

**PLANNING AND ZONING COMMISSION  
REGULAR MEETING – AGENDA  
WEDNESDAY, October 8, 2014 – 7:00PM  
NEW HARTFORD TOWN HALL – 530 MAIN STREET  
MINUTES**

**PRESENT:** Chairman James Steadman, Ted Stoutenberg, David Krimmel, Dan LaPlante, Alternates Martin Post and Bob Moore; Land Use staff Steven Sadlowski.

**ABSENT:** Gil Pratt, Alternate Peter Ventre.

Chairman Jim Steadman called the meeting to order at 7:00PM. All regular members present were seated as well as Mr. Bob Moore for Mr. Gil Pratt. The proceedings were recorded digitally and copies are available in the Land Use Office.

**1. PUBIC HEARINGS:**

**A. New Hartford Industrial Park, Inc. – 37 Greenwoods Road – Special Exception – To Allow a Restaurant Use in the Mill.**

The legal notice for the public hearing was read into the record. Proof of notice to abutting neighbors was submitted.

Appearing on behalf of the applicant, were Attorney Dave Markowitz, its president, Mr. Dave Hurley, and its consultant, Mr. Karl Nielson. Attorney Markowitz provided copies of a site plan he referenced for the commission as he presented supporting testimony in the application of New Hartford Industrial Park, Inc. for a Special Exception to allow a restaurant use in the mill building.

Attorney Markowitz pointed out both the upper parking lot at the subject location as well as the lower parking lot, the lot which will be utilized for restaurant parking. Fifty (50) parking spaces were identified for use for the restaurant, with five (5) designated as handicap spaces. One loading space was identified, too. Entrances to both lots were pointed out for commission members. Attorney Markowitz reviewed the narrative he attached to the Application for Special Exception of New Hartford Industrial Park, Inc., wherein he then indicated that the lower lot currently contains 122 parking spaces with possibility for additional spaces if lined properly.

Attorney Markowitz indicated that the applicant is proposing no changes to the structure at all but for a new exit that is a result of a recommendation from a building official. Installation is occurring currently on this new exit. Attorney Markowitz reported that the building has approximately 117,000 square feet which is rentable of which Hurley Manufacturing and its subsidiary occupy 37,500 square feet, Ovation's repair facility occupies 16,900 square feet, and a gym occupies 5,000 square feet. If the proposed restaurant does come to 37 Greenwoods Road, 52,600 square feet will remain. Of the

222 parking spaces on the site, 89 of them will be used for the current tenants including the restaurant, according to Attorney Markowitz.

Attorney Markowitz reported that the lot is very well lit with two street lights on the lower lot. He further noted that this location has an eight (8") inch water main providing water to the building and that the building is fully sprinkled. Attorney Markowitz then provided commission members with black and white copies of photographs of the lower lot at night.

The first photograph revealed the location of the proposed restaurant, the second floor of the building. Attorney Markowitz identified the two telephone poles on the site with street lights that he reported are owned by Connecticut Light and Power and are rented by the applicant. The second photograph was taken closer in to the site, revealing the parking. The final photograph was an additional, closer view of the proposed site.

Attorney Markowitz referenced for the commission the Application for Special Exception narrative, outlining the excellent utilities and an eight (8") inch water main. He indicated the applicant is providing for no exterior changes to the building whatsoever. Attorney Markowitz then reviewed the Special Exception Criteria as set forth in Section 8.5.E of the Regulations and detailed in his narrative attached to the Application.

Regarding Design Criteria of the Special Exception Application, Attorney Markowitz indicated that his client has absolutely no intention of ever changing the design of the building as part of the charm of the building is its look and mix of different structures that comprise the facility. He indicated that when the applicant returns to the commission for future uses, as many of the uses in the New Hartford Center Zone will require a Special Exception, at that point, will more likely than not return with a more developed site plan for the Commission's review. Attorney Markowitz indicated that the site plan he has referenced as part of this application is more of a parking plan.

Attorney Markowitz acknowledged receiving and briefly addressed Zoning Enforcement Official Steve Sadlowski's comments. Attorney Markowitz addressed the issue of striping the parking lot, noting that before the restaurant opens for business, the applicant will restripe the lower lot showing the parking for the restaurant, the handicap spaces, and the loading space. Attorney Markowitz then addressed the issue of repaving the site. Connecticut's Transfer Act was triggered when Command Music sold Ovation to Fender and required a transfer act filing. There were extensive studies done, Phase I and Phase II, resulting in a Remediation Action Plan being developed by Command. Attorney Markowitz indicated that Command is responsible for remediating any part of the site that was impacted by Command Music and attested that this has been an extraordinary slow process. He further indicated that his client has been pushing Command to get the remediation work done but that it likely will not be started until the spring. It will require a fair amount of excavation in the parking lot and while Attorney Markowitz understands the concern about the condition of the pavement, he reported that his client will commit to repave and restripe again after the remediation is done.

Attorney Markowitz then addressed Items #4 and #5 of Mr. Sadlowski's Staff Comments Report, wherein suggestions for conditions to approval were provided to commission members. Attorney Markowitz indicated that with the site falling within the New Hartford Center Zone, his client is likely to return for approval with future tenants. Attorney Markowitz explained that they would likely return initially on an unofficial basis so as to receive the commission's input, so that a site plan would be developed that makes logical sense for the owner and the municipality. After that, according to Attorney Markowitz, they would file future applications with a site plan that is significantly more developed than the one presented as part of this application. He requested that Items #4 and #5 of the Staff Comments, (*"#4 For the next approval of any Special Exception use on this property, a plan showing the entire property and any required improvements to the parking lot, lighting, signage, or other exterior elements shall be presented and approved by the Commission. This plan shall have been reviewed by the Architectural Review Committee before its submission. An estimate shall also be provided to the Commission as to the cost in materials and labor to complete these improvements. #5 Any additional Special Exception (beyond this one) will require that these improvements (from #4 above) be completed to the approximate ratio equal to the total occupancy of the building. If 45% of the building is occupied, then 45% of the improvements, based on the cost of the improvements from the estimate in #4, above, shall be completed before that use is approved. For example, if the estimate is \$100,000 and 45 percent of the building will be occupied, then \$45,000 of the required improvements be made. Priority shall be given to health and safety items relating to the use(s) approved under this provision."*), not be included as part of the approval on the application.

Mr. Stoutenberg clarified that the applicant is seeking permission to put a restaurant in the building and that the applicant does not formally have a lease agreement as of yet and therefore do not have a design for the restaurant. Attorney Markowitz indicated that his client does have a restaurateur that he has been speaking with but that a lease cannot be drawn until a Special Exception has been granted. Attorney Markowitz indicated that there is a hand drawn plan for a 5,000 square foot restaurant with the main entrance located at the metal staircase located on the site. A small bar will be to the right with the main dining room to the left, according to Attorney Markowitz. He continued describing that as you go further into the space, a small banquet area will be on the right and that the restaurant may have entertainment although he is not sure what the tenant is contemplating. The bathroom facilities will remain where they are currently located. In response to Mr. Stoutenberg's question about a site plan, Attorney Markowitz attested that the metal staircase was inspected by the building official and was approved. He reiterated that the applicant was told that they would need an additional exit, which one has been designed by an architect and a permit has been taken. This second exit provides for an additional egress route from the location according to Attorney Markowitz.

Mr. Stoutenberg asked about a site plan showing a walkway to the location or site lighting at the scale one would expect. Attorney Markowitz explained that this was provided in the photographs he distributed of the two telephone poles which he opined

are more than adequate to light up the entire site. Mr. Stoutenberg explained that he does not doubt the adequacy of the site lighting but that usually a restaurant has some lighting for the entranceway to make it look like an inviting place to come to. Attorney Markowitz explained that there is an exterior light at the doorway and then indicated on the drawing where the handicap entrance is located, pointing out that it has access to an elevator that will bring handicap patrons down to the restaurant. Attorney Markowitz explained that using the mill building as it is, is part of the appeal to the restaurateur. Mr. Stoutenberg asked about whether the septic system that is connected to the restaurant and advised them to install a grease trap for the restaurant. Attorney Markowitz reported that he has had extensive conversations with Farmington Valley Health District and that they are armed with a fair amount of information that was done by a professional engineer. Before a restaurant goes into the building, according to Attorney Markowitz, his client will have to retain an engineer that will have to demonstrate that there's suitable area for a reserve system and that the current system has sufficient capacity.

Mr. Steadman clarified that the septic system is not located under the parking area. Attorney Markowitz confirmed that it is not.

Mr. Sadlowski commented on #4 and #5 of his recommendations. He opined that it appears that the applicant is on the same page with their intent going forward. Attorney Markowitz agreed and explained that he just disagreed with it being part of this approval but had no problem with the concept. Mr. Sadlowski explained that while it may reflect as a condition, it was more of just a notice that while the commission is seemingly not requiring much on these application, subsequent approvals will necessitate more details. Mr. Bob Moore agreed.

Mr. Steadman requested the applicant to indicate on the drawings where the remediation work is located. Mr. Hurley pointed out the approximate location.

Mr. Dave Krimmel requested the applicant to indicate on the drawings where the approximate location of the 5,000 square feet that will be utilized for the restaurant. Attorney Markowitz pointed out the location and identified it as part of what Mr. Hurley calls, Building 903.

**Ms. Roxanne Franconi**, of **10 Greenwoods Road**, praised the lighting of the location as she is a neighbor to the area. She inquired as to the type of entertainment that might be part of the location and opined that cabaret would not be a favorable addition to the neighborhood. Attorney Markowitz responded that this potential restaurateur is considering it to be a brew pub and that the menu fare would be similar to that of Wilson's Pub in Collinsville. Ms. Franconi expressed her second concern as the traffic and requested that a stop sign be erected at the bottom of Holcomb Hill as the speed of the neighborhood presently is deemed a problem by her and her neighbors. Finally, she praised Mr. Hurley and his generosity to the people of New Hartford and visitors to the town as he allows river access for fishing and general enjoyment.

**Ms. Ami Carmin, of 20 Greenwoods Road**, also expressed concern with the traffic as it relates to the speed of cars in this area.

Mr. Steadman inquired of Mr. Sadlowski the process of getting a stop sign. Mr. Sadlowski explained that it is the Board of Selectman that would authorize it and they would be the entity responsible for getting that done. Mr. Moore and Mr. Karl Nielson both advised the neighbors as to actions that could be taken including attending meetings, sending correspondence and officially putting the Board of Selectmen on notice as to the perceived problem. Discussion ensued and anecdotes shared as to the dangers posed by the current traffic flow and the likelihood of additional traffic and associated dangers that could arise from the addition of a restaurant to the area.

**Ms. Kara Brobston of 36 Hillside Avenue**, also expressed concern with the added traffic to the area and attested to the speed of the cars in the area.

**Mr. John deHaan of 16 Greenwoods Road**, inquired as to the capacity of the restaurant. Attorney Markowitz indicated that while they are not sure of the layout, it is likely at about 100 patrons.

Attorney Markowitz indicated that his client would endorse the possibility of the addition of three stop signs.

**Mr. Joe Toro of 565 Main Street**, inquired as to whether the applicant's building would be required to commit to a sewer connection should a line come down to that area. Attorney Markowitz responded that while the applicant would not be legally obligated to, he can attest that the applicant would want to. He indicated that no residential development would occur in the field area without a sewer system.

**MOTION:** Mr. Stoutenberg, Mr. Krimmel second, **to close the public hearing in the matter of New Hartford Industrial Park, Inc. – 37 Greenwoods Road – Special Exception – To Allow a Restaurant Use in the Mill; unanimously approved.**

**B. Christopher D. & Laura L. Roeh – 18 Buttercup Lane – Special Exception - Accessory Dwelling Unit.**

The commission agreed to continue the public hearing in this matter.

**MOTION:** Mr. Stoutenberg, Mr. Moore second, **to continue the public hearing in the matter of Christopher D. & Laura L. Roeh – 18 Buttercup Lane – Special Exception - Accessory Dwelling Unit; unanimously approved.**

#### **PENDING APPLICATIONS:**

**A. New Hartford Industrial Park, Inc. – 37 Greenwoods Road – Special Exception – To Allow a Restaurant Use in the Mill.**

Mr. Steadman opined that the lighting is adequate but does think it needs some upgrading. He further opined that the parking is adequate.

Mr. Sadlowski reported that the handicap parking may have to be adjusted but that the applicant is on target with what work they need to do.

Mr. Martin Post clarified that if the Special Exception with this application is granted, the applicant need not return with any additional site plans. Mr. Stoutenberg indicated that he does have reservations in granting approval because of the lack of detail in this site plan. He opined that the restaurateur is likely to want some low level lighting for ambience, a sign, landscaping by the doorway and that the commission ought to see the plan at some point. Mr. Post concurred but thought that they ought to give a "go-ahead" for a restaurant and then look to see them return with a more detailed plan.

Mr. Dave Krimmel thought it was a good idea to approve the site plan because he agreed that a restaurant is likely to want modifications and will return with a more detailed plan tailored and specific to their own preferences. Mr. Krimmel's view is that it was unfair and unwise to impose on a restaurant conditions before the future tenant gets a chance to implement his own plan as part of his business plan. Mr. Post reminded the commission that the attorney describes the plan as a parking plan. Mr. Post continued that the only thing the commission would be granting is approval to put in a restaurant in that building and when the restaurant decides what they want to put in there, they will return. Mr. Sadlowski disagreed in that as indicated in 8.4.B.1 of the Zoning Regulations, the commission has to accept some type of site plan with a Special Exception.

Mr. Post clarified that by approving the plan as it is, the applicant does not need to change a thing. Mr. Sadlowski responded that the restaurant could come back with a simple site plan review which is quick and easy and does not require a notice or a hearing. Mr. Post clarified that the applicant could change something if they wanted to in the future, but if an approval is granted as part of this application, the applicant is not obligated to change a thing. Mr. Sadlowski confirmed.

Mr. Krimmel opined that the issue is a safety and welfare issue. He posed the question as, "Is the lighting safe?" Mr. Krimmel declared that it was. He further pointed out that style and attractiveness has nothing to do with the application. Mr. Stoutenberg disagreed in that he does think the commission should be concerned with what the site is going to look like. Mr. Moore stated that ideally the commission would be provided with some type of master plan of Riverside East, as the area is identified in the Plan of Conservation and Development. He reminded the commission that one of the goals was to look at a master plan for the area. However, Mr. Moore continued that he didn't think the commission should stand in the way of this development and that what they had been presented with is okay but that they should be looking at the traffic and safety concerns, and as sewers are put in and residential development is put in, the commission is going to need to look at the whole area. According to Mr. Moore, at that point, the commission is going to need to examine details but that this is just the beginning. Mr. Steadman concurred.

Mr. Steadman confirmed the safety of the staircase to Mr. Sadlowski. Mr. Sadlowski confirmed that the First Selectman provided a former state building official, an expert with these types of commercial buildings. Mr. Sadlowski reported that the building official deemed the stairs adequate, with some minor changes needed with spacing between the railings and only some minor changes as far as the site plan was concerned.

**MOTION:** Mr. Krimmel, Mr. Moore second, **to approve the application in the matter of New Hartford Industrial Park, Inc. – 37 Greenwoods Road – Special Exception – To Allow a Restaurant Use in the Mill, subject to the following conditions:** 1. This approval allows a 5,000 square foot restaurant in the existing mill building as shown in the submitted plans entitled, “New Restaurant Parking Plan” drafted by Hrica Associates and dated 08-29-2014; 2. The parking lot shown as part of this application to be restriped before the restaurant is operational. Handicapped parking shall be provided as required by the Building Code and Building Official; 3. The parking lot shown as part of this plan shall be re-paved as soon as possible after the environmental remediation is completed; **unanimously approved.**

**B. Christopher D. & Laura L. Roeh – 18 Buttercup Lane – Special Exception - Accessory Dwelling Unit.**

No action taken.

**3. NEW APPLICATIONS: None**

**4. APPROVAL OF MINUTES: September 24, 2014**

**MOTION:** Mr. Stoutenberg, Mr. Krimmel second, **to approve the September 24, 2014 minutes; unanimously approved.**

#### **5. ZONING ENFORCEMENT OFFICER’S REPORT.**

Mr. Sadlowski reported a presentation on revitalization and reuse of brownfields is coming up on October 23, 2014 that he thought was very interesting if any members were interested in attending. He has emailed details to members.

#### **6. CORRESPONDENCE.**

Mr. Sadlowski distributed copies of a written proposal from Planimetrics regarding planning assistance on the Plan of Conservation and Development.

#### **7. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:**

##### **A. Discussion of the Plan of Conservation and Development Update.**

Mr. Sadlowski updated board members on progress with the different facets of the plan revision. Dates of meetings were reviewed.

**MOTION:** Mr. Stoutenberg, Mr. Krimmel second, **to recommend to selectman that they enter into a contract with Planimetrics for the work described in their proposal of October 2, 2014; unanimously approved.**

Mr. Krimmel praised the work of Mr. Sadlowski in the work undertaken with Plan of Conservation and Development.

**MOTION:** Mr. Stoutenberg, Mr. LaPlante second, **to adjourn at 8:33PM; unanimously approved.**

**Respectfully submitted,**

**Pamela A. Colombie**  
**Recording Clerk**

DRAFT