

**CITY OF MIDDLETOWN  
PLANNING BOARD  
MINUTES**

**December 05, 2018**

A meeting of the Planning Board was held in the Common Council Chambers, City Hall, 16 James Street, Middletown, New York on December 5, 2018 at 7:00 P.M., Mr. Anthony Capozella presiding.

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

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

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 November 7, 2018 minutes. Motion by Mr. Madden; seconded by Mr. Britto.

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

**Tulisi, LLC  
425 North Street  
a liquor store**

Mr. Capozella: Just so everyone knows, the mailings have already been handled. The public hearing is still open.

Mr. Buccholz: Good evening, everybody. My name is Scott Buhholz. I work for Fusco Engineering. I'm here to represent Tulisi in the site plan approval process. To refresh the board's memory, this is an existing liquor store on North Street, and when I say it's on North Street, it is on North Street, and the whole purpose of this

site plan is to demolish the existing liquor store and put up a new liquor store that's friendlier to the owners that own it and also to alleviate traffic flow problems in that area. That's it in a nutshell.

Mr. Capozella: Okay. Thank you. We'll just go back to the public hearing. Anyone from the public wishing to address this application, please step forward.

*The public hearing is still open.*

Mr. Capozella: In that case, we'll close the public hearing.

*Mr. Capozella closed the public hearing.*

Mr. Capozella: Any comments or questions from the board members? Okay. The applicant has revised the plans as recommended by Mr. Chumard. Is that correct, Mr. Chumard?

Mr. Chumard: Yes, Mr. Chairman, that's correct. There were a couple of suggestions, which they had to comply with. I did want to ask one question because there is a little concern in that the drainage in the front is being deflected by a proposed curb in the front of the building, and all the drainage goes down to one corner and then goes downhill to a point that's close to the Mandarin Soy Sauce line, and they've mitigated that by putting a level spreader on there. We're just wondering would there be a possibility of putting any additional drainage on the northern end to help dissipate that drainage, in other words, to say to the north of the handicapped space. It could be a small drain. I suppose it could go toward the rear so you wouldn't have all the drainage going in one spot.

Mr. Buccholz: Yeah. We could place drainage there. No problem.

Mr. Chumard: Yeah. Just a small drain I think would help, and this way, you know, right now you have kind of sheet drainage across the whole site more or less.

Mr. Buccholz: Okay.

Mr. Chumard: And if you take that sheet drainage and concentrate it to a point discharge is a little problematic, and you're doing the best you can, but if you add that little bit of drainage on the other end, and it doesn't have to be a big pipe. In fact, I don't think you labeled the pipe that you had there. It looks like it's maybe a 15" pipe or something.

Mr. Buccholz: Yes.

Mr. Chumard: So if you would label that, and then you could probably put a smaller, like a 12" pipe or something like that above, and I think that would be good. You have flattened out the drainage a little bit along the northerly rear corner of the building.

Mr. Buccholz: Yes.

Mr. Chumard: And there was a short form environmental form done. We reviewed that. The lead agency does the Part 2 and Part 3. I did a graph of that and submitted it, and if the board feels that they would like to act on that and declare lead agency for this project if they feel it's necessary, then all the planning board chairman would have to do is sign it. So that would be, you know, for your consideration.

Mr. Capozella: The only other thing on the site plan that Mr. Chumard and I discussed was the handicapped spot. You need to move it on the other side for the driver to get out into the handicapped-designated area.

Mr. Chumard: We were, yeah, Mr. Buccholz, if the handicapped spot were moved to space 3, and you have the ramp where it is, couldn't the driver exit the vehicle and just walk over?

Mr. Buchholz? Yes.

Mr. Chumard: Or push a wheelchair over to the handicapped ramp?

Mr. Buchholz: We'll place it there.

Mr. Chumard: Yeah. Where it is now, you'd have to go all the way around, unless you backed in which would be okay too.

Mr. Buchholz: Not a problem. We'll move that for you.

Mr. Chumard: Okay.

Mr. Buchholz: Makes sense.

Mr. Capozella: Mr. Naumchik?

Mr. Naumchik: Gef, I notice in your notes saying that there isn't enough parking?

With the revised plans --

Mr. Chumard: You'd have to waive --

Mr. Naumchik: Oh, we're going to have to waive parking.

Mr. Chumard: You'd have to waive parking. Yes.

Mr. Naumchik: Because you said the spots are 9.3 are required (inaudible)?

Mr. Chumard: And you have -- really you have eight spots.

Mr. Naumchik: Only eight?

Mr. Capozella: That's fine. I think we can waive the parking requirement for that area for one spot.

Mr. Buchholz: Okay.

Mr. Capozella: And I think the board will agree that since Mr. Chumard has revised and updated the EAF, that I will sign off on Part 2 and Part 3, and there'd be no need to declare ourselves lead agency or do (inaudible).

Mr. Croughan: Are we using the same hours that were existing?

Mr. Capozella: I do not know.

Mr. Buchholz: We are.

Mr. Capozella: Do you know what they are so we can just put them in the resolution?

Mr. Buchholz: They are 12:00 to 10:00 at night.

Mr. Croughan: Every day?

Mr. Buchholz: Yes.

Mr. Naumchik: Gef, you're okay with the lighting plan?

Mr. Chumard: Yeah. The lighting plan does not really impact neighboring

properties.

Mr. Naumchik: It doesn't.

Mr. Chumard: Yeah.

Mr. Buchholz: I'm sorry. Actually, the hours of operation are on page 2. It states 11:00 a.m. until 12:00 p.m., seven days a week.

Mr. Capozella: 11:00 A.M. to 12:00 --

Mr. Buchholz: P.M., seven days a week. Midnight.

Mr. Capozella: We'll make it clear. Anything else, Mr. Chumard? Okay. Anything else from the board? I'll try to put this in resolution form.

That the resolution for Tulisi, LLC, 425 North Street, a liquor store, we will waive parking requirements. The hours of operation will be 11:00 A.M. to 12:00 Midnight, seven days a week. Any additions or revisions to the plan regarding drainage will be -- the DPW will make sure that that is included, and any changes in parking as far as ADA requirements also will be on your revised plan and checked out by the DPW. Other than that, I think we -- the board has declared itself lead agency and, again, we can make a resolution if you'd like toward that.

Mr. Croughan: Yes.

Mr. Capozella: Is that a requirement? Okay. I will do that then. I'll read the negative declaration first.

On a motion, and there'll be a second, that Tulisi, LLC, that the Planning Board, based on all of the evidence submitted by Tulisi, LLC seeking a site plan and special use permit in order to have a liquor store, the Planning Board makes the following determination with respect to the environmental significance of the proposed project located at 423-425 North Street, Middletown, New York, Section 8, Block 10, Lot 12. Based upon a recent elaboration of the potential environmental impact for the project, and after a thorough review of the project's environmental elements, the Planning Board hereby determines that there will be no significant environmental effect as a result of the completion of the proposed project by this resolution making a negative declaration of environmental impact as that term is defined in the Environmental Conservation Law and in Part 617 of the New York State SEQRA Regulations.

On motion of Ms. Cid-Morales and seconded by Ms. Hewson that the Middletown Planning Board hereby approves the resolution for a negative declaration of environmental impact for Tulisi, LLC.

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

On the resolution for lead agency, whereas the City of Middletown Planning Board has received an application from Tulisi, LLC, Tax Map designation Section 8, Block 10, Lot 12, located in a C-1 Zone for a site and special use permit for a liquor store, the project is located at 423-425 North Street in the City of Middletown. Therefore, be it resolved that the City of Middletown Planning Board is declaring its intent to be lead agency with respect to the proposed action under the State Environmental Quality Review Act; and be it further resolved that the City of Middletown Planning Board is authorizing the applicant to distribute the lead agency coordination request in accordance with Article 8 of the Environmental Conservation Law and 6 NYCRR Part 617 to all interested and involved agencies.

On motion of Mr. Naumchik and seconded by Ms. Hewson that the Middletown Planning Board hereby approves the resolution for lead agency for Tulisi, LLC.

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

On motion of Mr. Britto and seconded by Mr. Madden that the Middletown Planning Board hereby approves the resolution for waiving of parking and as stated in the above resolutions for Tulisi, LLC. All approvals are subject to DPW, Middletown Fire Department, and the permitting process of the City of Middletown.

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

**Shai Malul**  
**23-27 West Main Street**  
**residential apartments**

Mr. Livesey: Good evening, Mr. Chairman and members of the board. My name is Art Livesey. I'm an associate broker with HomeSmart Real Estate, and I'm the

Realtor in this transaction, and we've been coming to you and we're here to report on the acquisition of an easement, and we had a busy month putting it all together. We began the month with a meeting with Mayor DeStefano and Maria Bruni and Alex Smith, and we got all the guidelines put together on what to do and we've been working on that and we have put it together, and our attorney, Andrew Leider, can give you a report on that.

Mr. Leider: Good evening. The purpose of the request to go before the Planning Board was to add eight additional apartments on the third and fourth floor of this building located at 23-27 West Main Street. The open issue on this was light and air access for those windows facing the adjacent park. We have met with the mayor, met with the fire inspector, the building inspector, and Maria Bruni, and the resolution, which has been signed by the parties, is that the windows would open no more than 6" except in emergencies, and there will be mechanical ventilation provided to make up the required ventilation. And to my knowledge, that was the last open item that the Planning Board had in objection. I believe he has the easement with the signings.

Mr. Capozella: We actually have -- every one of the Planning Board members now has a signed easement agreement in their possession.

Mr. Leider: So we would ask that the Planning Board then move to an approval of this change or addition of apartments to this project.

Mr. Capozella: Sure. Thank you very much.

Mr. Leider: Thank you.

Mr. Capozella: We'll do a little business. We already have mailings. We have an open public hearing that we need to address the public momentarily. Anyone from the public wishing to comment on this application, please step forward.

*The public hearing is still open.*

*Mr. Capozella closed the public hearing.*

Any questions or comments from the board members? No. Okay. Great. I'm going to read the entire resolution.

Resolution granting conditional approval special use permit for one efficiency apartment and three one-bedroom apartments on the third floor or one bedroom on

the fourth floor, 23-27 West Main Street, Middletown, New York. Whereas, Shai Malul filed an application with the City of Middletown Planning Board seeking a special use permit for one efficiency apartment, three one-bedroom apartments on the third floor, and four one-bedroom apartments on the fourth floor. Whereas, after due notice that the initial public hearing was held on November 7<sup>th</sup>, 2018 at 7:00 p.m. -- yes. I'm sorry.

Mr. Leider: There's been a change in the application. It was to six two-bedrooms and two one-bedrooms. It was submitted -- has been submitted to the --

Mr. Capozella: When was that submitted? We have your application from last month, and this resolution states exactly what's on your application. In fact, it says we'd like to add one efficiency apartment and three bedroom apartments on the third floor and four one-bedroom apartments on the fourth floor. That's your application from last month.

Mr. Leider: Unfortunately, the architect, Mr. Cirillo, is not here tonight, and the drawings show what now? I don't have a copy. I sincerely apologize to the board how their architect submitted the old plans, so the correct plans were not submitted to the board, so we would ask if this could be held over to next month to submit the correct plans.

Mr. Madden: It's in our minutes from last month.

Mr. Capozella: Excuse me? I'm sorry. Go ahead.

Mr. Madden:: It's in our minutes from last month. This was a discussion that we had last month.

Mr. Capozella: Referring to --

Mr. Madden:: The apartments would consist of six two-bedroom apartments, one efficiency apartment, and one one-bedroom apartment.

Mr. Leider: Yeah. That was the --

Mr. Capozella: Well, then you would have to revise the plans regardless, so you'd have to show up next month again with revised plans, if that's the request. It wasn't a request, it was part of the discussion, which is okay. So yes, go ahead.

Ms. (unknown): There should be additional plans that were submitted last month.

You brought them with them? Do you have another set of plans perhaps?

Mr. Livesey: No. We only have one set.

Mr. Capozella: The board or the DPW does not have in its possession the -- the request that they're making, even though it's in the discussion in the minutes, the approval is based on plans submitted, and that's what we're doing, by the plans submitted. We have to. That's what we have to go by. The minutes are one thing, but whatever you submit as plans, the DPW and the Middletown Fire Department will review and hold you to it. So no matter what we do here, there'll be a conflict.

Mr. Leider: We're not arguing with that. We're just surprised that they were not submitted. We will speak to the architect in the morning.

Mr. Capozella: Okay. That's fine. Would you restate what the proposal is again, please?

Mr. Leider: Okay. The proposal is to add six two-bedroom apartments, one one-bedroom, and one efficiency.

Mr. Croughan: What's the breakout on the floors?

Mr. Leider: Equal. It's split equally.

Mr. Capozella: So we'll have three two-bedrooms --

Mr. Leider: On each floor, and three two-bedrooms on the fourth.

Mr. (unknown): One floor had three two-bedrooms and an efficiency, and one floor has three two-bedrooms and a one-bedroom. The third floor is the efficiency, and the fourth floor is the one-bedroom.

Mr. Capozella: And just so I get it correct, we have three two-bedrooms and one efficiency on the third?

Mr. Leider: Yes.

Mr. Capozella: And we have three two-bedrooms -- one-bedroom -- on the fourth; is that correct?

Mr. Leider: Yes.

Mr. Capozella: So when the plans get submitted, that's what the DPW and everyone is going to see on the plan, and that is your request.

Mr. Leider: Yes.

Mr. Livesey: Correct.

Mr. Capozella: And, of course, that'll have to be reviewed because now that you've changed that, it'll have to be the DPW and the Middletown Fire Department (inaudible). Yes, Mr. McCarey.

Mr. McCarey: I have that -- that revised plan. I'd just check it, but this is what you're requesting. I don't know how I have it, but I do.

Mr. Leider: We gave it last month.

Mr. McCarey: I think it was in an email.

Mr. Capozella: I think you need to meet us next month and with everything in order so that we don't make any mistakes, so there's no problems and we can get ready to start the build. All the codes will be met, the plans will be reviewed, and this way we won't have any issues. I'm sorry that we have to hold you up another month, but let's make sure we get it right.

Mr. Leider: We understand. Thank you.

On motion of Mr. Higbie and seconded by Mr. Britto to adjourn for future consideration on the application of 23-27 West Main Street residential apartments.

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

Motion to adjourn by Mr. Britto, seconded by Mr. Naumchik.

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

Adjourned 7:45PM

Respectfully Submitted,

*Diane Genender, Transcriber*