

**RISELEY & MORIELLO**  
**ATTORNEYS AT LAW**  
111 Green Street  
Post Office Box 4465  
Kingston, New York 12402  
E-Mail: mamrfr@aol.com

Richard F. Riseley  
Michael A. Moriello

Tel: (845) 338-6603  
Fax: (845) 340-1614

**ZONING AMENDMENT AND SITE PLAN APPLICATION SUBMITTAL:**  
**ACCORD, LLC ADAPTIVE RE-USE OF**  
**THE GRANARY PREMISES**

I.) Rezoning Statement: Upon the annexed Application documents, previously submitted on October 27, 2021 and further upon the Amended Zoning Petition submitted herewith, the Petitioner/Applicant hereby Petitions to the Town of Rochester Town Board for the above referenced redevelopment project in accordance with the following documentation:

A.) October 27, 2021.

- 1.) Request for Zoning District Designation Petition.
- 2.) Application.
- 3.) Site Plan Application.
- 4.) SEQRA Long EAF, Part 1.
- 5.) SEQRA Addendum.
- 6.) Authorizations.
- 7.) Maps, Addendums and Submittals.
- 8.) Application Fees.

B) April 18, 2022.

- 1.) SEQRA Long EAF Part 1.
- 2.) Amended Zoning Petition.
- 3.) Site Plan Application.

[Note: The additional documents referenced within "A" above and being not restated, have not been amended and will continue to serve for Application/Petition purposes].

In accordance with Local Law No. 3 of 2018, the following Economic Enterprise Overlay District Statement is offered by the Applicant/Petitioner, Accord, LLC:

Describe proposed use and scope of project:

The plan is to create a sustainable community gathering place in the historic hamlet of Accord. The project is designed to be a place that encourages healthy sustainable community

through fostering businesses that give back to the town and its residents. Our goal is to preserve and adaptively reuse a site which was once the hub of commerce for the region, but has lain dormant for 35 years and is in danger of collapsing if restorative action is not taken. We also wish to extend a long strip of the original O&W rail trail which runs within our property to connect with the path running from Accord to Kerhonkson.

The main building will house a restaurant in the Western wing, mercantile uses and an outdoor seating area that sits between the historic structure. This area will also house space where local makers can sell goods on the weekends. The second floor will be utilized for business uses.

The tall barn will house a bike rental shop on the ground floor to serve residents and visitors who want to enjoy the rail trail. The Second and Third floors will be refurbished as a ten room inn. We plan to offer discounted rates for individuals and organizations focused on community healthy and sustainability. We will be restoring the house for use as a B&B. We will also be restoring the old coal barn as an office space for local businesses. We will also be rebuilding the old Anderson house on the property on the original foundation, which was torn down a few years ago after it was left to rot in unoccupied condition for decades. This site will function as a place for wellness offerings, employing local acupuncturists and message therapists.

A new residential four (4) unit apartment building will be added to the project and upon project amendment, two (2) new parcels will be added to the redevelopment plan. A total of 63 parking spaces, employing green infrastructure technology, will be established as part of the Project.


Our hope is that by adaptively reusing the Granary Premises, we will be able to bring people together to help revitalize the historic district, bringing jobs, community interconnection, and life to an abandoned, but beautiful site.

We look forward to working with the Town of Rochester, involved/interested agencies and members of the public in order to engage in comprehensive review of the Granary Premises Adaptive Re-use Project.

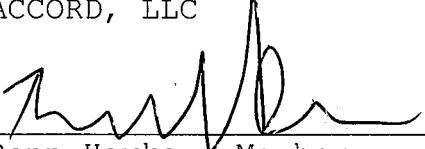
Dated: April 18, 2022

Very truly yours,

ACCORD, LLC

  
Henry Rich, Member

ACCORD, LLC

  
Renn Hawkey, Member

TOWN OF ROCHESTER PLANNING BOARD  
ULSTER COUNTY, NEW YORK

Application # \_\_\_\_\_  
Date \_\_\_\_\_  
Fee Paid \$ \_\_\_\_\_  
Type: Site Plan \_\_\_\_\_ SUP \_\_\_\_\_

**SITE PLAN and SPECIAL USE PERMIT APPLICATION**

1. Name of Project: The Granary
2. Property Owner: Accord LLC  
Address: PO Accord, New York 12404  
Primary Phone(\_\_\_\_\_) \_\_\_\_\_ Secondary Phone(\_\_\_\_\_) \_\_\_\_\_  
E-Mail Address \_\_\_\_\_
3. Applicant Name (if other than Owner): same as above  
Address: \_\_\_\_\_  
Primary Phone(\_\_\_\_\_) \_\_\_\_\_ Secondary Phone(\_\_\_\_\_) \_\_\_\_\_  
E-Mail Address \_\_\_\_\_
4. Site Location: Name of Public/Private Road project is accessed by Main Street  
Tax Map Section: 77.9 Block 1 Lot 25, 27, 28, 29, 31  
Town of Rochester Zoning District(s): Hamlet  
Acreage of parcel(s) \_\_\_\_\_ a cres [Include all acreage of Current parcel(s) involved]  
Is this project proposed to be completed in multiple phases? TBD
5. This project is (check one): [ ] Expansion of existing use [  ] Change of Use [ ] New construction
6. Will this project require permits or approval from any Federal, State, or County agencies? Yes  
If yes, Name? See documents annexed
7. Existing use and facilities (indicate each existing building, approximate size, use, and other facilities, parking lots, etc.) See documents annexed
8. Describe the current use(s) of all contiguous parcels [ Include ALL types of uses ]  
*Examples: Vacant land, Residential, Commercial, Farm, Industrial, etc* See documents annexed

9. Describe proposed use and scope of project: Adaptive re-use and redevelopment of The Granary Premises  
[See also, documents annexed].

10. Proposed construction – MUST INCLUDE A MAP TO SCALE – (Describe type and size of building and show location on map with setback dimensions on all property lines and other buildings).  
List any physical restrictions to the project such as waterways, flood plains, wetlands, steep slopes, rock outcroppings etc. *[Locations of these must also be notated on the map provided by the applicant]*  
See Maps annexed.

11. Will the project require water supply and/or involve the disposal of sewage? If Yes, describe and give amounts. Yes. See SEQRA Long EAF, Part 1 annexed.

12. Is the property located within or contiguous to a NY State Certified Agricultural District? \_\_\_\_\_

13. Does the property contain land located within a 100 year flood plain or Federal or NYS identified wetlands? No. USACOE Federal Wetlands are present

14. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places? Yes If yes, Name? Accord Historic District

15. Is the applicant requesting any waivers in procedure or submittal requirements from the Zoning (Chapter 140) regulations? (See 140-47 for details) Yes. Parking 140-18.9(H) Zoning Law. [See annexed]  
*If answered yes, then the applicant shall provide these requests to the Planning Board separately in written form and include all reasoning for such requests.*

**Applicant states that he/she is the owner or authorized agent of the owner for which the foregoing work is proposed to be done, and that he/she is duly authorized to perform such work, and that all work will be performed in accordance with all applicable State, County, and Local Ordinances.**

Sworn by me this 20<sup>th</sup> day of April, 2012

MARGARET R. LIVERMORE  
Notary Public, State of New York  
No. 01LI6041471

Appointed in Ulster County

My Commission Expires May 8, 2026

*Margaret R. Livermore*

  
\_\_\_\_\_  
Signature of Applicant/ Agent

**If an agent is representing applicant, a signed letter by applicant authorizing named individual to act as his/her agent must accompany the application.**

**If the applicant is not the property owner, a signed letter by property owners authorizing the applicant to act as his/her agent must accompany the application.**

Town of Rochester Planning Board  
Site Plan/Special Use Permit Application  
Nov. 2017

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111 Green Street  
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**AMENDED ZONING PETITION**

IN THE MATTER OF THE APPLICATION OF  
ACCORD, LLC FOR THE GRANARY AT ACCORD

For a zoning district overlay amendment of 7.2 acres for the former Granary premises, as situate within the Hamlet Zoning District for an Enterprise Overlay District, (EEO), together with the accompanying Zoning Map Amendment in the Town of Rochester, County of Ulster and State of New York.

TO: The Honorable Town Board of the Town of Rochester"

Upon this Amended Petition and a certain Request for Zoning District Designation Form, together with an originally submitted October 21, 2021 Zoning Petition, Renn Hawkey, Member, Henry Rich, Member, and Michael A. Moriello, Esq. as Attorney, (Collectively hereinafter "Petitioner") respectfully shows this honorable body as follows, pursuant to Section 140-18.1 of the Town of Rochester Zoning Law and Sections 263, 264 and 265 of the Town Law of New York State:

STATE OF NEW YORK )  
COUNTY OF ULSTER )ss.:

Renn Hawkey and Henry Rich, being duly sworn, depose and say as follows:

PREAMBLE: This Amended Zoning Petition is being offered to supplement and update the October 21, 2021 Zoning Petition, as originally submitted to the Town of Rochester Town Board and in consideration of additional acreage and appurtenant structures to be made part of the EEO Zoning District and as more particularly described herein.

FIRST: Name/Address.

The name and address of the fee owners of the premises which is

the subject of this Amended Petition is Accord, LLC, PO Box 490 Accord, New York 12404, and said owner has consented to this Petition pursuant to the original October 27, 2022 Town of Rochester Request for Zoning District Designation Form submitted previously.

SECOND: Premises.

Petitioner is the fee owner of the subject premises for redevelopment of the former Granary property for a renovation of six (6) structures, together with one (1) additional new apartment structure, on a 7.2 acre parcel situate within the Hamlet Zoning District, together with buildings thereon and appurtenant lands associated therewith. The proposed uses will be located within existing structures and one (1) new structure and will consist of the following:

- i.) Restaurant with indoor/outdoor dining.
- ii.) Retail Space.
- iii.) Bike Shop with Ten Room Inn.
- iv.) Office Space.
- v.) Wellness Center.
- vi.) Bed and Breakfast Houses.
- vii.) Art Gallery/Artist Studio
- viii.) New Apartments (4).
- ix.) Rail Trail Establishment. [See also, "Proposed Building Table of Uses," dated April 10, 2022 and annexed hereto as Exhibit "1"].
- x.) Project and Infrastructure Appurtenances.

Said lands are located at 2 Tow Path Road, in the Town of Rochester, County of Ulster and State of New York, more particularly

described by copy of the Deed to the premises, which Deed has been made part of the Application documents.

The subject premises is depicted on the current Town of Rochester Tax Map as Section, Block and Lot Numbers 77.9-1-25, 77.9-27, 77.9-1-28, 77.9-1-29 and 77.9-1-31. [Note, these S/B/L Numbers have been merged by way of a recent lot line revision merger by the Applicant and a single S/B/L Number will be assigned by the Ulster County Real Property Tax Department in the near future].

The subject premises is physically bounded as follows:

- a.) On the East by land n/f Reiss and Main Street.
- b.) On the West by lands n/f Fink and Pardini and lands n/f Ulster County and Devou Lane.
- c.) On the South by lands n/f Fink and Pardini and lands n/f Reiss.
- d.) On the North by Granite Road and Main Street.

THIRD: Improvements.

The subject premises is improved by the following:

- a.) Vacant structures.
- b.) Residential houses.
- c.) Parking areas.
- d.) Remaining lands and appurtenances.

FOURTH: Description of the Subject Premises.

The purpose of this Petition is to utilize the Town of Rochester Zoning Law and Sections 263, 264 and 265 of the New York State Town Law to rezone the 7.2 acres premises to Economic Enterprise Overlay District pursuant to the Economic Enterprise Overlay District Criteria set forth within the Town of Rochester Zoning Law.

In this regard, portions of the former Granary premises have



remained abandoned for years and changing the zoning of the parcel will more appropriately acknowledge the expanding commercial and mixed use nature of the surrounding neighborhood. Therefore, the planned adaptive re-use of the premises is expected to result in a reinvigorated commercial occupancy of the premises, as well as upgraded residential use and the same should assist with the future growth potential within this area of the Town of Rochester.

FIFTH: Current Zoning of Site.

The subject premises is currently zoned Hamlet (H) on the Town of Rochester Zoning Map and by the Zoning Law of the Town of Rochester, which was enacted in 1983 and from time to time amended.

The subject premises is further situate adjacent and contiguous to Main Street and Granite Road, public roadway which service said lands for ingress and egress.

With respect to economic and land use opportunities for the premises, it is submitted that the functionally obsolescent buildings do not lend themselves in any manner to the original granary (agricultural commercial) use, nor is said former use realistic from a practical standpoint. As this rezoning is entirely consistent with the statutory directives of Local Law #3 of 2018, which Local Law provides for EEO Zoning, the same does not constitute spot zoning. Save Our Forest Action Coalition v. City of Kingston, 246 AD2d 217 (3<sup>rd</sup> Dept., 1998)[see also, related analysis provided herein].

SIXTH: Proposed Zoning of the Site.

The Petitioners are requesting that the subject premises be rezoned, by operation of the Economic Enterprise Overlay District [EEO], to encompass the Premises as an overlay to the Hamlet Zoning

District and which zoning amendment would amend the Town of Rochester Zoning Map to permit the planned mixed commercial/residential adaptive re-use thereupon.

SEVENTH: Description of the Application and Associated Action.

A.) The Petitioner proposes for the subject premises for adaptive re-use for commercial/residential purposes and which associated development will be subject to Type I Action coordinated SEQRA Review under the applicable regulations of the Environmental Conservation Law of New York State [6 NYCRR Part 617 et. seq.].

This project will further require Site Plan review by the Town of Rochester Town Board under the Town of Rochester Zoning Law. It is anticipated that, owing to the EEO rezoning, the Town of Rochester Town Board will be undertaking action as Lead Agency under SEQRA.

At this time, it appears that the Petition will be requesting a waiver of parking dimension requirements from 10'x20' spaces to 9'x18' spaces. This waiver request will be forwarded pursuant to Section 140-18.1(14)(b) for real property development.

As portions of the former Granary Premises have been essentially abandoned and remained vacant, the potential for building deterioration, vandalization and general decline of the premises, in the absence of the proposed project, is acute. This planned re-development is expected to revitalize the surrounding Hamlet area and provide for future use of the premises in a manner which reflects the potential for growth and enhancement of the mixed use neighborhood of which it will be part.

The project team currently consists of the following:

1. Renn Hawkey and Henry Rich: Accord, LLC  
Applicant/Petitioner.
2. Scott Dutton, RA: Architectural.
3. Michael A. Moriello, Esq., Riseley & Moriello,  
PLLC: Legal.
4. Dennis Larios, PE, Brinnier & Larios, PC: Engineering.
5. Joseph E. Diamond, PhD: Historical/Archeological.
6. Mike Nowicki, Ecological Solutions LLC:  
Endangered/Threatened Species and Wetlands.
7. Cindy Hamilton, Heritage Consulting.

B.) As part of the above described action and in addition to the Zoning Law Amendments and changes proposed, your Petitioner will be undergoing simultaneous coordinated environmental review upon the Site Plan by the Town of Rochester Planning Board and other involved/interested agencies.

C.) Pursuant to SEQRA [6 NYCRR Part 617.4(b)(5)(ii)], a Long Environmental Assessment Form (EAF), with Part 1 prepared by the project sponsor, is being submitted to the Town of Rochester Town Board. The Type I Action designation is effectuated by operation of 6 NYCRR Part 617.4(b)(9), owing to a rezoning action taking place within the designated Hamlet Historic District and the presence of the former D&H Canal on a portion of the site.

The Application and associated documentation will attempt to identify, analyze and evaluate certain relevant site-specific impacts that may result from the proposed project. During the pendency of review, project changes and mitigation measures will be made to eliminate any potentially large impacts from an environmental perspective. It is emphasized that no determination as to this

rezoning request may be made by the Town of Rochester Town Board until all coordinated review, Type I Action SEQRA Procedures are completed.

D.) Site Plan Regulations are found within the Town of Rochester Zoning Law at Article VII.

E.) The site specific uses, as set forth above and reflected upon the current site development plan are required to be examined under SEQRA during the pendency of coordinated environmental review.

F.) The applicant has held conceptual discussions with Supervisor Michael Baden, concerning the genesis of this project and the enthusiasm shown for the adaptive re-use of the Granary Premises has been instrumental in forwarding the current plans for redevelopment of the subject premises.

G.) An examination of the Economic Enterprises Overlay District designation requirements shows that the rezoning request and the project meet the purposes of said District and attendant rezoning under Local Law #3 of 2018; to wit:

i.) Adaptive reuse of an existing former agricultural/commercial building and premises.

ii.) Expansion of the existing commercial redevelopment.

iii.) Consistency with the New York State Building/Fire Codes.

It is further submitted that the planned re-development and adaptive re-use of the Granary Premises will meet all of the Town of Rochester Zoning Law requirements as set forth therein. [A specific analysis of the articulated EEO Criteria is addressed below].

EIGHTH: Statutory Law.

The statutory references for this Rezoning Petition and related Site Plan Application are as follows:

- a.) Town of Rochester Zoning Law.
- b.) Town Law of the State of New York, Sections 263, 264, 265.
- c.) Town of Rochester Zoning Law, Article VII.
- d.) Town of Rochester Local Law #3 of 2018.
- e.) SEQRA [6 NYCRR Part 617 et. seq.].
- f.) General Municipal Law of the State of New York, Section 239-m.
- g.) Municipal Home Rule Law of the State of New York, Sections 10, 20, 21 and 22.
- h.) Article 18A of the General Municipal Law of New York State.

NINTH: Rezoning Analysis as Required Pursuant to Town of Rochester Local Law #3 of 2018:

- a.) Municipal zoning laws are comprised of two basic components.

The first is the text which describes the districts and contains other relevant provisions and requirements, including the description of the permitted uses allowed in each district. The second component is the zoning map, which reflects the location and boundaries of the various zoning districts within the municipality.

This Application for zoning amendment involves a proposed change in the zoning map so as to alter the zoning classification and district of a 7.2 acre developed area of land within the municipality as described above.

The Application further involves a request to apply the Town of Rochester Local Law #3 of 2018 zoning text and regulations to the subject premises so that the planned adaptive re-use of the existing Granary Premises and the inclusion of mixed residential/commercial

uses thereon, may be accommodated in order to accentuate the physical attributes of the lands at issue.

TENTH: Legal Requirements - Zoning Amendment Petition:

The ultimate test of whether a proposed amendment to zoning regulations is valid is "whether the change is part of a well-considered and comprehensive plan calculated to serve the general welfare of the community". See Save Our Forest Action Coalition v. City of Kingston, 246 AD2d 217, 221 (3<sup>rd</sup> Dept. 1988); In the Matter of Yellow Lantern Kampground v. Town of Cortlandville, 279 AD2d 6, 10 (3<sup>rd</sup> Dept. 2000) and 279 AD2d 6, 10 (3<sup>rd</sup> Dept. 2000) and Boyles v. Town Board, 278 AD2d 688, 690 (3<sup>rd</sup> Dept. 2000).

In determining whether a proposed use amendment to the zoning text is part of the well considered and comprehensive plan calculated to serve the general welfare of the community, the Town Board is required to consider the EEO stated criteria in light of the following rezoning factors set forth below:

A.) Economic Enterprise Overlay District

i.) "A description of the existing economic and land use opportunities for the property as currently zoned and/or developed."

ii.) "An explanation of why and/or how currently permitted uses and/or regulations restrict the highest and best use of the property."

iii.) "A description of how the proposed project and land uses are in conformance with the Town of Rochester Comprehensive Plan."

iv.) "A description of how the proposed project and land uses are compatible with adjacent existing land uses and those reasonably anticipated in the future."

B. Rezoning Factors.

a.) The compatibility of the proposed use with the character of uses now permitted in such zoning district.

A review of the Hamlet (H) Zoning District in light of the above cited EEO District Criteria shows that mixed use of commercial/residential improvements which will be adaptively recommitted to economic use is wholly consistent with forwarding enhanced land use opportunities for the property, since the buildings thereon have remained vacant for decades.

The Hamlet area currently consists of mixed commercial/residential uses and the project will not introduce a discordant use into the neighborhood. Presently, the Granary Premises cannot accommodate all of the planned uses under zoning. Therefore, the highest and best use of the premises is inhibited. That this condition is endemic to the 7.2 acre parcel is self evident, inasmuch as buildings/structures have remained abandoned for decades and the cost to remediate for occupancy has been cost prohibitive to date.

The current economic and land use opportunities for the premises are limited by the abandoned buildings. The only project which has found its way to the Town of Rochester is the presently proposed Granary adaptive re-use. There is simply no way to preserve the existing Granary buildings/structures without the planned compliment of mixed uses, as there has been no demonstrable need for agricultural/commercial use re-occupying the site.

As a result of the adaptive re-use of the existing physical structures situate on the subject premises and the recent revitalization of portions of the Hamlet area, walkability and connectivity to a community based center will be enhanced. The project will assist with accentuation of the Hamlet area as a community gathering place going forward.

b.) The compatibility of the proposed use with the character of use already established in and proximate to the Hamlet District.

The Town of Rochester Zoning Map identifies the Hamlet Zoning District as encompassing the subject premises. This site was formerly a hub of community activity associated with agricultural and commercial uses as part of the Granary Site.

Unlike many of the low density districts in the Town of Rochester, since the premises was previously developed for commercial and residential uses, there are less environmental constraints present in or near this area of the respective zoning district. In addition, the project site also has excellent access to Granite Road and Main Street, as well as excellent proximity to community facilities and to other connecting highways.

It is further submitted that the lands located immediately westerly, southerly and easterly of the existing premises and building are planned to be physically buffered by vegetation, setback enhancements and orientation of on premises improvements in order to mitigate the potential for disturbance to residential properties situate in close proximity to the site.

With regard to roadways proximate to the project site, Granite Road and Main Street run to US Route 209 with through passage to NYS



Route 44/55 and it is submitted that the existing roadway network is capable of accommodating the proposed commercial/residential adaptive re-use patterns of development out from the core of the community. In this regard, the proposed project land uses are compatible with existing land uses and those which may be reasonably anticipated in the future.

c.) Does the proposed amendment permit a use that is beneficial to the public and which the community needs.

The need and desirability for this adaptive re-use project located in the Town of Rochester will be further accentuated by a redevelopment of rail trail connectivity as a pedestrian easement on the site. This linkage and rail trail enhancement has been recognized by the County of Ulster, Town of Rochester and New York State Regional Authorities as important tourism and economic accoutrements.

In addition, the employment of the planned adaptive re-use will assist with providing for an increased real property tax base, as well as providing for sales tax benefits on a community-wide basis. In this regard, since Von Thunen (1783-1850), communities have economically developed outward from the core as the aegis of agricultural activity has become more dispersed; a fact realized in the instant matter.

Although, in order to sustain a Negative Declaration of Environmental Significance, a Lead Agency may not base its environmental review of this project upon economic benefits which will be realized by the Town upon completion of the project, the Applicant has affirmatively represented, of record, that the Granary Project will apply for a Payment in Lieu of Taxes Agreement [PILOT] from the Ulster County Individual Development Agency [UCIDA]. Outside of SEQRA

analysis and with respect to the issue of benefits to the community, consideration of potential tax revenues is appropriate as to a requested rezoning.

d.) The likelihood of harm to the district and land uses therein if the use is permitted.

As discussed above, the project is to be located in a Hamlet area within buildings and upon a premises which has heretofore been occupied by commercial and residential occupants in the past. Accordingly, re-use of the premises is not expected to adversely affect the neighborhood.

Moreover, as the portions of the premises will remain devoted to residential use, the transient nature of the planned commercial activities will be mitigated within an area of the town which is expected to accommodate economic growth.

Furthermore, the existing lands which may be devoted to Hamlet uses in the Town of Rochester are relatively small in area and do not provide many opportunities to locate such uses to areas serviced by both vehicular and pedestrian linkages.

With respect to currently permitted zoning uses and regulations, the Hamlet District permits many of the proposed uses by the Applicant. However, it is the preservation of the historical buildings/structures which drives the project and the EEO District will foster flexibility in the planning process, accentuate applications for funding and preserve the historical integrity of the site. Accordingly, the EEO District designation will provide the impetus for realization of the highest and best use of the premises through the medium of adaptive re-use.

e.) The planning history of the Town's Land Use Regulations and the Comprehensive Plan.

In consideration of the manner by which the proposed project and land uses are in conformance with the Town of Rochester Comprehensive Plan, the following analysis is offered.

The Town of Rochester Comprehensive Plan was adopted in 2006 and sets forth the following recommendations as a part of its Comprehensive Development Policies:

i.) "Direct growth by encouraging concentrations of new residential and mixed use, and nonresidential developments in areas which presently are or which can be conveniently served by roads, utilities, schools and other facilities." p. 13.

ii.) "Offer incentives to encourage better site design and green design principles in new development projects that will encourage design principles fostering energy conservation, waste reduction, use of nontoxic materials, and ecologically safe processes in building." p. 13.

iii.) "Include protection of historic resources as one of the Town's site planning and subdivision review criteria." p. 13.

iv.) "Allowing mixed uses particularly in the hamlet areas which have traditionally been a source of starter housing for young couples and an option for housing for the elderly." p. 37.

v.) "Enhance both the tax base and local job opportunities by supporting a diverse economic base that includes all current businesses and trades, tourism, agriculture, services and manufacturing all sited and scaled to blend with the historic character of Rochester."

vi.) "Where appropriate, recognize historical small neighborhoods or settlements in zoning to preserve small-scale mixed use where it remains viable." p. 20.

vii.) "Protect and preserve the Town's historically significant buildings and sites in a manner that actively involves private owners of such properties." p. 20.

viii.) "Create an historic designation program to recognize historically significant sites in Rochester based upon voluntary participation of owners of historic properties with appropriate incentives for property owner participation. Also, coordinate this with other Town initiatives and programs." p. 23.

ix.) "Seek alternatives to strip commercial development along Route 209 and other frontage access highways, by directing such development to hamlet areas and/or concentrated nodes that minimize the road frontage and necessary curb cuts." p. 24.

x.) "Provide for alternative means of transportation in addition to roads, including bicycle paths, trails and walkways." p. 24.

It is submitted that the Granary at Accord Project is consistent with all of the foregoing Comprehensive Plan pronouncements. The land uses which will be developed on the project site will inspire additional economic development, employ local people and forward a creative project within the Hamlet area.

v.) As a matter of New York State Law, Local Law No. 3 of 2018 which, as an adopted Local Law and land use plan, forms a part of the Town of Rochester Comprehensive Plan and is the best evidence of said Comprehensive plan. Nicklin-Mckay v. Town of Marlborough Planning Board, 13 AD3d 858 (3<sup>rd</sup> Dept, 2005).

vi.) In further addressing the compatibility of the proposed project with the Town's comprehensive Plan and Section 263 of the Town Law of New York State and specifically the issue of spot zoning, the following is submitted.

While Town Law Section 263 requires zoning to be in accordance with a comprehensive (or well considered) plan, the courts have not required the plan to be written. Instead, courts will find evidence of a plan in the zoning actions themselves, if they were found to be in furtherance of a land use policy for the benefit of the community, Asian Americans for Equality v. Koch, 72 NY2d 121 (1988); Place v. Hack, 34 Misc. 2d 777 (1962); Walus v. Millington, 49 Misc. 2d 104, aff'd 31 AD2d 777 (1966). In the instant Application, the Town of Rochester has enacted a written comprehensive zoning plan in the form of Local Law No. 3 of 2018.

Spot zoning is the antithesis of comprehensive planning and this distinction was articulated within the seminal case Rodgers v. Village of Tarrytown, 302 NY 115 (1951) as follows:

"Defined as the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners (citations omitted) "spot zoning" is the very antithesis of planned zoning. If, therefore, an ordinance is enacted in accordance with a comprehensive zoning plan, it is not "spot zoning" even though it (1) singles out an affects but one small plot... or (2) creates in the center of a large zone small areas or districts devoted to a different use. Thus, the relevant inquiry is not whether the particular zoning under attack consists of areas fixed within larger areas of different use, but whether it was accomplished for the benefit of individual owners rather than pursuant to a comprehensive plan for the general welfare of the community."  
[Rodgers, at pages 123-124]

The Courts have held that evidence of the fundamental land use policies of the community can be garnered from any source. Udell v. Haas, 21 NY2d 463 (1968). Therefore, the Comprehensive Plan need not be the dispositive source of evidence of a communities fundamental land use policies. Other sources, including evidence of the current views of the Town Board legislative body, Place, Supra, or the zoning policies over time, Tilles Investment Company v. Town of Huntington, 74 NY2d 885 (1989) can be properly considered and may even be controlling. Save Our Forest Action Coalition, Supra.

Based upon the foregoing and the review which is expected to be conducted by this legislative body upon the record during the ensuing months, it is submitted that the proposed project will be in accordance with the Town of Rochester Comprehensive Plan and Local Law No. 3 of 2018, both of which benefits the general welfare of the entire community.

f.) The Town Board should be guided by the recommendations of its own professional planning advisors, the Ulster County Planning Board and the findings of the Town Planning Board.

The Town of Rochester Local Law No. 3 of 2018 requirement that each application to establish an Economic Enterprise Overlay District Designation on an eligible parcel proceed by obtaining Site Plan Approval from the Town Planning Board will permit the Planning Board to impose reasonable restrictions or conditions on the use to eliminate or mitigate any identified site specific adverse impacts.

Said Law's requirement that each Economic Enterprise Overlay District premises obtain Site Plan approval also requires each site-

specific application to undergo environmental review and a determination under SEQRA [6 NYCRR 617.2(b)(1)] by the Town Board, thereby insuring that each application to establish such an adaptive re-use will undergo a comprehensive and independent review.

The Petitioner looks forward to working with the Town Board, the Planning Board and their respective attorney, planner, and/or other Town of Rochester officials during the pendency of project review.

In further address of how the proposed project and land uses are compatible with adjacent existing land uses and those reasonably anticipated in the future, the Hamlet area is primarily made up of mixed residential, commercial and governmental uses.

The Granary at Accord will combine residential and commercial uses in a sustainable manner, with a connectivity component in the form of the rail trail establishment. This project enhancement is expected to foster the future use and enjoyment of the Hamlet area by members of the public.

The combination of restaurant, retail space, wellness center, art gallery/artist space, apartments, boutique inn, bed and breakfast and bike shop should provide for a coordinated gathering area with crossover uses which compliment each other. The Petitioner hopes that the planned redevelopment will foster future uses which recognize the historical integrity of the Hamlet area and which economically dovetail with the Granary at Accord.

**ELEVENTH:** Selection of Economic Enterprise Overlay District: The Applicant posits that the Granary at Accord Project fits squarely within the Economic Enterprise Overlay District designation requirements as a former agricultural/commercial use.

In conjunction with this Petition and the EEO District analysis, the Town of Rochester Town Board will be undertaking its review under the criteria set forth within Local Law #3 of 2018. In association therewith, it is requested that the Town Board perform the following with respect to this Petition/Application:

a.) Review the submittals to date, request any necessary additional information and refer the matter to the following agencies/officials:

- i.) Town of Rochester Stormwater Officer.
- ii.) Town of Rochester Building Inspector.
- iii.) Town of Rochester Planning Board.
- iv.) Ulster County Planning Board.

b.) Declare its intent to serve as lead agency under SEQRA and circulate to all involved/interested agencies as identified.

c.) Conduct SEQRA review of the project and request any further studies, submittals and/or information from the Applicant as may be relevant to the proposed project.

d.) Provide for eventual notice and public hearing concerning the Zoning Petition and attendant Site Plan Application.

e.) Apply the analysis set forth within Local Law #3 of 2018 in order to determine whether the EEO District Zoning Petition of Accord, LLC should be approved so that the Town of Rochester Planning Board may undertake its site plan review under the Town of Rochester Zoning Law.

TWELFTH: The Petitioner believes that after the Town Board completes its review under SEQRA, as well as pursuant to the Planning Board Site Plan review powers and the Town Board considers its



analysis of the relevant considerations as set forth above, the Town Board will find that the proposed Zoning Overlay Amendment has a rational and legitimate planning basis which meets the four pronged EEO Overlay Zoning District Criteria as forth above.

It is submitted that the Town Board will further find that there will be an immediate and permanent public benefit posed by the project and that the Zoning amendment is part of a well considered and comprehensive plan to serve the general welfare of the entire Town of Rochester and surrounding environs.

THIRTEENTH: Summation: Based upon all of the foregoing and additional information/documentation to be provided to the Town of Rochester Town Board upon this rezoning proceeding, it is submitted that:

a.) The zoning changes are consistent with the purposes embodied in the Town of Rochester Zoning Law as applied to the zoning districts concerned.

b.) No areas and establishments in the Town will be adversely affected by the changes in zoning.

c.) Adequate public infrastructure is in existence to service the premises for the intended commercial/residential mixed uses.

d.) There will be no indirect implications of such zoning change on other regulations.

e.) The proposed zoning change is consistent with the underlying objectives of the Town of Rochester Zoning Law, the Town of Rochester Comprehensive Plan and Town of Rochester Local Law No. 3 of 2018.