

Chm Stephen T. Gionfriddo, Sec'y Louis Carta, Comm Steven Leinwand, Comm Sebastian Passanesi, Comm William Pillarella, Alternates: Comm Stephen Gadomski, Comm Francis Patnaude, Comm Richard Thompson, Dir. P. W. Salvatore Fazzino, Ex-Officio

V-Chm Thomas Hutton, Jr., Comm Rose Sbalcio, Comm Gerard Roccapiore, Mayor Sebastian J. Garafalo, Ex-Officio

Comm Gadomski acted for absent V-Chm Hutton and Comm. Patnaude acted for absent Comm. Rose Sbalcio

Dir. George Reif, Ninò Martucci, Planner; Hope Kasper, Secretary, Dot Wilson, Assistant Secretary

Approximately 20 members of the public

Sec'y Carta

Legal Notice: Middletown Planning & Zoning Commission Public Hearing April 23, 1986, 7:00 P.M., Council Chamber, DeKoven Drive, Middletown, CT, to consider the following: #1 - Feldspar Corporation application for Natural Resources Extraction approval in compliance with Section 41 of the Zoning Code. Agent Charles R. Wiseman.

ITEM # 1:FELD-
SPAR APPLICATION
SECTION 41/AGT
C WISEMAN

Chm Gionfriddo

This Legal Notice appeared twice in the Middletown Press: Friday, April 11 and Friday, April 18.

Attorney Philip Karpel

Mr. Chairman, members of the Commission, my name is Philip Karpel, I am an Attorney practicing in Middletown, I reside in Middletown and I am here this evening representing Feldspar Corporation and with me is Charles Wiseman who is the Plant Manager of the Feldspar Corporation Unit here in Middletown. The first thing I would like to ask is if the Commission would make all of the prior documents exhibits and certainly the testimony on behalf of the applicant and such other testimony as you desire from the prior Public Hearings held on December 11 and December 18, 1985, a part of the record of this Public Hearing, which might save us a lot of words and time.

Chm Gionfriddo

All prior documents and all prior testimony will be will be part of this meeting

Attorney Karpel

Thank you. For the benefit of the members that are sitting here this evening who may not have been here at the meetings of the 11th and the 18th, we are here for what we have been led to believe would be the so-called 'temporary permit' to continue our operations for a shorter period of time than was originally contemplated when our application dated, November 22, 1985, was filed. At that time, we contemplated a 10-year permit would be issued. At the present time, under your regulations the maximum permit that could be issued is for 2 years. The Feldspar Corporation first started its activities in Middletown in 1959 and the plant that is out there now and the mining activities,

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the mining activities have been going on even prior to that date by predecessors to Feldspar and basically what's up there is the result of the mining activities that have been taking place over the years. In 1973, Feldspar was given a 10-year permit to mine and it was pursuant to that permit that basically the present mining activities and the reclamation activities were being performed. It was Feldspar's intention then to continue its mining activities certainly for a second 10-year period of time and, for that reason, at the present time, there is no question that they have not reclaimed all of the areas that they have been mining because they expected that they would be there for at least another 10 years. But, pursuant to this application, however, we have set forth a timetable for mining and reclamation. We fully expect the Commission is going to certainly not grant, although we would accept it, we don't expect that you will grant us a 2-year permit based on your prior statements to us, this evening, that is and therefore I would like to make it clear that our mining activities will be limited to the areas shown as areas 1,2 and 3 during the period of any shortened version of a permit that we were to receive. Those are the three main mining areas that those of you that visited the site might recall. However, our reclamation activities will continue throughout the site as indicated in our application. As I stated, we don't expect, although we would be happy to accept, a 2-year permit we don't expect that we would get one. We do feel that we would, in a period of 6 months, be able to make the progress that we have right along been talking to you about in terms of greater reclamation activity and therefore I am asking that, at a minimum, a permit be issued that would be valid until October 31, 1986. Our present plans are to file a new application under your -whatever regulations will then be in existence, sometime in September, either for the first or second meeting and then that would give the Commission and ourselves an opportunity for a period of at least one month to pursue that application. Now, under your present regulations, I understand that if you were to grant us, say, an application-a permit-good to October 31, 1986, it reads that we are entitled, without another hearing and application, to extend the period for an equal period of time. We are not looking to do that and so, therefore, I would offer you either the representation that a condition limiting our permit to no later than October 31, 1986, without the right for an extension without a new Public Hearing and full new application under the then regulations would be acceptable. Otherwise, if you granted us a permit that was good until July 31, that renewal period would be another three months which would end October 31. Whichever you feel more comfortable with but I have no hesitancy in telling you that we would voluntarily accept a condition that said we, after October 31, we have to come in with a full new application based on your then existing regulations and cannot simply seek an extension. We don't want to take advantage of the good graces of the Commission and try to do something that you don't expect that we would be doing. The total area that we have calculated that is set forth in our application of November 22, which is our present application, is 30.6 acres. Now that, although we aren't going to be mining all of those areas in a shortened period of time, we certainly have no objection to posting a bond for the full-I'm sorry-31.06 acres, may have said 30-and that includes all areas that we showed in our

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Attorney Karpel

application that we would either be mining, reclaiming or storing rock material on. Since we presently have a \$20,000 bond posted, we certainly would see to it that the additional bonding was posted, forthwith, to the City upon the issuance of a permit, or we would have an entire new bond for the full amount posted immediately before the permit became effective. The only other thing that I would like to bring to your attention, because I don't really want to rehash the whole matter, I think this Feldspar application and the entire Feldspar situation has certainly received a lot of your time and your attention, probably as much as the entire rezoning of Middletown received. I think it is time now where the Commission should act and then Feldspar should act thereafter to prove itself to you. We intend, at the end of the six month permit, if that is what we receive, to refile. As I indicated to your earlier, Feldspar had all the intention in the world of refiling for a full ten year permit prior to your change in your regulations. I want-so there is no misunderstanding-for people to understand that we plan to be doing, in fact, Charles has been right along, doing some substantial reclamation. The mining areas that we are now in, in September or October won't be reclaimed because we will not be finished mining those areas. However, we are posting a bond presently and as I anticipate under your new regulations, were we to come back for a permit and were we to be granted one, the bond would be even more substantial at that time. Your goal is and our goal along with you, is to see to it that, at such time that we are through with our mining activities and if, at that time, reclamation has not been completed to the City's satisfaction, that the worse scenario is sufficient bond will be on hand to cover whatever had to be done. With that, unless the Commission or any member of the Commission has a specific question, I would move for the granting of a permit pursuant to our application upon the conditions that the Commission would like to impose.

Chm Gionfriddo

Are there any questions by members of the Commission? If not, thank you. Are there any members of the public wishing to speak in favor of this proposition? Is there any member of the public wishing to speak in opposition?

Attorney Michael Dowley

It is Michael Dowley and I am representing Mr. Raymond Roberts. Mr. Roberts is a property owner in the area. As you have incorporated, by reference, the Public Hearings that have been held earlier, I'll try to be brief but there are a couple of important items that I think should be brought to your attention. First, the application itself. I don't believe that it delineates quite clearly where the residential zone ends and the where the industrial zone ends. Under your regulations, no one is permitted to excavate in a residential zone without having had a Special Exception. I believe that, as members of the Planning & Zoning Commission, I don't think it is that great a burden to require an applicant to tell you what zone he is mining in. I think that you should take a look and see how close this company is going to be blasting next to a residential zone. Are we 700 feet next to a residential zone? Where are we and where are we going to permit the blasting? I don't think that is too much to ask. I think that we have gone through a long process with the application from

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Attorney Dowley

Feldspar but I don't think that is a comment that this Commission's fault or anyone else's fault, I think that as you look at the application that is before you, the applicant admits that he can't comply with your regulations. He says on Page 5 of his application there was an absence of adequate topsoil which presents a hardship in complying with your regulatory requirements for regulation. It is recognized that the tailings used for reclamation are devoid of organics and deficient in basic soil nutrients. So, he is telling you he doesn't comply with your regulations and then he is coming in and asking you to approve his application. It seems to me that if you have regulations in effect you should force the applicant to at least come in and say, 'I'm complying with your regulations and therefore please give me an approval'. I believe what this applicant has done is saying, 'I can't comply with your regulations but give me approval anyway'. I don't believe that is the way this Commission should operate. I think that we have come a long way and hopefully we are going to put together a good set of regulations that will allow this Commission to enforce its regulations, but I think the Commission does owe a duty to the public that if its regulations presently state, 'reclamation must be done by putting certain topsoil in place', they must follow your own regulations and say, 'you must put topsoil in place'. I would oppose the application as presently before you on the grounds that it is not definite enough, on the grounds that it doesn't show precisely what the mining-where the mining-is going to take place and on the grounds that it doesn't adequately safeguard the residential areas of the City of Middletown. Thank you.

Chm Gionfriddo

Is there anyone else wishing to be heard on this matter this evening?

Earl Roberts

Earl Roberts, Bow Lane, Middletown. I haven't had an opportunity to read this proposal but I'm - my first will be that, as I mentioned on one other meeting, this year we are going to be a canoe organization that I represent and am the President of, we are doing a lot of overnight camping, we have intentions of hiking and camping in our own properties very close to this site. My question is, 'what safety has been looked into as far as residents and people camping within not more than 50 feet from where they are working right now? We have all our young children from the ages of five to fifteen, they will be out there having the privilege to walk around our properties and I would like to know, as it has been my experience in the past, they have blasted there and I have not heard horns, I've not heard, what, (inaudible) required through the state. There are now some indiscriminate signs placed here and there but I think there should be one that is adhered to is the fact that these are R-4 zones and I think we have as much right, I hope, to use these properties, we pay taxes for, as we pay taxes for as any one of you would use your R-1 and R-4 zones. To me, that's a very serious issue. Thank you.

Chm Gionfriddo

Is there anyone else? If not, I'm going to close the Hearing on Item

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Chm Gionfriddo
#1 and is there a motion to make this Item #6.6?

Comm. Leinwand
So moved

Chm Gionfriddo
Any discussion? If not, all those in favor? Any opposed? Since we only had one item on the Public Hearing we will move to Item #3 which is Discussion with Public concerning topics which are not or have not been the subject of a Public Hearing.

ADJOURNMENT 7:15 PM

Transcribed by

Dorothy Wilson