



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 Crest Way, 785 Sherman Avenue, 925 Sherman Avenue

Date: December 7, 2020

Overview

At the November 24th meeting the Chair suggested that the Public Hearing on the application be continued and that the applicant meet with Town staff to discuss the issues cited by them and commissioners. The Commission then voted to continue the Public Hearing until the December 8th meeting. The applicant's engineer, Mr. DiMeo, with input from East-West Engineering, submitted a lengthy, written response as well as revised plans and a copy of Acorn Traders' DEEP-issued permit for a solid waste facility. Mr. Lee, Mr. Austin and I then held a virtual meeting with the applicant's team of professionals, as well as the applicant on December 1st.

Department Reviews

The Town Engineer was the only person outside the Department asked to review the revised plans and other documents provided. Mr. Austin submitted three pages of comments in a memorandum dated December 7, 2020. A copy of Mr. Austin's comments is attached to this report. The general conclusion one draws from them is that the plans are incomplete, lacking details necessary to complete an assessment. Mr. Austin also questions the viability of the remediation plan and the slope restoration plan and raised issues regarding the proposed handling of runoff.

Planning Department Comments

Many of the issues previously raised by staff and Commissioners have been addressed in the narrative or revised plans, and the applicant's consulting team is to be commended for the work accomplished in a very short period of time. However the application remains deficient and troubling. Rather than go through all of the responses provided by the applicant's team, this memo discusses only those that still generate concern:

- The applicant wishes to leave the existing wood chips and mulch currently on the property at 82 Crest Way in place until he receives approval to open his business there. Based on the extensive, unauthorized use of the site, we believe it would very difficult for

enforcement staff to determine what activity was part of the legitimate remediation effort and what constituted unauthorized commercial activity, and therefore the mulch and woodchips should be removed.

- The Department has also indicated that all vehicles except those involved in the remediation effort to be removed from the premises.
- The narrative and plans now identify the locations that the different types of excavated material are to be sent to and the routes to be taken. The route to the Hamden landfill uses several residential streets, which is less than ideal.
- The previous review of the project expressed concern that the plans weren't prepared without identified or apparent guidance from a Licensed Environmental Professional. The applicant's teams has responded, indicating that the plans have been reviewed by Mr. Carr, who is an LEP, for consistency with Mr. Carr's "Restoration Adjacent Properties Environmental Soil Sampling and Materials Disposition Plan". While this is accurate, it ignores the fact that initial engineering approach was developed without his guidance and there are significant concerns about the adequacy and safety of the phased excavation plan.
- It's still difficult to discern the prior elevation contours on the large swath of land at 785 Sherman Avenue, but a review shows how deep the fill material is in some areas.
- This is not a normal digging operation. Because of the slopes and necessary depth of excavation, the Department has continued to rely on Mr. Austin's expertise in assessing the viability of the excavation plan. Mr. Austin memorandum expressed specific concern about the viability of the excavation plan and indicated it lacked necessary details for him to evaluate it fully.
- The applicant's team has provided an explanation of how the sorting, testing, and storing for transport off-site sequence will work spatially. The circles will alternate between use as the current dumping area and an area containing 1,000 cubic yards that have been sampled and remain untouched while portions are being tested at a laboratory. The viability of the sequencing depends on the sampling time taking no longer than the time interval taken to fill up the other area with another 1,000 cubic yards of material.
- The engineering team states that the large flat pad area will be restored to its original grade. This leads one to ask how the original grade was determined. What was the source of the information? No survey of prior existing conditions was submitted. One possible source is the Hamden Geographic Information System, whose data are available but are only approximate and not as accurate as a field survey. If one were able to recreate the grades as depicted in the GIS – and I'm not confident this could be done – the grading would be somewhat different than what previously existed, and drainage patterns would necessarily be affected.
- The final issue regarding the remediation work, itself, is the safety of the proposed excavation. Both the Town Engineer and Commissioner Roscow have questioned the methodology, given the combination of the steep slopes and the likelihood of voids. Given that small limbs and brush are likely to be part of the buried material, the risk of these voids should be considered significant.

Recommendation

On November 24th the Planning and Zoning Department was unable to recommend approval of the application due to a host of concerns. Since then the applicant's team has addressed a number of the concerns raised in the prior memorandum and produced revised plans in a very short period of time. However, the application is still problematic because there are too many substantive questions that remain regarding the proposed grades, viability of the excavation plan, safety of the excavation protocol and serious doubts that the applicant will follow any approved plan. Mr. Austin's memorandum submitted yesterday makes it clear that key information is lacking.

Just this past Friday two members of the Planning and Zoning Commission independently visited the site and then contact me to tell me of what was happening at 82 Crest Way – one reported seeing a dozen dumpsters, while the other told of seeing a lot of general activity. The applicant's continued refusal to comply with zoning regulations and the orders issued by the Zoning Enforcement Officer have left the Department with no expectation that he will do so in the future.

The Department therefore remains unable to recommend approval of the application at this time. To put it more formally, the application fails to meet the Special Permit Threshold Decision Criteria specified in Section 718.4 – notably 1718.4.a. the health, safety and welfare of the public in general and 718.4.g. compliance with the Zoning Regulations and Site Plan Objectives, and is highly likely to continue to have an adverse impact on the health, safety and welfare of the public. In addition, the plans are still incomplete, lacking important details. The Department therefore continues to recommend denial and will continue to seek remedies in court.

The Department also continues to recommend that after proper noticing of its impending action, the Commission hold a Public Hearing to consider revoking the Special Permit 16-1297 for the landscaping business with outdoor storage.

As previously stated, the recommendations beg the question of how the remediation work will ever get accomplished. The Court may eventually order it be carried out but may well require the applicant to come back to the Planning and Zoning Commission to work out the details of that remediation. Given that possibility, if the Commission wishes to approve the application, The Department recommends incorporating 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. Supply in advance of the issuance of a Zoning Permit sufficient funds for the Planning and Zoning Department to engage the services of an independent. Licensed Environmental Professional to:
 - i. Review the proposed excavation, sampling, sorting, testing and disposal plan, as well as soil stabilization and landscaping elements.
 - ii. Serve on a continual basis as the Town's on-site representative, monitoring the excavation, sampling, sorting, testing and disposal of debris, as well as soil stabilization and landscaping.
 - iii. Submit weekly inspection reports to the Zoning Enforcement Officer.
 - b. Submit a revised site plan for approval by the Town Engineer and Town Planner, containing:

- i. Missing details cited in the Town Engineer's memorandum of 12-7-20.
 - ii. Changes recommended in the Town Engineer's memorandum of 12-7-20.
 - iii. Changes recommended by the Commission's independent consultant.
 - iv. All conditions of approval.
 - c. Provide the Zoning Enforcement Officer with written confirmation that representatives of the owners of 785 and 925 Sherman Avenue have no objections to the revised plans.
 - d. Notify CT DEEP - WEED 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 received the plans.
 - e. 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. No work shall be carried out on Saturdays and Sundays.
- 5. Work shall occur only between 8:00 am and 5:00 pm.
- 6. All of the sorting, removal, transport and disposal elsewhere of the excavated material shall be conducted in accordance with all relevant local, state and federal regulations.
- 7. No other work shall be conducted until the detention pond discharge is properly installed and approved by the Engineering Department.
- 8. 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.
- 9. Planning and Zoning as well as RWA staff shall have unimpeded access to the property to monitor the remediation work.
- 10. 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.
- 11. The remediation work shall be completed within four months from its commencement.
- 12. All work, including stabilization and landscaping shall be completed by June 30, 2020.
- 13. This approval does not authorize any changes to the previously approved plans for Special Permit 16-1297.
- 14. The property at 82 Crest Way shall not be used for any business-related activity whatsoever until:
 - a. The remediation work at the affected sites has been completed and the Zoning Enforcement Officer issues a favorable report to the Commission.
 - b. A Zoning Permit has been obtained and the work is carried out in accordance with approved plans.
 - c. A Certificate of Zoning Compliance has been issued.

As noted previously, the Commission will need to make findings regarding the Petition for Intervention submitted by Ms. Garrett. Attorney Lee will explain the process to the Commission.

Town of Hamden Engineering Department

To: Chairman, Planning and Zoning Commission

From: Mark Austin, PE, Town Engineer



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Date: 2020.12.07 14:09:15
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Subject: Site Plan 20-1511
Site Plan for restoration of adjacent properties
82/92 Crestway

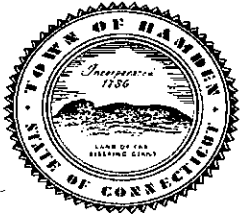
Date: December 7, 2020

The Engineering Department reviewed the plans dated 11/6/2020 and revised through 11/30/2020 submitted with this application and have the following comments: For additional clarity, addressed comments have been removed, previous comments have been changed to italics, clarifications are in bold, and new comments in standard type. Due to the limited time frame provided to review the plans, additional comments may be generated with additional review. The Engineering Department has spent approximately eight hours reviewing the plans and reports. We acknowledge the complexity of the proposed proposal.

1. Missing from the Plan set
 - a. *This plan set does not address the encroachments on #100 Overlook or #72 Crest Way as previously submitted during the enforcement actions. There is a conflict between the 11/30/2020 and the 12/2/2020 response. 11/30 indicates that the trespass will be addressed later in a separate plan/approval. The 12/2/2020 indicates the repairs have been made. The sited repairs in the 12/2/2020 have not been verified. There has been insufficient time to conduct a site walk to verify.*
 - b. *Provide a material handling plan.*
 - i. *Given the anticipated soil and woody debris, how will these two materials be handled and separated? Mechanically (screener) or by hand (excavator)? What are the size requirements and how "clean" will the debris be? This will affect the disposal plans. Too much woody debris in the soils can cause rejection.*
 - ii. *How will potentially hazardous materials be handled if encountered? Only bulk testing is proposed. What are the contingency plans if impacted materials are found during excavation? This could be as simple as oily smelling soils, trash, or other non-woody materials are found.*
2. Proposed remediation area:
 - a. Viability of the remediation plan:
 - i. Phasing in 20 foot sections: When excavating, the assumption is that the material is sufficient to support the excavator pad. There are no contingency plans if a pocket of woody debris or if voids are found when excavating.
 - ii. There are minimal details on how the material is to be handled within the excavation area regardless the phase. When the easternmost excavator casts to the east, the second excavator will pick and sort, loading into two different trucks.
 1. Where will the haul trucks be loaded, which side of the swale?
 2. Below are notes of if there is enough room to operate, both on the narrow excavator pad or where trucks will operate.
 3. Will there be screening of material conducted on site?
 4. What is the disposal plans for stumps?
 5. The Town of Hamden cannot be used as a disposal destination without formal notification and response from the Public Works Department. With the recent two storms of August 2020, the Town likely cannot accommodate additional debris.
 - iii. There are no details on how the original grades will be established.

1. Where were the original grades determined on the plans? Please source.
 2. Will a survey crew direct the excavators to the proper grades or will a soils professional determine the original O horizon of the original soils?
 3. If tree stumps are discovered in the
 - iv. Restoration plan
 1. How were the number of trees and other vegetation restoration determined?
 2. The soil conditions are unknown below the restoration area. At a minimum, soil compaction restoration should be considered to promote future growth. This is a very serious issue when planting trees.
- b. *Provide a method to prevent site runoff from 82/92 Crestway from flowing towards 785 Sherman (restoration area). Currently runoff will flow down the access and can destabilize the work area. This should be addressed in each phase and especially phase 4 for the final conditions. The proposed swale requires additional details and information:*
- i. **Is this a permanent or temporary swale? If permanent, will need to size over a 10 year storm.**
 - ii. **Provide outlet protection where the swale discharges into the detention pond.**
 - iii. **The tributary area for the provided calculations is significantly undersized. The majority of the rear of the property appears to flow towards the swale. The originally proposed drainage system for this site has not been installed therefore cannot account for the drainage for the north side of the property.**
 - iv. **A wider detail for the swale in the area of the truck travel path may be warranted for easier crossings.**
 - v. **Without truck crossings into the excavation / restoration area, the swale may be subject to heavy sediment loads, due to the casting of excavated materials by the excavators. In the widest areas, it is not possible for two excavators to cast that far. (+ 80 ft).**
- c. *On Phase 2, the northern portion of the proposed pad for the excavator may be too narrow depending on the size of the excavator. Is 15ft wide sufficient for a truck to traverse and be loaded by the excavator. (Excavator tracks aligned up and down slope which is safest for excavation. Clarifications below:*
- i. **A John Deere series 200 excavator is proposed. The track length is 12 feet, center axle to center axle. Fifteen feet is not sufficient for an excavator to turn and work.**
 - ii. **Where will the second excavator sit and work, at the swale or within the western proposed slope?**
 - iii. **In the widest areas, it is not possible for two excavators to cast that far if a slope is involved. (+ 80 ft). They might have the horizontal reach, but may not have the combined horizontal and vertical reach to cast and then load the trucks for piling in the stockpiles.**
- d. *What is the material of the proposed pad for the excavator? Add this to the plans. The material was not specified in either of the responses. "fill material presently on the site" is not sufficient.*
- e. *Consider benching to provide a runoff break to prevent erosion.*
3. Access and Driveways:
 - a. *Specify the material of the access drives / travel paths. Please add this note to the plans.*
 - b. *Provide the location of the new wall west of the building. (as shown in the enforcement actions plans). Please see clarifications and additions below:*
 - i. **We understand that it is at the noted at the "Face of Steep Slope". This was previously shown as a rock outcropping in the original proposal. This note has been subsequently removed. Please clarify.**
 - ii. **With the proposed wood stockpile being shown near this wall, the material and size of the wall is important to verify it can handle the abuse of the proposed activity (becoming a push wall).**
 - iii. **Where will the existing equipment being shown as stored on the western edge of the property be stored? This is in direct conflict with the wood storage area**
 - c. *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. Please see the entrance and exit to the site.*
 4. Drainage:
 - a. *Do not conduct work until the detention pond discharge is properly installed and inspected by the Engineering Department. Clarifications below:*

- i. **The pond is shown as incomplete. The drainage pipes from the existing / originally proposed site drainage system need to be shown on the plans with inverts.**
 - ii. **The pond bottom is shown as three feet too shallow (present conditions 182, proposed conditions 179.1 as per the outfall structure inlet. Has the outlet structure been properly installed?**
 - iii. **The response indicates inspections have occurred by the Engineering Department. The Engineering Department has only inspected the pipe from the outfall to the catch basin leaving the site (not shown on the plans). The purpose of this inspection was for the water stops, not for the pond or the outfall structure.**
 - b. *Provide contours for the detention basin on the plans. Provide the existing approved plan and the drainage structures on the proposed plan. Clarifications below:*
 - i. **The 12/2/2020 response indicates that the pond is to be completed in phase 1. This was not changed on the plans. With the other necessary details, this needs to be corrected.**
 - ii. **The pond bottom is shown as three feet too shallow (present conditions 182, proposed conditions 179.1 as per the outfall structure inlet.**
 - c. *Provide contouring for the work areas draining to the detention basin. As referenced above, the calculation's tributary area is very insufficient. Please justify via a map. The current plan drains runoff to the slope being established. A simple swale along the eastern side of the site may be enough to prevent site water from destabilizing the work area. Please see the crossing details comments above. We are concerned that the depth of flow was not illustrated and the tributary area provides an incorrect assessment of the necessary size. What is the proposed freeboard for the swale?*
 - 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. Hay bales have been shown. Provide the additional referenced plunge pools and revised contours on the plans. The bale barrier may need to be relocated. Consider adding the originally proposed stone checks.*
 - e. *The delineation of the detention pond is significantly in error. The northernmost extents as illustrated are approximately four feet higher than the southern side. (184 vs 188 feet elevation)*
 - f.
- 5. **Parking:**
 - a. *What has or has not been installed from the existing approved site plan. While we understand your approach that this is not necessary because the original use is not officially being utilized, this is relevant because this is an area that the restoration worker may use for parking and queuing of removal trucks. This is also relevant due to the apparent installation of an "tail" extension on the building which, if not properly marked and signed, may be a hazard for passing vehicles entering and existing. (there was a reference to a staircase).*
 - b. *With the installation of the parking lot, move the refueling of the equipment towards the building to prevent spillage on a hard and more controlled surface. If work is conducted in the winter, the DEF and other maintenance fluids can be better stored in the building.*
- 6. **Building**
 - a. *Will the building be active and where will those operations occur during this process? While we understand your approach that this is not necessary because the original use is not officially being utilized, this is relevant because this is an area that the restoration worker may use for breaks and sanitary facilities if the fixtures are activated. If the building is not in use, maintenance and refueling of the equipment would be better located at the building because it would be better controlled, maintenance equipment and lubricants stored internally, and the fueling would be better controlled on a hard surface.*
- 7. **Utilities**
 - a. *Provide existing, existing as proposed from the site plan, and proposed to be installed utilities for the site and new building. Is there a natural gas service to the building?*



Town of Hamden

Planning and Zoning Department

To: Hamden Planning and Zoning Commission

From: Matthew Davis, Assistant Town Planner

Re: Special Permit/Site Plan Application 20-1335 (General Repairers)
71 Overlook Drive

Date: December 7, 2020

Overview

The site is located in an “M” zone and is surrounded by other similar industrial and commercial uses. The site is already developed and was most recently approved for a private “hobby” shop (motor vehicles). The owner now wishes to expand the use to a full commercial general repair shop. The ZBA has granted the necessary Location Approval and a lot width variance.

Department Reviews

Town Engineer

Comments received 11/30/20 requested minor additional plan details that will easily be addressed as conditions of approval. None of these have any bearing on the adequacy of the design, storm water system or other “engineering” concerns.

Planning Department Comments

While in an “M” zone, many of the T-zone design standards apply, however the site was developed prior to the T-zone regulations and therefore many of the improvements are lawful nonconforming and can remain as such, even with the change in use. While the scale of the property may not be sufficient to accommodate a large operation, the layout is suitable, with a large storage area in the rear of the building, screened from the street and slightly below street grade.

The Commission may recall that the lot width standard for MV repair shops was created as a way to restrict proliferation of those uses along major corridors such as Whitney Avenue, on small lots. This location is situated within an established commercial/industrial area so staff has no concerns about compatibility or the potential for negative impacts on the area’s appropriate use or development.

Recommendation

The proposal complies with the applicable design and other requirements of the zoning regulations and staff recommends approval subject to the following:

Conditions of Approval:

1. Use of the subject site at all times shall be strictly limited to the applicant's use as approved herein and no other use shall be permitted of the site without the prior written approval of the Hamden Planning and Zoning Commission or its duly appointed agent. This limitation shall include both uses and structures/equipment/vehicles of any type.
2. The scale of the operations shall at all times comply with the limitations of this approval and no areas on or off site shall be used for the storage or parking of vehicles. On-site parking shall be available at all times for clients and employees and required client and employee stalls shall not be used for storing vehicles waiting for service.
3. Vehicles waiting for service shall be stored in the rear surface storage area of the site or within the building.
4. Prior to issuance of a CZC by the Hamden Zoning Officer, the applicant shall provide documentation of approval of all interior improvements that are subject to permitting by the Building Code.
5. Occupancy or commercial use of the building or premises shall occur prior to the issuance of a CZC by the Hamden Zoning Officer.
6. Prior to the issuance of a Zoning Permit, the applicant shall submit revised plans incorporating all conditions of this approval.
7. All improvements shall be completed by December 8, 2025.