Mr. Capozella: So they've already given him permission to do just about what we're about ready to do. Are there any other questions? Okay.

On the resolution for 12-12½ William Street, a three-family dwelling in the DMU zone, basically we need to waive parking requirements also for this application, and like I said, we are basically giving him permission to use the commercial, the first floor, as a residential area. This will also be contingent on any DPW and Middletown Fire Department inspections and, of course, go through the Middletown permitting process.

On motion of Mr. Madden and seconded by Mr. Higbie.

Roll Call Ayes: David Madden, Anthony Britto, Vanessa Cid-Morales, Nicole Hewson, Dan Higbie, Anthony Capozella.

Mr. Capozella: Just also for the record, since the gentleman is in that DMU zone, he must follow all the DMU zone architectural review items and issues. Anything you do to the exterior of the building will have to be approved through the Architectural Review Board. That will be explained to you through the DPW process. I just want to make it clear. That's all.

Kai Lee and Courtenay Williams

**9-29 Canal Street
art studio**

Mr. Capozella: Next on the agenda is Kai Lee and Courtenay Williams, 9-29 Canal Street, an art studio. Welcome.

Mr. Lee: How are you?

Mr. Capozella: Good. Do we have our mailings, Ms. Tu?

Clerk: Yes, we do.

Mr. Capozella: Thank you. And we have owner endorsement?

Mr. Lee: Yes.

Mr. Capozella: Okay. Continue, sir.

Mr. Lee: So we basically want to have our art studio over at 9-29 Canal Street. We're here for Planning Board approval.

Mr. Capozella: Okay. That was short and sweet. All right. I'll open the public hearing. Anyone wishing to comment on this application, please step forward.

Mr. Capozella opened the public hearing.

Mr. Capozella: We'll leave the public hearing open momentarily, and we'll move on to the board for any questions or comments. Yes, Mr. Madden.

Mr. Madden: Can you describe a little bit about how much space you're requiring, or like 9-29 is a very large building.

Mr. Lee: We have 15,000 square feet. We have the second -- well, I guess technically the third floor, half side from the -- if you're looking at the building, it has the loading dock in the middle of the building, so we're upstairs to the right of that towards Fulton.

Ms. Williams: It's a continuous expanse. It's not --

Mr. Lee: It's one giant room broken up into four sections.

Mr. Capozella: And just for the record, that's on page 2 of our application, and you kind of highlighted the area.

Mr. Lee: Yes.

Mr. Capozella: Okay. Thank you.

Mr. Higbie: So this is part of the big white building, the storage building, and only these parts are what you're looking to use?

Mr. Lee: Yeah. The storage building is the other side of the building.

Mr. Higbie: This is on the upper, towards the police department.

Mr. Lee: No. This is further towards the post office.

Mr. Higbie: Okay. And since it's the second and third floor, you wouldn't have like any kind of frontage, would you? Like how would you?

Mr. Lee: Pardon?

Mr. Higbie: There's no frontage, right? Like you would be on the second floor.

Mr. Lee: No. We'd be on -- it's technically, on the architect's drawing, it's the third floor.

Mr. Higbie: Okay. And just can you explain what -- are you guys going to be teaching art classes type of thing, or are you selling?

Mr. Lee: We're just creating art pieces.

Mr. Higbie: A studio for yourselves.

Mr. Lee: A studio for ourselves.

Mr. Higbie: Not open to the public.

Mr. Lee: Not open to the public.

Ms. Williams: No, no. We have clients all over the country and globally, so they commission us to make different pieces for them, specialty pieces.

Mr. Lee: So the client might come by.

Ms. Williams: Yeah.

Mr. Higbie: Okay.

Ms. Williams: Somebody might come to our studio, but by appointment.

Mr. Lee: We've also used -- we'd like to use it to also film the process of building these sculptures or putting them together, just like time lapses and that kind of thing.

Ms. Williams: Social media, Instagram.

Mr. Croughan: What's the hours of operation?

Mr. Williams: We work a lot.

Mr. Lee: It could be from -- yeah.

Mr. McCarey: It's on the last page.

Mr. Capozella: Right now, it's every day from 1:00 AM, and then these times might vary during your shoots, maybe 8:00 AM or normal business hours -- I apologize. Normal business hours are 8:00 AM to 7:00 PM, but that varies from 8:00 AM to 1:00 AM.

Mr. Lee: We could go later on certain days.

Ms. Williams: Depends on the project really.

Mr. Capozella: All right. I'm not quite sure how we'll put that in a resolution, but we'll come up with something.

Ms. Hewson: We need to waive parking?

Mr. Capozella: Yes. That doesn't really affect you. Again, you use municipal parking. You have no parking per se, but you can use municipal parking. We'll go back to the public hearing. Anyone from the public that wishes to comment on this application, please step forward. Just state your name for the record when you get up to the mic.

Ms. Livesey: Jennifer Livesey. This building is in contract for sale and it should be closing next week, and the application to be here for your Planning Board in December or January should be coming through to develop this building. I don't know if that affects it at all, but I felt that I needed to mention that.

Mr. Capozella: Okay. Thank you. But it doesn't really affect us because there is no sale just yet.

Ms. Livesey: Okay.

Mr. Capozella: Thank you.

Mr. Higbie: I assume you guys have some sort of a lease, or are you month to month?

Mr. Lee: Right now we're month to month, but we're also in talks with the --

Ms. Williams: Prospective buyer.

Mr. Lee: Yeah. And hopefully, it will be a symbiotic relationship going forward.

Mr. Higbie: Okay. So you realize that --

Ms. Williams: Yes. We're aware.

Mr. Higbie: Okay.

Ms. Williams: And we still have to work in the meantime so we want to be sure that we can do that.

Mr. Higbie: I (inaudible) protection.

Ms. Williams: Oh, thank you.

Mr. Lee: I appreciate that.

Mr. Croughan: So with respect to the art studio, it's not going to be open to the public, it's only for whoever you do the work for that would be commissioned, so there would be no large gatherings taking place there?

Ms. Williams: No.

Mr. Lee: Occasionally, like if we have the client come by with a bunch of people.

Ms. Williams: Sometimes advertising agencies come or different people come in and they bring, you know, multiple people with them, but that's not really --

Mr. McCarey: Richard, if you go to the last page, I met with the applicant prior, and we made notes on that last page. You can see they're not allowed -- no more than 10 employees working during normal business hours, no more than 35 people working during photo shoots, and all areas of access both to the public; however, employees, subcontractors, talent, associated persons only, so that would answer that question.

Mr. Croughan: Are you incorporating that in the resolution?

Mr. Capozella: Absolutely. Yes.

Ms. Hewson: So it's not a gallery but a studio. That would be --

Mr. Capozella: Correct. The other thing that we just want to make sure we flush out, your website does say that you may have live events. Can you define what your live events are?

Mr. Lee: Oh, we don't have live -- we design live events.

Ms. Williams: We design experiential marketing, different set pieces for things that happen in other places. We don't have the events ourselves.

Mr. Lee: Like our last one was at Rockefeller Center.

Ms. Williams: Yeah.

Mr. Capozella: Okay.

Mr. Lee: Not here.

Ms. Williams: Not here.

Mr. Capozella: All right. Well, we have to clarify that.

Mr. Lee: We're happy to tell you about that.

Ms. Williams: Do you guys want to have a live event? Let me know.

Mr. Capozella: That's fine. All right. Anyone else from the board? Any other questions? All right.

On the resolution -- I think I closed the public hearing. If not, I'll close the public hearing right now.

Mr. Capozella closed the public hearing.

Mr. Higbie: I have one more -- you guys are -- you haven't been operating yet. You're waiting to get approval on this, or have you been in the building?

Mr. Lee: We've been in the building. We didn't know that we needed to, honest, to be in front of the Planning Board at first. But we stopped working until we came back here.

Mr. McCarey: They have special disposition for what they're doing right now.

Mr. Croughan: What's that?

Mr. McCarey: They are working within the guidelines the City has discussed with them.

Mr. Capozella: Okay. Any further questions? All right. I'm going to try to make a resolution out of this.

On the application of 9-29 Canal Street, artist studio, the hours of operation for normal business will be from 8:00 AM to 7:00 PM, and I'm assuming it's Monday through Sunday.

Mr. Lee: Yes.

Ms. Williams: Yes.

Mr. Capozella: Monday through Sunday. Okay. With the possibility that there may be working hours from 8:00 AM to 1:00 AM during a photo shoot or business being conducted.

Mr. Lee: Correct.

Mr. Capozella: Okay. We waived the parking requirement, and there are some items here that I'm going to add to the resolution so that it's clear to everyone. This is upon the Middletown Fire Inspector's meeting with you. Fire extinguishers as per Code. An NFPA report for sprinkler system. Post a fire watch during hours of photo shoots. Electrical underwriters compliant report is required. Elevator will be blocked off and secured. Exit signs as required by the Fire Inspector. No more than 10 employees during normal business hours. No more than 35 people working during photo shoots. And all areas not accessible to the public, employees, subcontractors, talent, and associated persons only. Okay. These are the items you've already discussed, so we're just going to put it in the resolution and make sure everybody stays on the same page. These are not for public use. These are for your clients' use only.

Ms. Williams: Correct.

Mr. Lee: Correct.

Mr. Capozella: As usual, everything is always subject to DPW, Middletown Fire Department, and of course you'll go through the permitting process of the City of Middletown.

On motion of Mr. Madden and seconded by Ms. Cid-Morales.

Roll Call Ayes: David Madden, Anthony Britto, Vanessa Cid-Morales, Nicole Hewson, Dan Higbie, Anthony Capozella.

Mr. Ryan: Excuse me. May I approach the board?

Mr. Capozella: Pardon me?

Ms. Livesey: We have a --

(inaudible)

Mr. Capozella: That's the first one.

Mr. Ryan: No.

Ms. Livesey: No. 17-39.

Mr. Capozella: Oh, you didn't get a revised agenda? I apologize.

Ms. Livesey: No.

Mr. Capozella: That's removed from the agenda. 17-39 Midland Avenue was removed from the agenda. They weren't ready for this evening. Sorry. We can speak to you as like a preliminary, but it won't be for the record.

Mr. Ryan: Well, sort of on the record. We were hoping to revisit conditional approval. There's a sale pending on the property, and it's sort of contingent upon that.

Ms. Livesey: We did try and go and get the easement, and we were told that we couldn't get the easement until we were through Planning Board, so we did this process first.

Mr. Croughan: I spoke to Alex Smith yesterday, and Alex said that we need the easements before we can act.

Mr. Ryan: Not even conditionally?

Mr. Croughan: No. So that's the position I'm taking as counsel.

Ms. Livesey: Okay.

Mr. Ryan: Thank you.

Mr. Capozella: You're welcome.

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

Roll Call Ayes: David Madden, Anthony Britto, Vanessa Cid-Morales, Nicole Hewson, Dan Higbie, Anthony Capozella.

Adjourned 7:45PM

Respectfully Submitted,

Diane Genender, Transcriber