

Town of Hamden Planning and Zoning Department

Memorandum

To: Hamden Planning and Zoning Commission

From: Daniel W. Kops, Jr., Town Planner *DWK*

Re: Special Permit Application 20-1511/WS
Site Remediation/ Restoration of Adjacent Properties
82-92 Crest Way
Parcel ID # 2928/058

Date: September 22, 2020

Overview

On February 28, 2017 the applicant received Special Permit approval for a landscaping business with outdoor storage. The plans included a 6,000 square foot building, as well as an outdoor storage area containing mulch, woodchips and firewood in bins composed of mafia blocks, accompanied over 20 parking spaces. The application was amended in 2018.

The applicant obtained a Building Permit in 2018, without obtaining the required Zoning Permit from the Planning and Zoning Department, and presumably began site work soon after that. In August of last year the Department discovered through a complaint from a neighbor, that the applicant had constructed a building and was operating his business on the site – still without obtaining a Zoning Permit. To make matters worse, the site was being developed in a manner significantly inconsistent with the approved plans and a substantial amount of material was dumped downslope on two other abutting properties – 785 and 925 Sherman Avenue, where soil, rock and wood were deposited without permission. The excavation activity also encroached on two other properties, one of which is owned by the owner of 82 Crest Way.

The Zoning Enforcement Officer issued a Notice of Violation and a Cease and Desist Order, subsequently followed by a Citation. Meetings requested by the applicant ultimately proved unsatisfactory. Despite the Town's corrective orders the applicant has continued to occupy the building and conduct business on the site, and is still doing so. The Town therefore filed a request for an injunction in Superior Court but due to the COVID-19 pandemic a hearing has yet to take place.

The Department requested that the applicant prepare a remediation plan to address the encroachments and also to eliminate the steep slopes created on parts of the property. The application before the Commission is for a Special Permit to allow the necessary remediation work to be carried out. If the remediation plan is approved and carried out, the applicant would then come back before the Commission to seek approval for an amended plan for the landscaping operations approved under Special Permit 16-1297.

The remediation plan calls for the removal of 5,925 cubic yards of soil, rock and tree material, which will be excavated, sorted and then brought by truck to one or more sites in North Haven. The applicant anticipates the process will take one to two months to complete. The documentation includes the proposed truck route and a street sweeping plan.

Department Reviews

The Fire Marshal indicated in a note dated May 26, 2020 that he had no comment.

In a memo dated June 11, 2020, the Town Engineer provided extensive comments.¹ In an email sent September 11, 2020 he stated that all of his prior comments are still applicable, except that the plans he recently received were much more legible.

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The Engineering Department reviewed the plans dated 3/20/2020 submitted with this application and have the following comments:

1. Missing from the Plan set
 - a. Please change the line weight of the existing conditions on all pages to make the existing conditions legible. Without the existing contours, it is near impossible to determine the impact of the scope of work.
 - b. Show the approved site plan as one of the pages.
 - c. This plan set does not address the encroachments on #100 Overlook or #72 Crest Way as previously submitted during the enforcement actions.
 - d. Provide an explanation for the Total Cut Fill Report on the multiple plan pages. The purpose of the plans is to show removal of fill, so the numbers do not make sense. This appears to be old and out of date.
2. Access and Driveways:
 - a. The single 20 ft. wide truck in/out is barely sufficient for two way dump truck traffic and is not recommended next to two slopes (detention pond and slope to be restored). Complete construction of the proposed entrance under the building site plan to create a one way flow about the site. This will also accommodate the possibility of a dump trailer if a subcontractor is used.
 - b. Specify the material of the access drives / travel paths.
 - c. Provide the location of the new wall west of the building. (as shown in the enforcement actions plans).
 - d. Any existing broken or damaged sidewalk, reconfigured or sections of sidewalk and/or driveway aprons damaged through the course of construction will need to be replaced to Town of Hamden standards.
3. Drainage:
 - a. Do not conduct work until the detention pond discharge is properly installed and inspected by the Engineering Department. The open trench is a hazard to the driveway as well as the Town drainage system.
 - b. Provide contours for the detention basin on the plans. The current existing contours are illegible.
 - c. Provide contouring for the work areas draining to the detention basin. Verify the basin will gather the site drainage.
 - d. Consider adding a multi-bay temporary design to catch the sediment before the outfall structure. This can be accomplished with crushed stone or hay bales.
4. Parking:
 - a. What has or has not been installed from the existing approved site plan.
5. Building
 - a. Will the building be active and where will those operations occur during this process?
6. Utilities
 - a. Provide existing, existing as proposed from the site plan, and proposed to be installed utilities for the site and new building.

Given that the application is to remove fill improperly dumped material and remediate neighboring properties, two of the Town Engineer's comments are particularly salient. The first notes the omission of any reference to the encroachments on 100 Overlook Drive and 72 Crest Way. The second cites discrepancies in the amounts of fill to be removed:

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 - c. This plan set does not address the encroachments on #100 Overlook or #72 Crest Way as previously submitted during the enforcement actions.
 - d. Provide an explanation for the Total Cut Fill Report on the multiple plan pages. The purpose of the plans is to show removal of fill, so the numbers do not make sense. This appears to be old and out of date.

Both of these issues need to be addressed. Some of Mr. Austin's other comments appear to be more relevant to the application to amend 16-1297, which is not yet before the Commission. Those that apply to the current application are included in the recommended Conditions of Approval.

In a letter dated September 16, 2020, Ron Walters of the RWA provided comments concerning the adequacy of the sedimentation and erosion control plan, the need for inspections, the possible need for a refueling plan, stabilization of remediated areas and access for RWA staff to inspect the site.² All of the comments have been addressed in the recommended Conditions of Approval.

No other comments were received.

Planning Department Comments

The primary concern of the Planning and Zoning Department is to ensure that the adjacent properties are restored to their prior condition. The owners of 785 and 925 Sherman Avenue have both granted permission for the remedial work to be undertaken on their properties. The applicant's plans divide the remediation work into four stages, resulting in a reseeded slope placed back in close approximation of its prior contours. In addition, 12 to 15 trees will be planted.

The proposed route – Sherman Avenue to Whitney to Dixwell Avenue to State Street to Sackett Point Road – is a roundabout way that will involve driving through possibly the worst intersection

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1. The erosion and sediment control plan appears adequate if properly installed and maintained. We recommend a third party be responsible for the inspection aspect of the plan and submit weekly inspection reports (including pictures) to town staff.
2. A refueling plan should be developed if there is vehicle refueling or temporary fuel storage on-site. Refueling activities should be conducted on an impervious surface and as far away from catchbasins or drainage structures as possible.
3. The remediated areas should be stabilized as soon as possible. A phasing plan for stabilization should be developed.
4. The RWA should be granted access to the site to monitor the progress of the remediation work.

in Hamden. If the trucks take the Route 40 connector from Whitney Avenue to Dixwell Avenue their route will be faster and create far less traffic congestion.

Recommendation

Approval of the application is essential to restoring the abutting properties to their former condition. With the recommended Conditions of Approval contained below, the application will meet the Special Permit Threshold Decision Criteria specified in Section 718.4, and should not have an adverse impact on the health, safety and welfare of the public. In fact it should eliminate existing adverse impacts. The Department therefore recommends approval of the Special Permit and Site Plan Application #20-1511/WS, as depicted in the submitted plans:

Soil Removal Plan, Phases 1-4, Sheets 2-6
Dated March 20, 2020
Prepared by Juliano Associates

Subject to the following conditions:

1. The applicant shall obtain a Zoning Permit, signed by the Fire Marshal, QVHD and the GNHWPCA.
2. Prior to the Issuance of a Zoning Permit, the applicant shall:
 - a. Submit a revised site plan for approval by the Town Engineer and Town Planner, containing:
 - i. A Title Page Identifying the Project and including a Table of Contents
 - ii. A plan for addressing the encroachments onto 100 Overlook Drive and 72 Crest Way.
 - iii. Verification and correction of the Cut/Fill Totals.
 - iv. Replacement of the inadequate, single 20 ft. wide truck entrance/exit next to two with the entrance proposed in the building site plan to create a one way flow about the site. This will also accommodate the possibility of a dump trailer if a subcontractor is used.
 - v. Specification of the materials used for the access drives/travel paths.
 - vi. A refueling plan if there will be vehicles refueling or temporary fuel storage on the site. Refueling activities should be conducted on an impervious surface, far away from any catch basin or drainage structure as possible.
 - vii. A phasing plan for the rapid stabilization of remediated areas.
 - viii. A revised truck route utilizing Route 40.
 - ix. All conditions of approval.
 - b. Provide the Planning and Zoning Department with \$5,000 to be used to engage the services of an independent contractor to inspect the sedimentation and erosion controls, verify conformance with the approved plan oversee material removal from the site regularly, and submit weekly inspection reports to the Zoning Enforcement Officer. If the funds are depleted prior to the completion of the remediation work the applicant shall provide additional funds sufficient to cover necessary inspections through the end of the project.
 - c. Notify CT DEEP of its plan to excavate and remove the deposited material and provide the Hamden Zoning Enforcement Officer with a copy of CT DEEP's response indicating it has no objections.

- d. Submit a performance bond covering the costs of all sedimentation and erosion controls on the applicant's site and the other affected properties.
3. Upon issuance of the Zoning Permit, the applicant shall install the sedimentation and erosion controls and then notify the Planning and Zoning Department and the RWA at least three days prior to the start of any remedial activity.
4. All of the sorting, removal, transport and deposit elsewhere outside Hamden of the excavated material shall be conducted in accordance with all relevant local, state and federal regulations.
5. No other work shall be conducted until the detention pond discharge is properly installed and inspected by the Engineering Department. The existing open trench is a hazard to the driveway as well as the Town drainage system.
6. Planning and Zoning as well as RWA staff shall have unimpeded access to the property to monitor the remediation work.
7. All roads in the Town of Hamden travelled by the trucks carrying material from the site shall be kept clean of fallen debris and material.
8. All work shall be completed by March 22, 2021.
9. This approval does not authorize any changes to the previously approved plans for Special Permit 16-1297.
10. This approval does not permit any business-related activity at 82 Crest Way until a Zoning Permit has been obtained, the work is carried out in accordance with approved plans and a Certificate of Zoning Compliance has been issued.


DWK: tbm



Town of Hamden

Planning and Zoning Department

To: Hamden Planning and Zoning Commission

From: Matthew Davis, Assistant Town Planner 

Re: Site Plan Application 20-1513/CAM
Mixed Use – Take Out Restaurant with 2cnd Floor Apartment
1695 State Street

Date: September 21, 2020

Overview

The applicant proposes to change the use of this existing site/building to create a small scale, family operated take out restaurant with an apartment above. The site is zoned T-4 and mixed use is permitted. Minor site improvements are proposed.

Department Reviews

Town Engineer

In comments dated 9/10/2020, the Town Engineer requested that the location of the handicap ramp from the parking lot to the concrete ramp/landing be provided. The Town Engineer also requests a minimum vertical clearance for the parking lot light fixture of 13 feet 6 inches.

GNHWPCA

GNHWPCA comments, dated 8/20/2020, address standard permit, design, inspection and operational requirements. Staff has included a reference to these as a condition of approval.

Fire Marshal

Based on comments dated 8/14/2020, the Fire Marshal requested detailed floor plans following approval of the site plan by PZC.

QVHD

QVHD stated in a memorandum dated August 17th that prior to obtaining a Building Permit the applicant must submit a detailed floor plan and food service plan for review and approval.

Planning Department Comments

Approval will help to promote and continue the incremental “redevelopment” of the State Street corridor, consistent with the Town’s updated POCD. Given the small lot area and location of existing site improvements, special care will be needed during site development to comply with applicable ADA and other design requirements relating to grading and slopes. Also, with respect to the adjacent R-3 zone, the existing conditions (adjacent building on the property line and existing fence) render the need for a “buffer” between these uses moot. Staff has also brought the existing encroachments to the owner’s attention and the call-out on the plan (fence in rear) was suggested so that the site plan approval would not be construed as tacit acceptance of that condition. The planters along the street frontage are proposed as alternatives to the required “street trees” but additional detail is necessary, by way of approval conditions. A small grassed area in the rear will be available for the apartment tenants. Sufficient parking is available, assuming the use is operated as proposed in the applicant’s Use Statement.

Recommendation

With the recommended Conditions of Approval contained below, the application will meet the Site Plan Objectives specified in Section 720.5, and should not have an adverse impact on the health, safety and welfare of the public.

Conditions of Approval:

1. The applicant shall obtain a Zoning Permit, signed by the Fire Marshal, QVHD and the GNHWPCA.
2. Prior to the Issuance of a Zoning Permit, the applicant shall submit a revised site plan for approval by the Town Engineer and Town Planner, containing:
 - A. A detail of the proposed planters and a list of typical plantings. Said planters and plantings shall not be installed in a location that impedes safe sight lines.
 - B. A standard dumpster enclosure shall be provided. The dumpster shall be surrounded on three sides by a six inch high asphalt berm.
 - C. The light fixture shall be placed no lower than 13 feet 6 inches.
 - D. No buffer shall be required to the adjacent R-3, as long as the existing conditions mitigating the need for said buffer shall remain.
 - E. The applicant shall comply with all requirements of the GNWPCA.
 - F. All conditions of approval.
3. All work shall be completed by September 22, 2025.