Planner’s Memorandum

To: Members, Planning and Zoning Commission
   K. Moynihan, Selectman (via email)
   K. Corbet, Selectman (via email)
   N. Williams, Selectman (via email)
   I. Bloom, Town Attorney (via email)
   T. Mann, Director of Public Works (via email)

From: Lynn Brooks Avni, AICP Town Planner

Date: Meeting Memo September 29, 2020

There are three (3) public hearing items; one (1) new item and two (2) continued items.

New & Continued Applications:

1. **111 Cherry Street** – Upon application of Brock Saxe, Authorized Agent for Cherry Center, LLC, owner(s), for a Site Plan approval of Section(s) 4.4.C.5 to allow Business A Zone, Uses Permitted with Site Plan approval for general and medical offices, for property in the Business A Zone at 111 Cherry Street.

   **Discussion:** The applicant has requested the approval to permit an office use on the ground floor at an existing commercial shopping center in a Business A zone as permitted by Sect. 4.4.C.5.

111 Cherry Street is located on the east side of Cherry Street and is just south of East Avenue. The subject parcel is developed and is comprised of two (2) buildings, collectively known as Cherry Center with 73 parking spaces. There is currently enough parking at the site to accommodate the proposed ground floor office use in Store #5. Sect. 6.2 stipulates the parking requirements for Retail, Business, Bank or Office uses are the same, one space per 200 SF of gross floor area. The proposed 1,689 SF store would require approximately 8.5 parking spaces. The current parking lots should easily be able to accommodate that number without any modifications. With respect to municipal services, the subject parcel is on Town water and Town sewer. Lighting, refuse, traffic control or landscaping existing on the site will not be modified.

There were no comments from other departments on this matter.
2. Discussion and consideration of the request of Jacqueline O. Kaufman, Carmody, Torrance, Sandak & Hennesey, LLP, Authorized Agent for Thomas A. Sanseverino owner, 8, 10, 12 and 14 Husted Lane and Lynn Corson owner, 16 Husted Lane, Petition for Change in Zoning Boundary, pursuant to Section 8.2.D for properties currently in the B Residence Zone to the Retail B Zone for 8 Husted Lane (Map T, Block 211, Lot 877 ), 10 Husted Lane (Map T, Block 211, Lot 843), 12 Husted Lane (Map T, Block 211, Lot 880), 14 Husted Lane (Map T, Block 211, Lot 874), 16 Husted Lane (Map T, Block 211, Lot 879) as well as Husted Lane.

Discussion:

This application is a request for a map change for 8, 10, 12 and 14 Husted Lane from B Residential to Retail B Zone. The Commission will recall that the Applicant gave a pre-application presentation before the Commission at the May 2019 meeting. At the time the Applicant was debating whether a text change to the B Residential Zone Regulations was advisable or whether or more prudent route might be a Map Change. This property is located near the intersection of Main Street and Heritage Hill Road. It is essentially one of the first properties immediately outside the downtown, business and retail zones. This parcel is located at a confluence of zoning districts. It immediately abuts the Apartment Zone to the north; it is zoned B Residential Zone and abuts other B Residential Zones to the east and the Retail B Zone to the south where it abuts the Town’s Locust Street parking lot. Additionally, within one (1) block of the site are the Retail A Zone and the Business A Zone. This parcel is currently improved with five (5) properties: two (2) single family dwellings, one (1) two family dwelling, and two (2) multi-family dwellings. The multifamily dwellings are legally non-conforming.

Husted Lane appears to be a private road that comes off Heritage Hill Road in such a way that the two streets form a letter “y.” There is a total of five (5) lots on Husted Lane; two of the lots have direct frontage on Husted Lane and three (3) of the lots appear to be rear lots with an access drive that has frontage on Husted Lane. The street dead ends at the access drive. Husted is not a through street and one likely wouldn’t drive down Husted unless they lived there or planned to visit someone on the street. It should also be noted that for a small stretch Heritage Hill Road and Husted Lane run parallel to each other. Additionally, even though the streets run parallel at points there is an elevation change between Heritage Hill Road and Husted Lane. Husted Lane has a lower elevation and is buffered from Heritage Hill Road by some existing landscaping that runs adjacent to the sidewalk on Heritage Hill Road.

ADDENDUM
At the July Planning and Zoning meeting, Jackie Kaufman, attorney for the applicant represented that the Applicant, proposes to submit a revised map of the proposed area to be changed that will remove the property of Lynn Corson. The public hearing was held in conjunction with the Site Plan/Special Permit application.

ADDENDUM

At the August 25, 2020 meeting It was suggested that perhaps the Commission consider rezoning only the portion of Husted Lane that is proposed for development in Phase I and have the Applicant return with a Map Change request for the balance of the property when they are ready to develop Phase II.

3. **8 and 10 Husted Lane** – Upon Application of Jacqueline O. Kaufman, Carmody, Torrance, Sandak & Hennessey, LLP, Authorized Agent for Thomas A. Sanseverino, Owner for a Special Permit and Site Plan approval of Sections 4.3, 4.3.D.1, 4.3.D.1.d, 4.8.C, 6.H.1, 8.2.B and 8.2.A to permit a mixed use development containing twelve (12) residential dwelling units and approximately 315 SF of commercial space with associated parking, landscaping, utility and site improvements at 8 Husted Lane (Map T, Block 211, Lot 877) and 10 Husted Lane ((Map T, Block 211, Lot 843) as well as Husted Lane in the proposed Retail B Zone

**Discussion:**

This is a Special Permit/Site Plan application to construct a twelve (12) unit mixed use development on 8 and 10 Husted Lane. This application is related to the preceding Map Change application. If the Map Change application were successful, the Applicant proposes to construct a twelve (12) unit mixed use building with a small ground floor commercial space of approximately 315 SF. Special Permits are required in the Retail B zone to construct a mixed use development, specifically Sections 4.3.D.1, 4.3.I.d, 4.8.C and 6.H.1.

As noted above, in the Map Change application, this property is located near the intersection of Main Street and Heritage Hill Road. It is essentially one of the first properties immediately outside the downtown, business and retail zones. This parcel is located at a confluence of zoning districts. It immediately abuts the Apartment Zone to the north; it is zoned B Residential Zone and abuts other B Residential Zone to the east and the Retail B Zone to the south where it abuts the Town’s Locust Street parking lot. Additionally, within one (1) block of the site are the Retail A Zone and the Business A Zone. This parcel is currently improved with five (5) properties: two (2) single family dwellings, one (1) two family dwelling, and two (2) multi-family dwellings. The multifamily dwellings are legally non-conforming.
Husted Lane appears to be a private road that comes off Heritage Hill Road in such a way that the two streets form a letter “y.” There is a total of five (5) lots on Husted Lane; two of the lots have direct frontage on Husted Lane and three (3) of the lots appear to be rear lots with an access drive that has frontage on Husted Lane. The street dead ends at the access drive. Husted is not a through street and one likely wouldn’t drive down Husted unless they lived there or planned to visit someone on the street. It should also be noted that while for a small length Heritage Hill Road and Husted Lane run parallel to each other, there is an elevation change between Heritage Hill Road and Husted Lane. Husted Lane has a lower elevation and is buffered from Heritage Hill Road by some existing landscaping that runs adjacent to the sidewalk on Heritage Hill Road.

The Commission would need to approve the Map Change request in order for them to address the Special Permit application which has some additional specific requests that will need to be addressed. First, the Applicant has requested that the Front Yard Setback be relocated to the Building Line. According to the Regulations (Sect. 2.2) the “Building Line is a line established by the Commission or other competent municipal authority, in back of the street line defining an area between said lines upon which buildings or structures are regulated or prohibited.” The term Building Line seems to refer to the setback and is only used in the commercial and business zones. If the Commission were to look favorably upon the Map Change application this would become a commercial zone (Retail B). In the Residential zone the term Yard Setback (ie. Front, Rear and Side) when referring to the setback areas. Chapter 54 Streets and Sidewalks of the Ordinances and Bylaws of the Town Charter, specifically, 54-3 notes that “until a building line is established in any highway the property line thereon shall be the building line.” Second, the Applicant has requested a modification of the requirement in Sect. 6.H.1 which requires a maximum of ten (10) parking spaces in a row. Instead the Applicant proposes a continuous row of eleven (11) parking spaces with appropriate landscaping. In an effort to avoid locating the parking adjacent to neighboring residential property lines, the Applicant has requested this modification. Additionally, the Applicant has represented that this parking design allows for a greater amount of perimeter landscaping and screening opportunities. A Traffic Access and Impact Study was prepared by Frederick Clarke Associates and dated April 8, 2020. Based on the proposed development the Traffic Engineer recommends that a stop sign and stop bar be provided at both the site access driveway to Husted Lane and at the intersection of Husted Lane and Heritage Hill Road on the westbound approach. Additionally, no parking signs should be installed on both sides of Husted Lane from Heritage Hill Road to the existing roundabout.

4. **115 Seminary Street** - Upon application of David J. Rucci, Lampert, Toohey & Rucci, LLC, Authorized Agent for Seminary Street, LLC, owner, for a Special Permit and Site Plan approval of Section(s) 3.2.C.b.iii; 6.4.g.1 and 2; 6.4.1.8 to allow construction of a
detached two family structure. Allow grading in excess of 1,000 square feet; soil disturbance in excess of 10,000 square feet and allow a slope greater than 4:1 in a yard setback, for property in the B Residence Zone at 115 Seminary Street (Map L, Block 20, Lot 929).

**Discussion:**
The Commission will recall that at the June 23, 2020 meeting it approved a subdivision for this property which created two separate lots. At the time the property was improved with a single building on an approximately 26,178SF lot which is dually zoned. The portion of the lot where Seminary Street and Scofield Lane intersect is zoned B Residence zone and the rear portion is zoned A Residence Zone. In the current proposal, the survey indicates that two (2) lots will be created; one which will be approximately 15,373 SF and will be dually zoned and the second lot which will be approximately 10,805 SF and will be zoned A residence district.

The A Residence Zone is a single-family zone that has a minimum lot area of 10,000 SF and a circle diameter of 100 feet. The B Residence Zone allows for single family dwellings, single family with an accessory dwelling and Two Family. The minimum required lot area for a single-family dwelling is 7,500 SF and a circle diameter of 75 feet. For a single family with an accessory dwelling the minimum lot area is 9,000 SF and a circle diameter of 75 feet. For a two-family dwelling the minimum lot area is 12,000SF and a circle diameter of 100 feet.

The Applicant has proposed to construct a Detached Two Family Dwelling (Sect. 3.2.C(b)(iii)) and is seeking a Special Permit. Additionally, the Applicant is asking for a Special Permit of Sect. 6.4.(g) for soil disturbance in excess of 10,000 SF and Sect. 6.4(I)8 to allow a slope greater than 4:1 in a yard setback.

5. **16 Hemlock Hill Road** – Upon application of Andrew and Ashley Burr, owner(s), for a Special Permit approval of Section(s) 3.4.C.6 to allow construction of a pool, spa, pool house and related site work within the front yard of the property and located within 150 ft. of Hemlock Hill Road and Oenoke Ridge Road. The pool house will be set back 87’ 6” from Hemlock Ridge and 96’ 7” from Oenoke Ridge Road. The pool will be set back 127’ from Hemlock Hill Road and 99’ from Oenoke Ridge Road. The property is heavily screened with mature evergreen spruce trees along Hemlock Hill Road and Oenoke Ridge Road as well as the adjacent properties, for property in the Two Acre Zone at 16 Hemlock Hill Road.
**Discussion:** This property is a corner property located at the intersection of Hemlock Hill Road and Oenoke Ridge in the Two Acre Zone. Per Sect. 3.4.C.6 of the Zoning Regulations, the Applicant is proposing to construct a pool and pool house in the front yard. Technically, since the property fronts on two streets it has two front yards. The house faces Hemlock Hill Road so although a technical front yard, the yard that faces Oenoke Ridge is utilized as a side yard. It is in this yard that the pool and pool house are proposed to be located. The pool and pool house are proposed to be located approximately 90 plus feet from Oenoke Ridge Road. This property has a small delineated wetland and the distance from the wetland to the proposed pool and pool house will require an Administrative wetland permit.

**6. 108 Ponus Ridge Road** – Upon application of Peter John Sacripanti Trustee, owner(s), for a Special Permit of Section(s) 3.4.C to allow expansion of existing pool house to no more than 1,150 sq. ft., for property in the One Acre Zone at 108 Ponus Ridge Road.

*This application did not send the required notices to the neighbors so this matter will be opened at the October 27, 2020 meeting.*

**7. 8 Lockwood Avenue** – Upon application of Bruno Iacono, Signature Pools, Inc., Authorized Agent for Colin and Susan Welch, owner(s), for a Special Permit and Site Plan approval of Section(s) 3.4.B.4.b, 3.4.B.4.d and 3.4.C.6 to allow construction of a swimming pool, fire wall and pergola and bathhouse within 150 ft. of a front property line, for property in the B Residence Zone at 8 Lockwood Avenue.

**Discussion:**
Planning and Zoning staff was notified by the Department of Public Works of construction of a pool at this address without the requisite permits. Staff went out and saw that work was already underway for the construction of retaining walls, an in ground pool and grading work in the yard. On August 11 a notice that a Zoning Permit had not been issued prior to the commencement of work, was mailed to the homeowner.

This application is to allow a pool, bath house, fire wall and pergola within the 150 foot front yard setback. The subject parcel is approximately 16,885 SF and is a corner property located at the intersection of Lockwood Avenue and Bank Street. The house fronts on Lockwood Avenue and though the Bank Street yard is technically a front yard per the Zoning Regulations, it functions as a side yard.

Just want to bring the Commission’s attention to some housekeeping matters with respect to the plans that need to be addressed. Height of the retaining walls and distances from the...
property line. This information has been requested from the Applicant; and it was asked that it be provided on the survey, prepared by a CT licensed surveyor. Instead the Applicant only provided the information on the landscape plan. Since the retaining walls are already constructed the height and distances are an as-built condition and not a proposed condition thus the surveyor needs to measure and note same on the survey. Pursuant to Sect. 6.5.B.2 in the B Residence Zone retaining walls shall be located a minimum of eight (8) feet from the property line. If the distance is less than eight (8) feet a relief in the form of a variance from the Zoning Board of Appeals needs to be obtained. Such a variance request would typically occur prior to a Special Permit. Additionally, Sect. 6.5.B.6 notes if a retaining wall is taller than four (4) feet a separate Zoning Permit shall be issued and the applicant needs to provide plans for the wall that address construction design and drainage within ten (10) feet of the wall. The Bank Street side of the property is considered a front yard because the lot is a corner lot. Pursuant to Sect. 6.5.C.2.a no fences or freestanding walls taller than four (4) feet are permitted in the front yard between the front property line and the front yard setback line.

Additionally, there is no distance measurement called out on the survey for the retaining wall that runs parallel to the neighbor’s property line. Again, since this work was completed in advance of obtaining a permit, this is an as-built condition and the correct measurements and dimensions need to be reflected on the survey and not the landscape plans.

The Engineer’s plans, Surveyor’s plans and landscape architect’s plans are not in sync.

8. **635 Frogtown Road** – Upon Application of Stephen A. Finn, Wofsey, Rosen, Kweskin & Kuriansky, LLP, Authorized Agent for New Canaan Country School, owner(s), for a Special Permit approval of Section(s) 3.3.B.7 and 8.2.B to allow placement of a temporary tent and two temporary portable bathrooms in order to maintain physical distancing and for public health and safety during the COVID-19 pandemic. The location of the temporary tent and bathrooms are shown on the plan submitted herewith, for property located in the Two Acre Zone at 635 Frogtown Road (Map 25, Block 12, Lot(s) 160 & 115).

Discussion:
New Canaan Country School is applying for a Special Permit to keep a tent and portable bathrooms up throughout the year to allow them to socially distance the students and provide for lower density bathroom usage. According to the State’s sector guidelines for schools there is a requirement for the schools to appropriately distance the students and to provide for bathrooms for use by a dedicated number of groups. Pursuant to Sect. 3.3.B.7 temporary uses are permitted for a period not exceeding ten (10) days. The school needs to maintain these temporary structures at least through the period of the pandemic. NCCS has requested that the temporary use be permitted until at least 30 days after the governor declares the pandemic over. The school has also requested that during the
course of the next year, if additional temporary structures are required to keep pace with any changes in the State’s sector Guidelines or the school’s needs that they be permitted with the permission of the Town Planner. Staff will work with the Applicant administratively if any additional temporary needs arise relative to the pandemic. Many businesses and institutional uses throughout Town have also had to deal with new ways to do business and that comply with new Guidelines aimed at keeping everyone safe.