



TOWN OF MIDDLEBURY

Planning & Zoning Commission

1212 Whittemore Road

Middlebury, Connecticut 06762

(203) 577-4162 ph

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October 5, 2023 REGULAR MEETING MINUTES

REGULAR MEMBERS PRESENT

Terry Smith, Chairman
William Stowell, Vice Chairman
Erika Carrington
Matthew Robison
Joseph Drauss

REGULAR MEMBERS ABSENT

ALTERNATE MEMBERS PRESENT

Frank Mirovsky
Paul Anderson

ALTERNATE MEMBERS ABSENT

Gerald Lukowski

ALSO PRESENT

John Calabrese, P.E.
Curtis Bosco, Z.E.O.
Attorney Gail McTaggart

CALL TO ORDER

Chairman Smith called the Regular Meeting to order at 7:00 p.m.

ROLL CALL AND DESIGNATION OF ALTERNATES

Regular Members Chairman Smith, Stowell, Carrington, Robison & Drauss and Alternate Members Anderson & Mirovsky were present. Alternate Member Lukowski was absent.

PUBLIC HEARINGS

1. Jad Harb, JTH Builders, LLC/Washington Drive – Application for an 11-Lot Subdivision on 60.135 acres, Sycamore Place (Application #23-42Z)(Continued)

Chairman Smith called the continued public hearing to order at 7:00 p.m. He read the September 25, 2023 review from the town's Planning Consultant Hiram Peck of Plan Three, LLC for the record. He then announced Regular Members Smith, Stowell, Carrington, Robison & Drauss and Alternate Members Anderson & Mirovsky as present.

Luke Sofair, P.E. with John Paul Garcia, P.E. of Garcia & Associates, 190 Fairwood Road, Bethany, CT 06524 spoke on behalf of the applicant. He acknowledged that he received Hiram Peck's review last week, however, they have not had the opportunity to incorporate the changes and are not reflected on the original plans he reviewed with the commission this evening. He stated that he submitted a response letter to Curtis Bosco, Z.E.O. prior to this meeting, item by item and in the same order of Mr. Peck's review indicating whether they agree or disagree with Mr. Peck's concerns. He then proceeded to review his response letter a submitted a hard copy for the record.

Chairman Smith stated that he would like the applicant to request a continuance in order to keep the public hearing open and give them time to revise the plans. He added that he does not want to close the public hearing until the revised plans are received and asked that they be submitted as soon as possible.

Luke Sofair, P.E. expressed his understanding. He apologized for the delay and explained that they only received Hiram Peck's review last week and the staff report from Public Works yesterday.

Motion: to continue the Public Hearing on November 2, 2023. Made by Matthew Robison, seconded by Erika Carrington. Unanimous Approval.

2. James A. Christiano/Nick Road – Application for a 6-Lot Subdivision on 20.45 acres, Trout Estates (Application #23-45Z)(Continued)

Chairman Smith called the continued public hearing to order at 7:13 p.m. and announced Regular Members Smith, Stowell, Carrington, Robison & Drauss and Alternate Members Anderson & Mirovsky as present. He read the September 17, 2023 review from the town's Planning Consultant Hiram Peck of Plan Three, LLC for the record.

Scott Meyers, P.E. of Meyers Associates P.C., 60 Linden Street, Waterbury, CT 06702 spoke on behalf of the applicant. For the record, he submitted a packet which contained the following documentation:

- Response letter from Scott Meyers, P.E. of Meyers Associates P.C. dated October 2, 2023, in response to Hiram Peck's review
- Schedule A Legal Description – Vol: 318, Pg: 189, Inst: 22
- Warranty Deed – Vol: 318, Pgs: 197-198, Inst: 26
- Schedule A Legal Description – Vol: 318, Pg: 199, Inst: 26
- Review from Hiram Peck of Plan Three, LLC dated September 17, 2023
- CT Water Company letter dated October 3, 2023 regarding Water Feasibility
- Engineering review from John Calabrese, P.E. dated September 5, 2023
- Letter and Resolution from Deborah Seavey, W.E.O. indicating application approval at the August 29, 2023 Conservation Commission meeting
- Email from Dan Norton, Director of Public Works dated September 7, 2023
- Letter from Fire Chief Brett Kales
- Email from Police Chief Patrick Deely dated August 14, 2023

Scott Meyers, P.E. went on the review his response letter dated October 2, 2023.

Chairman Smith shared that he spoke with the town attorney today and that she would like to have some sort of resolution on the encroachments and how they will be handled. He added that he will close the public hearing but not act on it until it could be worked out.

Motion: to close the Public Hearing at 7:28 p.m. Made by William Stowell, seconded by Joseph Drauss. Unanimous Approval.

3. Attorney Edward G. Fitzpatrick for Southford Park, LLC/764 Southford Road, Middlebury, CT 06762 – Application for a Text Change regarding Height in LI-200 Zone pursuant to Sec. 42.2 of the Regulations (Application #23-58Z)

Chairman Smith called the public hearing to order at 7:29 p.m. and announced Regular Members Smith, Stowell, Carrington, Robison & Drauss and Alternate Members Anderson & Mirovsky as present. He read the Legal Notice published in Voices on September 20, 2023 & September 27, 2023 for the record.

Prior to the start of this meeting, Attorney Edward (Ned) Fitzpatrick provided an envelope which contained certified mail receipts with return receipts for the Legal Notice that was sent to neighboring property owners.

Chairman Smith proceeded to list the names of the following people that sent in correspondence expressing their opposition of the proposed project:

1. Cindy Scannell
2. Tara Fitzgerald of 254 Steinman Avenue
3. Lynn & Gary Rose of 400 Long Meadow Road
4. Greg & Nancy Scallon of 145 Ridgewood Drive
5. Jessica Tysoe of 290 Christian Road
6. Joseph Puzzo of 42 Avalon Drive
7. Walt Jonsson of Hemlock Lane
8. Neil Cybart
9. Jennifer Cybart of 3 Hampshire Court
10. Susan Salcito of 116 Christian Road
11. Anthony Salcito of 116 Christian Road

Chairman Smith then confirmed that a copy of the application was submitted to the Town Clerk's office on August 29, 2023.

Attorney Edward (Ned) Fitzpatrick of 203 Church Street, Suite 4, Naugatuck, CT 06770 spoke on behalf of the applicant, Southford Park, LLC. At this point, he stated that Norman Drubner wanted to take the opportunity to provide an anecdotal history of the industrial parcels in the area.

Norman Drubner stated that his family partnership is a 50% owner of the project. He has lived on and off in Middlebury for the past thirty (30) years, raised his children in Middlebury and felt like he was a part of the community. He declared that he would never participate in any project that he thinks would have a negative effect on the town. He has been a substantial real estate investor in the town, including, but not limited to, being a partner in the purchase of the Uniroyal Chemtura project, Turnpike Office Park, and the vacant Truck Museum on Route 188 which he later sold to Dean Yimoyines. He acknowledged learning of rumors circulating that Dean Yimoyines is somehow involved in this subject transaction. He declared that Dean Yimoyines has no interest whatsoever in this project. He also purchased four (4) lots on the north side of Benson Road and 1100 Southford Road which was an eyeglass frame warehouse/distribution center where the frames were warehoused and sold to the industry. In 1998 he purchased approximately twenty (20) acres on Route 188, which is partially subject to this hearing. At that time, there were no comments, and Avalon Farms, Brookside, Ridgewood and Benson Woods were not in existence. The entire area was zoned industrial, including the Timex piece. Timex applied for a zone change in the PRD on a portion of the property on both sides of Benson Road. As a result, 64.8 acres were changed to residential leading to the Benson Woods development where two (2) industrial buildings remain. His point was that the industrial land existed prior to any condominium developments, however, he sees no reason why they can't exist together. He

is attempting to create a successful project for the town which would increase the tax base. He then introduced Joseph Zink, President and CEO of Atlantic Management, who he believes to be the gold standard of companies that construct large projects.

Joseph Zink, President and CEO of Atlantic Management, 205 Newbury Street, Framingham, MA 01701 stated that their team has been focused on maintaining as large a buffer as possible, which resulted in approximately 35.5 acres. He stressed that the cornfield would remain and that there would be no clearcutting. He acknowledged that the location of the main entrance should be relocated to Southford Road. The request for the text change to 44' in height is due to today's advancements in technology and robotics and are best in class facilities and what they look for. In terms of setbacks from the road and the buffer zone

Tony Iacovino, Project Architect & Senior Associate with SMMA, 1000 Massachusetts Avenue, Cambridge, MA 02138 and 275 Promenade Street, Suite 275, Providence, RI 02908 stated that they have worked with Joseph Zink of Atlantic Management on a number of large commercial projects similar to this proposal. SMMA has been advising Atlantic Management on the industry standard for height, particularly for a warehouse and buildings of this type. He spoke of the importance of the high bay usage with 30' clear space being the minimum height in the industry and ideally 35' is a bit better. Further west, they look for 50'-65'. Given the existing building height of 35' to the top of the building, it makes things very constrained. The way the height of the building is calculated is based on the grade around the building. Due to the fact that the building does have loading docks, primarily on one side, they get a penalty in terms of how much of the building is exposed on one side. While they could make it work with 35', 42' would be much better as it would result in long-term viability to the building, make is more leasable and provided for better uses in the future.

Attorney Edward (Ned) Fitzpatrick referenced Conn. Gen. Stat. §8-3b and confirmed that they are seeking a text change from 35' to 44' in Section 42 of the Regulations. He acknowledged that their experts expressed the need for 42', however, after some discussion it was determined that 44' would accommodate the emerging technologies and the use of the robotic machinery to ensure that there will be adequate clearance. He submitted the following documentation for the record:

- POCD – He stated that their proposal is consistent with many of the provisions in the POCD and submitted a copy for the record as well as copies for the members of the commission. He continued by saying that the proposal is in line with the goals and objectives and will maintain the semirural character of the town and promote industrial growth. A significant portion of the property will be set aside for conservation, preservation of wetlands, wildlife corridors and he stated this concept is adopted on page 18 while the encouragement for industrial growth can be found on pages 43, 47 & 48. He acknowledged that there are many opportunities to construct additional buildings on the

property, however, this team did not do that because they have a deep appreciation for the communities that they build in.

- Conservation Commission approval on May 10, 2023 – He explained that it delineates the preservation conservation of the watercourses, wetlands, some of the farm land area and the cornfield. It also made provisions for the wildlife corridors and there is significant preservation placed within said approval.
- Letter, dated September 21, 2023 from Police Chief Patrick Deely stating that they have no issue with the project
- Physical Outline from Fougere Planning & Development, Inc., dated September 14, 2023
- Height Regulations for the town of Oxford, CT

Chairman Smith invited members of the public to speak and explained that there would be a 3-minute time limit for each person.

The following members of the public spoke in opposition of the proposal:

1. John Greider – He owns a piece of property on Southford Road and stated that they want to build a road on top of his property. He was under the impression that the law states that they must be 90' away and he believes that they are closer than 90'. He expressed his concerns with respect to his well and septic system.
2. Bob Nerney of 414 Long Meadow Road – He submitted for the record and urged the members of the commission to utilize the spiral bound packet of the PowerPoint presentation submitted by Jennifer Mahr, President of Middlebury Small Town Alliance (MSTA) on August 3, 2023, as it contains valuable information that may be helpful in making a decision. He acknowledged that the commission functions in a legislative capacity and has broad discretion when it comes to legislative changes. He submitted a copy of a treatise from Judge Fuller for the record and requested that the commission deny the application.
3. John Lamb of 74 Strathmore Road – He explained the difference between warehouses (best suited for long-term storage of products or materials) v. distribution centers (movement of goods in and out of a facility quickly). He wanted to know if the other five (5) facilities in CT mentioned this evening were warehouses or distribution centers. He spoke of the congestion that currently exists on route 188, questioned if a stop light would be required, widening of the road and bonded requirement if the approved. He also stated that there will be a decrease in the tax base from individual single-family homes.
4. Jordano Santos of 195 Joy Road – He stated that it should be voted down and that there was no need to grant favors. If they can proceed at 35', then they should. He added that their fictitious tax base is not wanted.
5. Jennifer Mahr of 68 Abbott Farm Rd. and President of MSTTA – Spoke and submitted her statement for the record.

6. Attorney Tom Porzio of 7 Pelham Way - Spoke and submitted his statement for the record.
7. Pasquale DiFrancesco of 369 Three Mile Hill Road – He voiced his concerns with respect to traffic, routes taken by trucks, potential need for more police and paid fire personnel, adequate water supply for residents/school and questioned the use of drones. He submitted Google documents for the record.
8. John Pollard of 197 Chesham Dr. – Spoke and submitted his statement and information on Industrial Flex Space for the record.
9. Diana Anton of 27 Kelly Road – She questioned if Mr. Drubner and his associates would like to live next to the development or the Timex building. She asked if they would share what the intended products would be moved to and from the building. She does not believe there will be a difference in how the town is run with respect to taxes from the residents is concerned.
10. Walt Jonsson of Hemlock Lane – Read a statement posted on the town's which was also included in his previously submitted correspondence. He also stated that Middlebury is not Oxford. He has been advised that their properties will be devalued by 10-20%.
11. Gary Klein of Avalon Farms & member of the HOA Executive Board – Read and submitted his statement for the record.
12. Charlie Callahan of 51 Upper Whittemore – He stated that Long Meadow Elementary School was omitted from the website, questioned how a traffic study could accurately be done if they don't know who the tenant is, suggested another use that won't be a detriment to the residents.
13. Amy Healy of 110 Judd Hill Road – She voiced her concerns with respect to traffic, school children and those on the walking path breathing in the exhaust fumes from the trucks and 16-year old high school students just learning to drive.
14. Tim Mahr of 68 Abbott Farm Rd. – He submitted a petition for the record, pursuant to Conn. Gen. Stat. §8-3b the undersigned oppose the application.
15. Ann (Raimo) Zimkus of Woodside Avenue – She expressed her concerns with respect to the children, seniors and the trucks coming off of Exit 17 and whether they would be electric or gas.
16. Manesh Dodia of 151 Judd Hill Road – He stated that Mr. Drubner's past developments have become dinosaurs and calculated that there will be tax 1.8 million dollars less generated on the tax revenue if approved. He pointed out that the traffic study was performed during school vacation and that most of the morning rush hour is between 7:00am-9:00am and 1:00pm-3:00pm for the school buses.

Attorney Edward (Ned) Fitzpatrick thanked everyone for their comments. He declared that it is not just the tax benefits, but rather a fulfillment of the goals and objectives set forth in POCD. He reiterate that it maintains the semirural character of the community with the 35.5 acre conservation area encourages economic development. He acknowledged that he is in agreement

with Mr. Pollard that they have been conservative with their fiscal analysis. The requested height is in keeping with the emerging industry standards in connection with the emerging technologies. He stressed that warehousing is a permitted use under Section 42 of the Regulations.

Joseph Drauss questioned why the additional height is needed.

Tony Iacovino, Project Architect & Senior Associate at SMMA replied that warehousing is the primary purpose of the building. High stack storage industry standards are 35' and higher in other parts of the country. 35' gives the development a maximum flexibility in terms of being able to attract tenants and get good return on the investment.

Attorney Edward (Ned) Fitzpatrick clarified that it's 35' clear.

Tony Iacovino, Project Architect & Senior Associate at SMMA concurred that it's 35' clear on the inside which will optimize how high that warehouse stack shelving can go.

Joseph Drauss asked if having the extra footage could provide for longer storage.

Tony Iacovino, Project Architect & Senior Associate at SMMA added that more could be stored and how efficiently the facility can operate by not having to go further distanced inside the warehouse to get things.

Chairman Smith stated that he would hold his comments until next month.

Motion: to continue the Public Hearing on November 2, 2023. Made by Erika Carrington, seconded by Joseph Drauss. Unanimous Approval.

Chairman Smith called a brief recess at 8:43 p.m. and the meeting reconvened at 8:55 p.m.

4. **Attorney Edward G. Fitzpatrick for Southford Park, LLC/764 Southford Road, Middlebury, CT 06762 – Application for Site Plan Approval (Application #23-59Z)**
5. **Attorney Edward G. Fitzpatrick for Southford Park, LLC/764 Southford Road, Middlebury, CT 06762 – Application for a Special Exception for an Excavation and Grading Permit pursuant to Sec. 64 of the Regulations (Application #23-60Z)**

Chairman Smith called the two (2) public hearings to order at 8:55 p.m. and announced that he would run them concurrently. He announced Regular Members Smith, Stowell, Carrington, Robison & Drauss and Alternate Members Anderson & Mirovsky as present. He read the Legal Notice published in Voices on September 20, 2023 & September 27, 2023 for the record. He

confirmed that a copy of the applications were submitted to the Town Clerk's office on August 29, 2023 and was also referred to NVCOG on August 29, 2023.

Attorney Edward (Ned) Fitzpatrick of 203 Church Street, Suite 4, Naugatuck, CT 06770 spoke on behalf of the applicant with respect to the above two (2) applications. He referenced Section 42.1.5 of the Regulations concerning warehousing being the permitted use and seeking approval for an excavation and grading permit found in Section 64 of the Regulations. There will be two (2) buildings with a right turn only out onto the state highway with no traffic onto Christian Road. The Timex access will be eliminated. A conservation area is being offered to the town, totaling 35.5 acres. WPCA provided capacity authorization representing approximately ½ of the full capacity that they set for the property. Approvals from the Police Department and the Conservation Commission have been granted and said exhibits were previously submitted this evening.

Ryan McEvoy, P.E. with SLR, 99 Realty Drive, Cheshire, CT 06410 provided a presentation beginning with a description of the property as it currently exists. He stated that the parcel is 77 acres in size, with a separate parcel of 35+ acres along Christian Road that is subject to conservation restrictions per the Conservation Commission's approval. A single-family residential structure is present along Southford Road, which is nonconforming with respect to the LI-200 Zone. Part of the approval from the Conservation Commission involves wetland mitigation, excavation and creation. The cornfield will remain as part of the conservation land. The subject property is entirely located in the LI-200 Zone and the Christian Road corridor is in the R-40 Zone and the Benson Woods property is R-40 Planned Residential Zone that was changed after 2001. They are proposing two (2) warehouse-style single-story buildings. The larger building is approximately 539,500 sf, while the smaller is estimated at 130,000 sf. He added that the architectural presentation will involve a plan that depicts a 35' building height and one with a 42' building height. The access to the structure will be entirely from a new driveway intersection with Southford Road with 360° access around each building. The smaller building consists of 67 parking spaces for employees and 12 loading spaces, while the larger building will have 343 employee parking spaces and 48 loading spaces. Additionally, there are 106 spaces dedicated for trailer storage. He stated that they exceed setback requirements from all property corners. They are below the allowable building coverage and impervious coverage. Enhanced landscaping will be performed. A photometric study was performed which includes details on how they plan to light the facility. It includes 25' poles in the parking and driveway areas, 20' mounted lights on the buildings, full cutoff fixtures with LED lighting incorporated with a dimmer feature and motion sensors. There will be no spillage of light beyond the property line and only in the areas for safety and vehicular access. Their utility plan was subject to an extensive review by the Conservation Commission, staff and 3rd party reviewers. The intent of their stormwater design is to provide stormwater detention and water quality enhancements, which he described in detail and stated are in compliance with the 2004 DEEP Water Quality Manual and well as the 2024 Draft DEEP Water Quality Manual.

The site will be severed by water, electric and gas via the easement from North Benson Road. Grading with recompaction of the excavated material, limited importation of material is being proposed and no blasting will be required. A detailed sediment and erosion control plan is included and is in compliance with the 2002 DEEP Soil Erosion & Sediment Control Guidelines.

Tony Iacovino, Project Architect & Senior Associate with SMMA, 1000 Massachusetts Avenue, Cambridge, MA 02138 and 275 Promenade Street, Suite 275, Providence, RI 02908 stated that they performed a visibility study in order to determine what would be visible to the neighbors. They prepared renderings for the projected sizes of the buildings and attempted to replicate what the buildings would look like. He reviewed the various renderings, which were created from several locations. He showed that the buildings will essentially be concealed by vegetation and tree lines, but additional landscape screenings are being proposed. He stated that because the structural bay of the buildings is fairly broad, the roof structure needs to be fairly deep in order to accommodate the spans. They intend to leave as much flexibility in terms of what a tenant will use it for. The buildings will consist of insulated metal panels with flat PV ready roofs and drainage. Lighting will be subtle and most will be shielded and downlight. High bay windows will provide natural lighting in the buildings.

David Sullivan, P.E. & Manager of Highways & Transportation Planning with SLR 195 Church Street, 7th Floor, New Haven, CT 06510 reviewed his traffic study presentation which consists of existing conditions, site access, traffic generation, future conditions if the project is built versus if it was not built, traffic impact and recommendations. His Automatic Traffic Recount (ATR) was performed on January 12, 2023 and the Turning Movement Count (TMC) was performed on October 26, 2022 (7:00am-9:00am and 4:00pm-6:00pm), when school was in session. He expressed the need to monitor traffic conditions once the proposed development is functioning. They plan to go to CTDOT with all of the information, as they will ultimately make the decision if signal timing adjustments are needed. He also recommended that vegetation be trimmed in order to maintain the sight lines.

Chairman Smith invited members of the public to speak and explained that there would be a 3-minute time limit for each person.

The following members of the public spoke in opposition of the proposal:

1. Jennifer Mahr of 68 Abbott Farm Rd. – She stated that she was involved with the development of the FedEx distribution facility in Middletown and at that time, Middletown's P&Z Commission was promised that no fill would leave the site and would be repurposed. They later learned that the fill was not structurally sound for the use of the project. As a result, a 4-month process of 40-60 tri-axles a day ensued. She recommended a provision, should the project be approved, that if any fill leaves the site that the surrounding neighbors to be protected. In that instance, the homes turned different colors

and people could not leave their windows open and struggled to breathe due to the dust. Trucks started at 4:30am to take the fill off site, despite Middletown's 7:00am construction time according to their Noise Ordinance, which she stressed Middlebury does not have. She feels consideration should be given to the already approved homes at Benson Woods (closest point of residential impact). She added that truck drivers utilize Trucker Path or Hammer GPS apps based on where it's safest for trucks to drive

2. John Pollard of 197 Chesham Dr. – He stated that the claim that the proposed development would create less traffic makes no sense to him. He believes that incoming workers, tractor trailers and local delivery trucks will certainly increase and added that there is no turning back once a development is built.
3. Dr. Scott Peterson of 317 Tranquility Rd. and President of Middlebury Land Trust – He believes that the traffic presentation was weak as there is no guarantee that their attempt to mitigate traffic will be successful. He also voiced his concerns with respect to lighting and the large size of the building. He asked the commission to consider putting a conservation easement specifically on the conservation property with the town so it is conserved in perpetuity.
4. Don Andrews of 21 Avalon Drive – He pointed out that the increase in height will result in additional capacity and ultimately more truck traffic. He expressed his concerns with respect to light reflection, sound from a/c and truck refrigeration. He pointed out that the height does not include solar or refrigeration units that sit on top of buildings and worries about sound production.
5. Jean Peterson of 317 Tranquility Rd. – She expressed her concerns regarding traffic, the number of trucks and the times of operation. She questioned if a fence is being proposed.
6. Bob Nerney of 414 Long Meadow Road – He provided aerial photos of the subject property from 2006, 2012, 2016, 2019 and questioned how the Timex site generated 1,046 cars a day as was claimed. He asked how a traffic assessment with any level of accuracy be performed without knowing the details associated with the operation.
7. ShawnaLee Waterbury-Kwashnak of 59 Bioski Rd – She asked where the trucks will wait if they are not within the window of time they are allocated. She suspects that visual tactics were used to compress the image of the loading doc.
8. Manesh Dodia of 151 Judd Hill Road – He suggested that the commission ask for comprehensive data for a full week to see what the real traffic is and to include other times when traffic is generated by the schools and other intersections like Judd Road and Benson. He also believes there may be the need to widen the roads.

Erika Carrington acknowledged that 7:00am-9:00am and 4:00pm-6:00pm are the standard for traffic study. However, she stated that those times do not fall within the peak time for two (2) schools and questioned how germane the study is to this application.

Attorney Edward (Ned) Fitzpatrick questioned what time frames are being requested.

William Stowell replied that the elementary school is dismissed at 3:30pm and people line up before 3:00pm and go until at least 4:00pm. He stressed that the schools are the issue and where the counts are taken.

David Sullivan, P.E. & Manager of Highways & Transportation Planning with SLR stated that typically with a school project they would do 2:00pm-4:00pm as well and questioned if that

William Stowell stated that he wants an honest count and instructed Mr. Sullivan to notify Chairman Smith as to what he plans on doing prior to performing the study so he can in turn share it with the other commission members.

David Sullivan, P.E. & Manager of Highways & Transportation Planning with SLR questioned the locations.

William Stowell replied where the schools are and where the traffic is.

Chairman Smith added Judd Hill and Benson.

William Stowell asked if the existing solar panels would be removed and if any new ones were being proposed

Attorney Edward (Ned) Fitzpatrick confirmed that they would be removed and that they are proposing a photovoltaic (PV) ready roof and acknowledged that they may put solar panels on the roof.

Chairman Smith questioned if it would increase the height.

Attorney Edward (Ned) Fitzpatrick responded that it would not.

William Stowell requested a rendering with the panels as well as one with the mechanical equipment.

Attorney Edward (Ned) Fitzpatrick agreed to do so.

Tony Iacovino, Project Architect & Senior Associate with SMMA explained that the current rendering actually has a box on top of it for the rooftop units and it is not visible from any of the viewpoints.

William Stowell clarified that he still wants to see it.

Attorney Edward (Ned) Fitzpatrick suggested an aerial view.

William Stowell suggested that in addition to the trimming of the vegetation, a low wall be constructed in order to keep the vegetation back with grass in front which will be easy to mow.

Chairman Smith stated that he is not happy with the design of the entrance, and believes that it is not aggressive enough in terms of requiring a right turn only. He suggested a tighter turning radius and/or physical barrier and stressed that he does not want to see the trucks traveling through town. He wants to see a rendering from Benson Woods and voiced his concerns with respect to light and noise that the residents may be subject to. He requested to see a barrier of some sort to ensure that the residents are protected from lighting and noise.

Tony Iacovino, Project Architect & Senior Associate with SMMA again reviewed a slide of a winter view from down at the bottom of the road from Benson Woods, looking back up at the project. He pointed out the visible patch of blue and the Timex building to the left which is not visible. The grade difference between the top of the hill at the site of the project, down to the bottom of the hill where the proposed Benson Woods subdivision is shown is 80'-100'. He added that the vertical distance is quite significant and with respect to sound and vision, it's not like one would be looking into the back of a piece of property. He confirmed that they would create some additional visualization.

Chairman Smith agreed and also asked if they could look at the proposed addition (loop) and maybe go up the access way to where the road would cross it and provide a view from there as well.

Matthew Robison acknowledged that the commission does not know who the tenant will be but that the applicant may know or have an image of who it might be. Based on that, he questioned what the hours of operation would be and the expected number of employees.

Tony Iacovino, Project Architect & Senior Associate with SMMA replied that it is tentative at this time.

Matthew Robison questioned the validity of the traffic study. He wanted confirmation that approval was granted for sewer capacity.

Attorney Edward (Ned) Fitzpatrick reiterated that WPCA approval was granted, based on the use of warehousing, and that there is capacity for double of that use that is plugged into their formula which was prepared by WPCA's engineer. In other words, they are at ½ of the capacity with this type of use. He also confirmed that they received approval from CT Water Co. and that Christian Road will be used for emergency access only.

William Stowell questioned how that will be proposed.

Attorney Edward (Ned) Fitzpatrick confirmed that it would be gated.

William Stowell requested that a picture be provided to the commission.

Matthew Robison asked why the two (2) buildings as opposed to one (1) and if both would be warehouses and have trucks going to them.

Ryan McEvoy, P.E. with SLR replied that it is due to the nature of the site constraints and the grading of the site.

Matthew Robison expressed the importance of the residents' concerns and the need to know more about a prospective tenant.

Joseph Zink, President and CEO of Atlantic Management responded by saying that robotics is the current trend and is a game changer.

Motion: to continue the two (2) Public Hearings on November 2, 2023. Made by Matthew Robison, seconded by William Stowell. Unanimous Approval.

MINUTE APPROVAL

6. Discussion of the Minutes of the Regular Meeting held on August 3, 2023

Motion: to approve the Minutes as submitted. Made by Erika Carrington, seconded by William Stowell. Unanimous Approval.

OLD BUSINESS

7. Jad Harb, JTH Builders, LLC/Washington Drive – Application for an 11-Lot Subdivision on 60.135 acres, Sycamore Place (Application #23-42Z)

No discussion.

8. James A. Christiano/Nick Road – Application for a 6-Lot Subdivision on 20.45 acres, Trout Estates (Application #23-45Z)

No discussion.

9. **Attorney Edward G. Fitzpatrick for Southford Park, LLC/764 Southford Road, Middlebury, CT 06762 – Application for a Text Change regarding Height in LI-200 Zone pursuant to Sec. 42.2 of the Regulations (Application #23-58Z)**

No discussion.

10. **Attorney Edward G. Fitzpatrick for Southford Park, LLC/764 Southford Road, Middlebury, CT 06762 – Application for Site Plan Approval (Application #23-59Z)**

No discussion.

11. **Attorney Edward G. Fitzpatrick for Southford Park, LLC/764 Southford Road, Middlebury, CT 06762 – Application for a Special Exception for an Excavation and Grading Permit pursuant to Sec. 64 of the Regulations (Application #23-60Z)**

No discussion.

NEW BUSINESS

12. **Lawrence Janesky/Artillery Road – Application for a subdivision modification (Application #23-65Z)**

Motion: to schedule a Public Hearing for December 7, 2023. Made by Erika Carrington, seconded by Joseph Drauss. Unanimous Approval.

13. **Parkland Homeowners Association, Inc./Park Road - Application for a subdivision modification (Application #23-66Z)**

Motion: to schedule a Public Hearing for December 7, 2023. Made by Joseph Drauss, seconded by Matthew Robison. Unanimous Approval.

14. **Kyle P. Richards for Metro Realty Management Corp./124 Kelly Road – Application for a Zone Text Change to add Section 28 Planned Rental Housing Development Overlay District to the Regulations (Application #23-67Z)**

Motion: to schedule a Public Hearing for December 7, 2023. Made by Joseph Drauss, seconded by William Stowell. Unanimous Approval.

15. Kyle P. Richards for Metro Realty Management Corp./124 Kelly Road - Zone Map Change Application to change from the current LI-80/R-4/PRD to Section 28 Planned Rental Housing Development Overlay District (Application #23-68Z)

Motion: to schedule a Public Hearing for December 7, 2023. Made by Erika Carrington, seconded by Matthew Robison. Unanimous Approval.

OTHER BUSINESS

16. Gregory Barnes – Informal discussion regarding activities in vineyards

Chairman Smith stated that Mr. Barnes requested to address the commission next month.

17. 2024 Planning & Zoning Meeting Schedule

Discussion was tabled

18. Any other business added to the agenda by a 2/3 vote of the Commission

None

19. Enforcement Report

William Stowell stated that this commission approved the digital sign for the consignment furniture store for Dean Yimoyines with the condition that one (1) ad could be put up for a full week. He witnessed five (5) different ads that appear for approximately ten (10) seconds each. He requested that Curtis Bosco, Z.E.O. send a cease and desist to comply with the condition of approval. He also proposed that if Mr. Yimoyines chooses to ignore the letter, this commission consider not allowing him to use the sign for thirty (30) days and increase the ban with each occurrence.

Matthew Robison agreed that if the violation was observed that it warrants a cease and desist.

William Stowell suggested that, if approved, the road for the proposed development off of Washington Drive should be named after a tree/flower/plant to be in keeping with the names of the other roads.

Chairman Smith confirmed that it is in the Regulations.

Curtis Bosco, Z.E.O. addressed William Stowell regarding his request for a cease and desist to be sent to Dean Yimoyines and stated that he did send him a letter and asked if he received a copy.

William Stowell replied that he did not.

Curtis Bosco, Z.E.O. stated he would forward it to him and that it was dated August 30th. The contents of the letter included noise complaints from the Brewberry Restaurant on West Street, hours of operation and the alternating sign messages at the consignment on Southford Road. He added that he asked for assistance from the town attorney and it is his understanding that within the last week, she made arrangements for his attorney to meet with her and Curtis Bosco, Z.E.O.

William Stowell reiterated that the condition was for one sign per week and that there is no reason to sit down with attorneys.

Curtis Bosco, Z.E.O. confirmed that he would issue a cease and desist the next day.

Chairman Smith stressed that something needs to be done.

20. Adjournment

Motion: to adjourn the meeting at 10:52 p.m. Made by Erika Carrington, seconded by Matthew Robison. Unanimous Approval.

***All documentation is available for public inspection in the Land Use Office.**

***The next Regular Meeting of the Planning & Zoning Commission is scheduled for
November 2, 2023 at 7:00 p.m.**

Filed Subject to Approval,

Respectfully Submitted,

Rachelle Behuniak, Clerk

Original to Brigitte Bessette, Town Clerk

cc: P&Z Commission Members
Paul Bowler, Chairman, Conservation Commission
Mark Lubus, Building Official
Curtis Bosco, Z.E.O.
Ken Long, Chairman, Z.B.A.
Attorney Dana D'Angelo
Rob Rubbo, Director of Health