



# **TOWN OF MIDDLEBURY**

*Planning & Zoning Commission  
1212 Whittemore Road  
Middlebury, Connecticut 06762  
(203) 577-4162 ph  
(203) 598-7640 fx*

## **MARCH 5, 2015 REGULAR MEETING MINUTES**

### **MEMBERS PRESENT**

Terry Smith, Chairman  
William Stowell, Vice Chairman  
Erika Carrington  
Matthew Robison (arrived @ 7:30 p.m.)

### **MEMBERS ABSENT**

### **ALTERNATES PRESENT**

Paul T. Babarik

### **ALTERNATES ABSENT**

Christian Yantorno

### **ALSO PRESENT**

John Calabrese, P.E.  
Brian Miller

## **I. CALL TO ORDER**

Chairman Smith called the Regular Meeting of the Middlebury Planning & Zoning Commission to order at 7:28 P.M.

## **II. ROLL CALL AND DESIGNATION OF ALTERNATES**

Chairman Smith announced Regular Members Smith, Stowell, and Carrington as present along with Alternate Member Babarik. He appointed Paul Babarik to act in place of the open seat.

### **III. PUBLIC HEARINGS**

#### **1. Wesson Energy, Inc. – 504-520 Middlebury Road – Application for Site Plan Approval (Application 2015-1-1)**

Chairman Smith called the Public Hearing to order at 7:29 P.M. He read the Legal Notice published in Voices 2-18-15 & 2-25-15 for the record.

Regular Member Matthew Robison arrived at 7:30 P.M.

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT spoke on behalf of the applicant. He submitted the following for the record:

1. Copy of an email dated 2-25-15 from Jack Proulx, Fire Marshal indicating his approval of the plans submitted;
2. Letter from Michael Kenausis, Chairman of the Economic and Industrial Development Commission stating that at their 2-24-15 meeting, a motion was made to approve the proposed design with a condition that should there be any deviation from the presented construction design and exterior siding materials, a new review and approval would be required;
3. Letter, including Statement of Use, dated 3-5-15 from Attorney Michael McVerry requesting this Commission waive the requirements of §52.3.16 (B), (C), and (E) and that the project signage information provided be considered as part of said Special Exception Application.

The CA-40 zoned commercial property (53,650 square feet) consists of the existing Shell station and the vacant lots formerly known as Johnny's Dairy Bar and Vinnie's Pizza. The proposal is to take down the existing Shell station (1,630 square feet), current canopy and gas pumps/tanks and construct a new 3,275 square foot building for the use of gasoline sales/convenience store. It will consist of 5 pumps and 10 pumping stations and have 34 parking spaces. A variance was received on 10-1-14 for the Zoning Board of Appeals for a setback for the canopy coming off of Route 64. The application was accepted by the Conservation Commission and should be placed on the next meeting agenda for the Water Pollution Control Authority. He has been in contact with the Torrington Health District but the status is yet to be determined. The applicant's engineer is in receipt of the 3-3-15 Preliminary Engineering Review submitted by John Calabrese, P.E. The applicant is also proposing a drive through window which will not be for prepared foods but rather prepackaged food and beverages not prepared on site (potato chips, pretzels, prepackaged sandwiches, milk/other dairy products, bottled/canned beverages, tobacco products and other miscellaneous non-food items) or for consumption on site.

Dainius Virbickas, P.E. of Artel Engineering Group, LLC, 304 Federal Road, Suite 308, Brookfield, CT reviewed that plans with the Commission. He stated that the initial 11 X 17 plans that were submitted included an incorrect survey map. The correct survey map has since been submitted. The proposal is to construct the store on the northeasterly (vacant) portion of the 1.23 acre parcel. They will be reutilizing the existing water and sewer connections. An external grease trap is being proposed to comply with CT DEEP requirements. The proposed drainage system will have a series of 6 catch basins and 2 trench drains. The building roof and canopy runoff will be routed into a sub-surface storm-water infiltration system. The property will be heavily landscaped and include curb cuts with a sidewalk. The Identification Sign will be located on the southeast portion of the site. They are also proposing to construct an evergreen geo retaining wall. The lighting plans are being currently being worked on but all will consist of LED lighting and decorative lighting similar to those of Dunkin Donuts.

John Calabrese, P.E. briefly reviewed his Preliminary Engineering Review dated 3-3-15.

Brian Miller did not have a report available but questioned the number of pumps being proposed and whether it fits with the vision for the center of Middlebury and feels that a traffic study should be performed. He also requested that all necessary supplemental information be provided to him. He stated that he will have a report available within 2 weeks.

The following people from the public expressed their thoughts on said proposal:

- Chris Jacobi – questioned the need for 34 parking spaces, had traffic concerns, and safety concerns especially for the elementary school children walking to said location;
- John Cookson – is pleased with the development moving forward but does not see the purpose of a drive through;
- Dave Theroux – stated that the proposal is a big improvement and encouraged an approval;
- Cathy Smith – spoke in opposition of the proposal; stated that it would be a disservice to the community and that it is not downtown development;
- Ingrid ? – indicated that something needs to be done with the site and seemed to be somewhat in favor of the proposal with some changes;
- George Frantzis - agreed that the main strip coming into town needs to be addressed and that the proposal could help local businesses;
- Paul Anderson – spoke in favor of the proposal;
- Bob Wesson – stated that it is his intention to build something that will be an asset to the Town of Middlebury and hope to provide convenience to the citizens;
- Chris Jacobi – read a letter from her husband for the record indicating his opposition of the proposal.

Matthew Robison stated that the project seems to be oriented more towards commuters rather than for the residents of Middlebury. With respect to the requested waiver of Section 52.3.16 (C), he strongly encourages that the applicant have a traffic report done as he finds that the road is already congested. He also questioned that details of the retaining wall and the landscaping that will surround it as he has safety concerns.

Dainius Virbickas, P.E. stated that specifics have yet to be decided but that they will definitely have a fence along the top.

Brian Miller suggested that the specifics of the retaining wall be included in the landscaping plan.

Erika Carrington questioned that placement of the crosswalk and the need for 10 pumps. She also voiced her concerns with respect to the drive through and the inability to ensure that prepared foods will not be sold through there.

Dainius Virbickas, P.E. reviewed the position of the crosswalk that currently exists which will enter into a sidewalk (parallel to the street) and opt to go right or left, walk by the pumps to get to the convenience store.

Jack Starr of 2 Sandy Beach Road indicated that 10 pumps is common given the square footage of the store and will allow people to leave their cars to enter the store without causing a backup of vehicles. He also reviewed the through process.

William Stowell voiced his concerns with respect to the children walking to the site. He asked the applicant to consider repositioning the crosswalk and adding a sidewalk that goes into the property. He also stated that he is opposed to the drive through.

Paul Babarik stated that he is opposed to the drive through and agrees that a walkway should be implemented as he does not want to see people walking through the gas pump area to get to the store.

Chairman Smith stated that he likes the architecture and the building and that it is a vast improvement of what currently exists. He also questioned if 10 pumps complies with the Plan of Conservation & Development to maintain the semi-rural character of Middlebury. He is also opposed to the drive through as the conditions are unenforceable.

Brian Miller questioned if there is an example of the proposed drive through as a reference and would like more information about it.

Jack Starr stated that it is a relatively new concept that revolves around convenience but that the initial design of the store that was submitted is flawed and needs to be redesigned.

William Stowell also stated that the applicant is not to ask for any signage on the canopy with this application or with any future application

Jack Starr stated that the hours of operation will be 24 hours a day, 7 days a week.

Attorney McVerry stated that this should not be determined as a destination gas station. The applicant is enhancing what is there and the application is allowed by the current Zoning Regulations. What is proposed with the drive through is not prohibited in the Regulations. He offered to get a traffic study if the Commission so requires but does not believe that traffic will increase based on the fact that it's a bigger gas station.

Robison, Carrington and Stowell all agreed that a traffic study needs to be done.

Attorney McVerry stated that since the Public Hearing was scheduled last month, the request for an extension was not necessary.

**Motion:** to continue the Public Hearing on 4-2-15. Made by William Stowell, seconded by Matthew Robison. Unanimous Approval.

Chairman Smith requested a brief recess at 8:39 P.M.

## **2. Final Draft of the Middlebury Plan of Conservation & Development**

Chairman Smith called the Public Hearing to order at 8:47 P.M. He read the Legal Notice published in Voices 2-18-15 & 2-25-15 along with a petition dated 3-5-15 signed by several Middlebury residents (see attached) for the record.

Brian Miller gave a brief review of the latest revisions that he made including the inclusion of the open space, map, the clarification of boundary lines, and areas of proposed commercial development.

Brendon Brown of Clearview Knoll voiced his concerns with respect Section 9, required parking, and the backup of traffic on Route 64. He also asked the Commission to

consider an increase in the setback requirement when a commercial property abuts a residential property to buffer said area.

Chairman Smith stated that this would be voted on within the next two months and said that the P.O.C.D. does not change the Regulations. The P.O.C.D. is for consideration. Any change to the Regulations will require a Public Hearing. He also stated that all the unchanged Sections in the 2001 P.O.C.D. will be incorporated into one book. He also stated that consideration will be given with respect to the seven commercial districts mentioned in the draft and having them coincide with the Regulations.

Matthew Robison reiterated that he is not in favor of a business center district in the P.O.C.D. He is for architectural standards and agrees that beautification is necessary but is fearful of the potential of the rezoning of areas.

Chairman Smith reviewed needed corrections within the draft and then gave them to Brian Miller for editing purposes. He also suggested that reference be made regarding potential uses for the Triangle Boulevard area. Lastly, he asked that any 2000 P.O.C.D. reference be changed to 2001.

**Motion:** to continue the Public Hearing on 4-2-15. Made by Erika Carrington, seconded by Matthew Robison. Unanimous Approval.

#### **IV. MINUTE APPROVAL**

##### **1. Discussion of the Minutes of the Regular Meeting held on February 5, 2015**

**Motion:** to approve the Minutes of the Regular Meeting held on February 5, 2015. Made by Matthew Robison, seconded by William Stowell. Unanimous Approval.

#### **V. OLD BUSINESS**

##### **1. Wesson Energy, Inc. – 504-520 Middlebury Road – Application for Site Plan Approval (Application 2015-1-1)**

Discussion was tabled.

##### **2. Final Draft of the Middlebury Plan of Conservation & Development**

Discussion was tabled.

**VI. NEW BUSINESS**

None

**VII. OTHER BUSINESS**

**1. Any other business added to agenda by 2/3 vote of Commission**

None

**2. Enforcement Report**

There was no discussion.

**3. Adjournment**

**Motion:** to adjourn the meeting at 9:23 P.M. Made by Matthew Robison, seconded by Paul Babarik. Unanimous Approval.

Filed Subject to Approval,

Respectfully Submitted,

Rachelle Behuniak, Clerk

Original to Edith Salisbury, Town Clerk

cc: P&Z Commission Members  
Vincent LoRusso, Chairman, Conservation Commission  
Ollie LeDuc, Building Official  
Curtis Bosco, Z.E.O.  
David Alley, Chairman, Z.B.A.  
Attorney Dana D'Angelo  
Larry S. Hutvagner, CFO  
Rob Rubbo, Deputy Director of Health  
Mary Barton

RECEIVED 3-5-15

March 5, 2015

We the undersigned, respectfully request the Middlebury Planning & Zoning Commission exclude Section 9, Middlebury Center from the proposed Middlebury Plan of Conservation and Development.

The intrusive, far reaching boundaries of the designated center area would have an adverse impact on neighboring residences and prominent water courses. It would encourage requests for zone changes and overdevelopment of commercial properties further exasperating traffic congestion along the Middlebury Road corridor.

The potential adverse impact of the inclusion of Section 9 seems to far outweigh the benefits, if any, the Town might realize.

Nutmeg Road

Mary D'Antino C-3

Lou D'Antino C-1

(ELEANOR Carroll) C-4

Greta Stauffer - C-5

Loraine Ziminski C-6

John P. Pruchnicki (C-2)

M. + Mrs. Robert Beely (B-5)

Threat + Rita Deet (B-6)

Jean + Jack Walsh B-4

Cora Lee Russell, A-5

Josephine Di Granzo, A-2

Mary Mangini E-1

Cathy Slater D1

Janet Latrod D1

Emma (Bukowski) D-5

Mary C. Santos D6

Nancy Robinson  
240 Tappan Rd

Carol A Galvin  
406 Regan Rd.

Neil J. Miller  
15 Edgar Rd.

Frank Pinella  
25 Edgar Rd  
Middlebury, CT