

TOWN OF ROCHESTER

50 Scenic Drive • P.O. Box 65 • Accord, NY 12404
Area Code 845

Town Clerk 626-7384
Supervisor 626-3043
Highway Dept 626-7221
Assessor 626-0920
Transfer Station 626-5273



Code Enforcement 626-2433
Planning Board 626-2434
Zoning Board 626-2434
Court House 626-2522
Youth Commission 626-2115

TOWN OF ROCHESTER TOWN BOARD October 26, 2023

Action: Local Law 10 of 2023 - Consideration of a Petition Requesting Economic Enterprise Overlay zoning designation

Application: Accord LLC
PO Box 490
Accord, New York 12404

Project Name: The Granary Project

Location: Granite Road - SBL 77.9-1-31
17 Devou Lane – SBL 77.9-1-29
2 Towpath Rd. – SBL 77.9-1-28
4 Towpath Rd. – SBL 77.9-1-27
8 Towpath Rd. – SBL 77.9-1-25

Zoning District: “Hamlet” (H) and “Aquifer Protection Overlay” district (AP).

Petition Request:

The Petitioners are requesting that the subject premises be rezoned, by operation of the Economic Enterprise Overlay District [EEO] utilizing the Town of Rochester Zoning Law and Sections 263, 264 and 265 of the New York State Town Law, 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..

1. Application of the Town of Rochester Economic Enterprise Overlay Zone (EEO) to encompass the subject premises with the Hamlet (H) Zoning District as a Zoning Map Amendment and associated change in Zoning District designation; and,
2. Site Development Plan Approval for the adaptive re-use of the former Granary Premises, pursuant to EEO zoning law.
3. Lot Line Revision for merger of five (5) existing lots into one integrated Granary Premises.

Zoning Permit: 96 of 2021, dated March 5, 2021

SEQRA: Type 1 Action

Determination: Negative Declaration, dated September 14, 2023
[See Parts 1, 2, and 3 Long Form EAF]

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Notice of Public Hearing:

1. Published in the Shawangunk Journal.
2. Notice by mail to known adjacent landowners and application referral agencies.
3. Posted on the T/ Rochester Clerk bulletin board and town website.

Dates of Public Hearing: 5/24/23 and 7/27/23 **Place:** Harold Lipton Community Center

List of Public Commentators

Written Comments

1. Alana Blum, dated 5/16/23
2. David Roberts, dated 5/16/23
3. Hannah Roditi, dated 5/17/23
4. Michael Moss, dated 5/20/23
5. Rene Schnider, dated 5/21/23
6. Gabriel Schnider, dated 5/21/23
7. Hudson Roditi, dated 5/22/23
8. Sheila Finan, dated 5/23/23
9. Katie Naplatarski, dated 5/23/23
10. Robert Warner, dated 5/23/23
11. Jay Martin, dated 5/23/23
12. Charles Williams, dated 5/24/23
13. Peter Nelson, dated 5/24/23
14. Kaustubh Wahal, dated 5/24/23
15. Barbara Lawrence, dated 5/24/23
16. Katie Naplatarski, dated 6/8/23
17. Katie Naplatarski, dated 6/15/23
18. Katie Naplatarski, dated 6/15/23
19. Multiple Residents (93), updated to (94), submitted by Alana Blum, dated 7/20/23
20. David Roberts, dated 7/27/23
21. Ira Stern, dated 7/27/23
22. Katie Naplatarski, undated
23. Alana Blum, dated 8/1/23
24. Rene Schnider, dated 8/2/23
25. Jeff Davis, dated 8/6/23
26. 6 photo images, Jay Martin, received 8/7/23
27. Hudson Roditi, dated 8/9/23
28. Katie Naplatarski, dated 8/9/23
29. Bethany Ides, dated 8/10/23
30. Nic DeStefano, dated 8/10/23
31. Antony Crook, dated 8/10/23

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Speakers At Public Hearing – May 24, 2023

1. Susan Shaw
2. Lindsey Arnold
3. Max Grieshaber
4. Brinton Baker
5. Chase Brock
6. David Stoltz
7. Bob Anderberg
8. Ila Gupta
9. Alex Umen
10. Adriana Farmigia
11. Antony Crook
12. Katie Naplatarski
13. Susan Bruck
14. Alex Benenson
15. Guy Garcia
16. Hudson Roditi
17. Jay Martin
18. Bethany Ides
19. Tracy Brock
20. Sally Roy

Speakers At Public Hearing – July 27, 2023

1. Jay Martin
2. Alana Blum
3. Rich Beckman
4. Regan Kramer
5. Katie Naplatarski
6. David Roberts
7. Rene Schnider
8. David Stoltz
9. Hudson Roditi
10. Bethany Ides
11. Sheila Finan
12. William Nitzberg/ Campt
13. Antony Crook
14. Hannah Roditi
15. Ora Ferdman
16. Ira Stern

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**Documents Originated or Received in the Record and Considered
by the Lead Agency [Town of Rochester Town Board] In Determination of SEQRA and in
Review of the EEO**

Applicant/Attorney Provided Application Documents

1. Town of Rochester Zoning Permit, dated 3/5/21
2. Cover Letter - Petition for Adaptive Re-Use by Economic Enterprise Overlay District, Michael Moriello, dated 10/27/21
3. Zoning Amendment and Site Plan Application, Michael Moriello, dated 10/27/21
4. Authorization Form, Michael Moriello, dated 10/27/21
5. Zoning Petition, Michael Moriello, dated 10/27/21
6. Request – Removal from Agenda, Michael Moriello, dated 12/13/21
7. Amended Zoning Petition, Michael Moriello, dated 4/22/22
8. Amended Site Plan Application, Michael Moriello, dated 4/22/22
9. 2nd Amendment Application, Michael Moriello, dated 12/5/22
10. 2nd Amended Zoning Petition, Michael Moriello, dated 12/8/22
11. Response to Public Hearing Comments, Michael Moriello, dated 6/7/23
12. Memo: RE: Lot Improvement Merger of Lots, Michael Moriello, dated 6/26/23
13. Applicant Email RE: Clarification, Henry Rich, dated 7/27/23
14. Applicant Email RE: Housing, Renn Hawkey, dated 9/12/23
15. Granary YouTube Link, date unknown

Applicant/Representative Provided SEQRA Documents

1. Full EAF Form Part 1 v. 1, dated 10/28/21
2. SEQRA Full EAF Form Part 1 Addendum, dated 4/18/22
3. Full EAF Form Part 1 v. 2, dated 4/11/22
4. Full EAF Form Part 1 (identified as larger project), dated 4/11/22
5. Full EAF Form Part 1 (identified as larger project), dated 4/11/22 – correction by Town Attorney
6. Full EAF Form Part 1 v. 3, dated 12/15/22
7. Full EAF Form Part 1 v. 4, dated 3/27/23
8. Full EAF Form Part 1 v. 5, dated 7/10/23
9. Full EAF Form Part 1 v. 6, dated 8/10/23
10. Full EAF Form Part 1 v. 7, dated 8/18/23, as amended by Allan Dumas dated 9/14/23

Applicant/Representative Provided Plans and Studies

1. Survey, A. Diachishin and Associates PC, dated 3/5/2021
2. Conceptual Development Plan, Brinnier & Larios, PC, dated 10/21
3. Habitat Suitability Assessment Report Colorized Conceptual Development Plan, Brinnier & Larios, PC, dated 10/21

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4. Threatened and Endangered Species report, Michael Nowicki, dated 12/17/21
5. Proposed Building Table of Uses, Dutton Architecture PLLC, dated 4/10/22
6. Color Conceptual Development Plan, unknown creator, date unknown, as received 4/11/22
7. Four (4) photos of existing site, submitted to NYS Parks, Recreation, and Historic Preservation, as received 10/25/22
8. Color Conceptual Development Plan. 6, unknown creator, date unknown, as received 12/15/22
9. Conceptual Development Plan set, Brinnier & Larios, PC, date unknown, as received 12/15/22
10. Structural Inventory of Site, Joseph Diamond PhD, dated 1/13/23
11. Daily Traffic Peak Trip Generation Report, Dennis Larios P.E., dated 3/1/2023
12. Color Conceptual Development Plan, unknown creator, date unknown, as received 3/14/23
13. UC Soil Map of Site, dated 3/27/23
14. Conceptual Development Plan set, Brinnier & Larios, PC, date unknown, as received 3/28/23
15. Technical Memo RE: Response to Public Hearing Comments, Allen Dumas III P.E., dated 6/16/23
16. Project Modifications Cover Letter, Allen Dumas III P.E., dated 7/10/23
17. Conceptual Development Plan set, Brinnier & Larios, PC, date unknown, as received 7/10/23
18. Conceptual Development Plan set, Brinnier & Larios, PC, date unknown, as received 7/26/23
19. Color Conceptual Development Plan v. 14, unknown creator, date unknown, as received 7/26/23
20. Email, Allen Dumas III P.E., dated 8/10/23
21. Project Modifications Cover Letter, Allen Dumas III P.E., dated 8/10/23
22. Conceptual Development Plan set, Brinnier & Larios, PC, date unknown, as received 8/10/23
23. Parking Detail, Brinnier & Larios, PC, date unknown, as received 8/10/23
24. Color Conceptual Development Plan v. 15, unknown creator, date unknown, as received 8/10/23
25. Conceptual Development Plan set, Brinnier & Larios, PC, date unknown, as received 8/18/23
26. Parking Detail, Brinnier & Larios, PC, date unknown, as received 8/18/23
27. Email, Allen Dumas III P.E., dated 8/24/23
28. Traffic Generation Memorandum, Dennis Larios P.E., dated 9/7/2023

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Agency Response Documents

1. Archeological Comments, Jessica Schreyer, NYS Parks, Recreation, and Historic Preservation, dated 1/9/23
2. Historic Preservation, Sloan Bullough, NYS Parks, Recreation, and Historic Preservation, dated 1/20/23
3. Sanitary Outfall Flow Confirmation for pending SPDES Permit, Bryan Collins, UC Dept. of Health, dated 3/1/23
4. Archeological Review, Jessica Schreyer, NYS Parks, Recreation, and Historic Preservation, dated 3/21/23
5. Archeological Review, Jessica Schreyer, NYS Parks, Recreation, and Historic Preservation, dated 4/6/23
6. Historic Preservation, Sara McIvor, NYS Parks, Recreation, and Historic Preservation, dated 4/6/23
7. SEQRA Response, NYS Dept. of Environmental Conservation, Ellen Hart, dated 4/27/23
8. Ulster County Planning Board response 2023-065, Robert Leibowitz AICP, Ulster County Planning Department, dated 5/3/23
9. Email, Town of Rochester Planning Board Chair, dated 5/9/23
10. Email, Town of Rochester Code Enforcement Office, dated 8/9/23
11. Email, Town of Rochester Planning Board Chair, dated 8/28/23

Lead Agency Generated Documents

1. Town of Rochester Zoning Law, Chapter 140-18.1, Economic Enterprise Overlay District
2. Intent to Seek Lead Agency Letter, dated 5/6/22
3. SEQRA Consent Form Template, dated 5/6/22
4. Town of Rochester Planning Board returned consent form, dated 5/24/22
5. DRAFT Part 2 Long Form EAF, created in public meeting discussion dated 4/13/23
6. Notice of Hearing and Seeking Additional Information to Involved Agencies, dated 4/14/23
7. Proposed Local Law x of 2023, Amendment to the Zoning Map, dated 4/12/23
8. Ulster County Planning Board 239-m Referral Form, dated 4/17/23
9. DRAFT Part 2 Long Form EAF, created in public meeting discussion dated 8/10/23
10. Part 2 Long Form EAF, adopted 9/7/23, and readopted 9/14/23.
11. Part 3 Long Form EAF, adopted 9/14/23
12. Negative Declaration, adopted 9/14/23

Town Consultant Review

1. Review 1, Nadine Carney/Scott Davis PE, Peak Engineering PLLC, dated 8/11/22
2. Review 2, Nadine Carney/Scott Davis PE, Peak Engineering PLLC, dated 12/16/22
3. Review 3, Nadine Carney/Scott Davis PE, Peak Engineering PLLC, dated 3/23/23
4. Review 4, Nadine Carney/Scott Davis PE, Peak Engineering PLLC, dated 6/28/23

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5. Review 5, Nadine Carney/Scott Davis PE, Peak Engineering PLLC, dated 7/10/23
6. Review 6, Nadine Carney/Scott Davis PE, Peak Engineering PLLC, dated 7/10/23
7. Review 7, Nadine Carney/Scott Davis PE, Peak Engineering PLLC, dated 8/18/23
8. Review 7, Nadine Carney/Scott Davis PE, Peak Engineering PLLC, dated 9/11/23

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Recommended Resolution:

To accept the Ulster County Planning Board comments of “Approve” as follows:

“Recommendations – Approve

When the Economic Enterprise Overlay District was adopted by the Town of Rochester in May 2018, this site was one of, if not the main, targets for the potential applicability of this district, with the intent of fostering economic development, ‘diversification of land uses and employment generation through the reuse and/or redevelopment of underutilized properties.’ The proposal meets all those goals of providing for a mix of commercial and residential development while serving to re-welcome and reinvest in the Town’s historic center of activity. The Ulster County Planning Board supports this application to the Town Board for its rezoning to the EEO district and recommends it be ‘Approved.’ The Board looks forward to working with and assisting the Town and application as it makes its way through the rest of the development review process.”

Motion: Councilman Paddock

Second: Councilman Coleman

Ayes: 5

Nays: 0

Absent:

____10/5/2023_____
Date

Michael Baden, Supervisor

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Resolution:

The Town of Rochester Town Board hereby adopts the following findings of fact determined for and during the review of Accord LLC petition for inclusion in the EEO zoning district of the Town of Rochester

1. The T/ Rochester Town Board received referral of zoning permit 96 of 2021 from the Code Enforcement Officer. The proposal for the parcel has been classified by the CEO as requiring Town Board approval for a zoning amendment to include the parcels in the EEO overlay zoning district.
2. EEO zoning designation requires Town Board approval of the zoning amendment and Site Plan approval from the Town of Rochester Planning Board.
3. The project additionally involves a lot improvement [lot merger] between five parcels.
4. The application proposes adaptive reuse of the ±7.0 acre premises project site and vacant structures identified as the Granary Anderson Seed Mill & Supply Complex, Steen-Smith House and the Mackey House, parking, access facilities, utilities, and related appurtenances.
5. The Granary ceased operations in, Circa, 1970 and the Granary improvements have been vacant and in a state of disrepair thereafter.
6. The project site is located in the Town of Rochester, hamlet of Accord.
7. SEQR Long Form EAF, proposed Conceptual Development Plan, and other related documentation including details of access, parking, stormwater, water and sewer, signage, and building facade was received from the application during the Town Board review.
8. Brinnier & Larios, PC and Dutton Architecture, PLLC are representatives for the application.
9. Peak Engineering PLLC has been retained by the Town Board as the consulting engineering and planning firm for the purposes of this review.
10. Riseley & Moriello, PLLC is legal counsel for the application.
11. Mary Lou Christiana is legal counsel for the Town of Rochester.
12. As determined by the Town Board applicable T/ Rochester code subsections are as follows: Economic Enterprise Overlay District (§140-18.1), Schedule of District Regulations (§140-8), Applicability of Regulations (§140-9), Lot Development Standards (§140-10), Height Restrictions (§140-11), Yard Regulations (§140-12), Landscaping (§140-15), Site Access (§140-17), Parking (§140-17), Loading (§140-17), Overlay Districts – Aquifer Protection and Floodplain Development (§140-18), General Commercial Standards (§140-20), Signs (§140-21), Stormwater Management (§140-22), Conversion of Residential Structures (§140-27), Site Plan (§140-45 through §140-56), and Lot Improvement (§125-18).
13. The requested action involves five tax map parcels of land designated as parcels SBL 77.9-1-25, 77.9-1-27, 77.9-1-28, 77.9-1-29, and 77.9-1-31.
14. The Lot Improvement involves the merging of 5 lots into 1 with removal of contiguous inner lot lines. The Town Board finds the Zoning code for an EEO stipulates the EEO shall include parcels in their entirety and the perimeter of EEO districts shall be coterminous with the platted property lines of those parcels included in said district. The Town Board further finds the parcels must be combined prior to the Zoning Map being amended.

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15. The project site, as proposed, involves \pm 7.0 acres in total.
16. The parcel is located in the Hamlet 'H' zoning district and the Aquifer Protection Overlay 'AP Overlay' zoning districts pursuant to the T/ Rochester zoning code.
17. The proposed project seeks multiple uses of the parcels as follows:
 - a. Restaurant/Tavern/Coffee Shop with indoor and outdoor dining [Principal Permitted Use with Site Plan review]
 - b. Retail Bike Shop [Principal Permitted Use with Site Plan review]
 - c. Artist Gallery [allowed use with Special Use Permit]
 - d. Co-Workspace [Principal Permitted Use with Site Plan review]
 - e. Inn [Principal Permitted Use with Site Plan review]
 - f. Worker Housing [2 units] [Principal Permitted Use]
18. Analysis of the proposed uses against the Schedule of District Regulations by the Town Board for the Hamlet zoning district identifies the uses are all allowed uses as detailed above and the minimum lot area of use is one acre per use in the Hamlet zoning district. The Town Board notes multiple permitted uses under conventional zoning requirements would require a Special Use Permit.
19. The Town Board notes the EEO designation has been sought as the project is a complete plan for the use of multiple parcels to be combined into several uses all working together to create a neighborhood type of feel and a walkable destination site utilizing buildings which have been left to deteriorate.
20. A "gateway discussion meeting" coordinated by the Ulster County Planning Department was requested and conducted on 5/20/2022 involving representatives from Ulster County Planning, Town Supervisor, Town Code Enforcement Officer, Ulster County DPW, Ulster County Health Dept., the T/ Rochester Planning Board, the Attorney for the Town, and application representatives.
21. The application was referred to the Ulster County Planning Board which returned a comment of "Approve", dated 5/03/2023.
22. The application was referred to the Town of Rochester Planning Board which returned a reply of "no comments" on 8/28/2023.
23. The application was referred to the Town of Rochester Code Enforcement Officer which returned a reply of "no comments" on 8/09/2023.
24. The application was classified as a Type I action under SEQRA. The Town Board offered the option to assume lead agency to all involved agencies, and having no response indicating such request, assumed lead agency status of the review. The application was amended multiple times with update to the EAF long form Part 1 with resulting changes, as was required. The Town Board reviewed and adopted a Part 2 EAF long form and subsequently prepared and adopted a Part 3 EAF long form. A Negative Declaration was adopted on September 14, 2023.
25. Analysis of existing conditions of the site reveal the site contains 6 structures [coal barn, granary, tall barn, Sears house, 4 Towpath, and 8 Towpath], various accessory structure sheds, 5 remains of foundations of former structures, and various other driveway and interior roadway, sidewalk, water, and septic improvements. There formerly may have been landscaping, however the site is currently overgrown with some open areas. The main property has been unused for decades. The two "Towpath" buildings have been utilized more recently.

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26. The application proposes no additional structures to be built and interior and exterior rehabilitation of the existing structures.
27. The Town Board finds local building permits will be required for such work. The developer should seek advisement from the Code Enforcement Officer regarding removal of the lead paint as to what permits or processes may be required by law.
28. The Town Board notes a ‘wellness center’ was originally proposed and removed from the application during the review process.
29. The application proposes partial residential use of the 4 Towpath Road structure, in addition to “back of house’ operations. The application notes this structure was utilized in a residential manner with 2 apartments when they acquired such, however, was in a very bad state of repair.
30. The Town Board finds the continuation of the two-family structure for “worker housing” will continue the use of housing, as the community is in dire need of housing structures. The Town Board further finds such housing has been committed to not become a short-term rental use.
31. The application proposes disturbance of 0.9 acres of the land surface.
32. The Town Board finds the action will not require the issuance of a SPDES General Permit for Stormwater Discharges [GP-0-20-002] by the New York State Department of Environmental Conservation [NYSDEC] for construction activities disturbing in excess of one (1) acre of land.
33. The application provided a Threatened and Endangered Species Habitat Suitability Assessment Report from their consultant. The Town Board further reviewed the EAF Part 1 indicating the project site does not contain any identified endangered or threatened plants or animals. The DEC corroborated this statement.
34. The Town Board finds these answers raise no concern requiring further review for habitat.
35. The application submitted documentation from the Ulster County Board of Health providing detailed wastewater discharge flows. In addition, the presented Conceptual Development Plan details the location and types of the proposed and existing sanitary system.
36. The Town Board finds the presentation of such preliminary information is sufficient for the EEO review and notes a SPDES wastewater permit will be required prior to any construction start. This will be addressed during Planning Board Site Plan review.
37. The application provided the estimated water usage for the project site to the Ulster County Health Department, once developed as proposed. The Health Department provided return letter agreeing with the calculations.
38. The Town Board finds well permits are a function of review by the Ulster County Health Department and such permit will be required to be secured prior to issuance of a certificate of occupancy.
39. The application plan indicates no waterbodies, wetlands, or other natural resources of concern are located on the site or immediately adjacent to the site. The DEC corroborates this information.
40. The Town Board finds there are no concerns regarding waterbodies, wetlands, or other natural resources of concern on the site. It is noted the project site is located in the 500-year floodplain.

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41. The application plan indicates the project site is not in a NYS Agricultural District nor does it contain important agricultural soils.
42. The Town Board finds there is no loss of agricultural land and further notes the sites have been previously developed and disturbed.
43. The application identifies the project site as being included in the Accord Historic District, included on the National Register of Historic Places in 2019. Additionally, the project site indicates the area is designated as sensitive for archaeological sites on the NY State Parks, Recreation, and Historic Preservation office [SHPO] site inventory. Additionally, the project site is known to be in the area of the D&H Canal, a historic site.
44. The application supplied a construction inventory and communication between Joseph Diamond, consultant to the applicant, and SHPO regarding these matters.
45. The Town Board finds the concerns of historic and archaeological review have been addressed and concurs with the findings of SHPO. The Board notes the application seeks to restore the structures to their former self and the property owner will be seeking or has sought grant funding for such improvements.
46. The parcels have road frontage on Granite Road and Towpath Road. These highways are maintained by the Ulster County DPW and Town of Rochester Highway Department. Main Street, also an Ulster County maintained road, is adjacent to the project site. These roads are designed to collect and move traffic toward US Route 209 and US Route 44/55.
47. The Town Board finds these road frontages exceed zoning district required standards.
48. A Traffic analysis and report was conducted and presented to the Town Board. The Town Board referred such report to the Town's project consultant.
49. The Town Board finds, in concurrence with the Town's consultant, that the projected uses, as shown on the 8/23 Conceptual Development Plan, "are not likely to generate more than 500 trip ends per day or create specific traffic issues."
50. The Town Board further notes the indication on the plan of a proposed 3 way stop signalized intersection at Main Street, Granite Road, and Towpath Road as well as painted crosswalks for pedestrians.
51. The Town Board notes these roads are under the jurisdiction of the Ulster County DPW and the property owner has no oversight of such. The Town Board has adopted a resolution to petition the Ulster County DPW requesting installation of such traffic calming safety devices for vehicles, pedestrians, and bicyclists.
52. The application includes proposed traffic signage, as was requested by the Town Board,
53. The Town Board notes such as being indicated on the plan and further notes the review of such will be continued under Site Plan review by the Planning Board. The Town Board further desires wayfinding signage be installed to both the location and the potential offsite parking location, should such exist.
54. The application details proposed inner walkways, both existing and proposed for pedestrian access.
55. The Town Board finds such are located to efficiently move people from parking to buildings and from building to other buildings. The Town Board recognizes some paths are specifically designed for ADA compliance. The Town Board notes that additional review will be undertaken by the Site Plan review by the Planning Board.
56. The Town Board notes access to the site may be by bicycle. Bicycle racks will be recommended for inclusion.

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57. The applicant proposed 63 spaces, detailed as follows:
 - a. Inn - 19 spaces
 - b. Restaurant – 25 spaces
 - c. Retail (bike shop) – 5 spaces
 - d. Office (Co-Work) – 10 spaces
 - e. Gallery – 4 spaces
58. The application proposes 57 onsite parking spaces with gravel surface. This was increased from the original proposed under review request by the Town Board.
59. The application proposes utilizing 6 spaces at the nearby Town municipal public parking.
60. The Town Board finds a need exists for the 6 offsite spaces. Should the Town provide spaces in the municipal public parking lot, an agreement would be required between the Town and the property owner for such. The Town Board notes they are open to consideration of such discussion and potential contract. The Town Board finds the applicant responsible to secure offsite parking location for these 6 spaces and present any and all agreements to the Planning Board for consideration of inclusion in the Site Plan review of parking.
61. The application proposes 3 ADA accessible parking spaces with 1 being van accessible.
62. The Town Board finds this satisfies ADA statute requirements.
63. The Town Board finds the proposed calculations and number of parking spaces of 63 to be the required number of spaces which is in general conformance with 140-17 of the Town zoning code.
64. The Town Board notes there is no current proposal for EV charging stations and encourages the Planning Board to consider such for inclusion in the review of the Site Plan.
65. The application proposes a truck loading area which meets zoning statute dimensions of 70-foot depth and turnaround conditions.
66. The Town Board expressed concern for truck access and turnaround. The application made changes and, upon review and consultation with the Town’s consultant, the Town Board finds the proposal meets zoning statute.
67. The application proposes the parking areas and turnaround will be gravel surfaced.
68. The Town Board finds the gravel surface is acceptable to reduce stormwater runoff. Concern exists as to demarcation of the individual spaces, and the Town Board defers this to the Planning Board for further review during Site Plan review.
69. The Town Board expressed concerns regarding access points. During discussion a fence was discussed and will be required to be placed along Towpath Road parking to channelize access. Further, a gate type of system was discussed to prevent the public from entering the employee parking area of 4 spots and will be required to be installed.
70. The Town Board expressed concerns regarding turnaround capability at the end of the parking area. The application made a change and included a hammerhead turnaround which shall be delineated as “No Parking” in the project updated Conceptual Development Plan.
71. The Town Board accepts the addition of the turnaround as satisfying the concerns expressed by the Town Board.
72. The application has presented considerations to reduce noise impacts from the project site; specifically, the potential for noise from outdoor music (amplified or acoustic). The

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application has presented the following mitigation measures.

- a. Indoor and outdoor dining, events, gatherings, parties, and other social interactions will comply with the Town of Rochester Zoning Code Section 140-20 General Industrial and Commercial Standards, Subsection F “Noise” Regulations so that, “all proposed new land uses shall not generate cumulative sound levels at or beyond any lot line that exceeds the ambient noise level by 10 or more decibels (DbA).”
- b. The foregoing is a statutory requirement which is enforceable at law by the Town of Rochester Code Enforcement Officer.
- c. Notwithstanding the statutory requirements, the Applicant has submitted a written acknowledgement that additional noise mitigation measures will be undertaken at the Project Site as follows:
 - i. Speakers will be set up for indoor and outdoor dining upon completion of Granary Site and Project.
 - ii. Sound will be tested along the perimeter of site to determine which location on perimeter has the largest difference between ambient noise levels and noise levels with music on.
 - iii. Levels on the main amplifier will be tested to determine what amount of amplification raises the most sensitive point on the perimeter by 10dBa.
 - iv. Once locations are set and levels are discovered, a sound limiter will be installed on sound system to limit overall amplification to 10dBa or less as required by town code with a unit such as the ‘Atlas Sound TSD-ALC2 – Audio Level Controller and Limiter.’
- d. All the foregoing will be coordinated with the Town of Rochester Code Enforcement Officer so that confirmation of correct methodology, procedure and interpretation or resultant noise information is fully observed.
- e. Outdoor amplified music will cease by 11:00 pm on the weekends [Friday through Sunday] and by 10:00 pm on weekdays [Monday through Thursday].

73. The Town Board finds the following:

- a. The application is not requesting consideration of the use “Commercial Events Facility”, as defined in the Town zoning code.
- b. The Town Board does not consider this use having been included in the application, as it has not been specifically included in any petitions or Conceptual Development Plans presented.
- c. Should the applicant desire to hold “Commercial Events”, as defined in the Town zoning code, they would be required to apply with a zoning permit seeking a determination of use from the Code Enforcement Officer.

74. The Town Board finds the following:

- a. Due to the proximity to current residential use and the proposed density of the project, the potential negative impacts of amplified sound may not be entirely mitigated by the applicant’s noise mitigation proposal. In particular, the Town Board finds that the potential negative impact of noise is greatly increased during the evening hours of the work and school week. Potential negative impacts include: disruption of sleep and traditional bedtime hours and the ability for residents to have open windows in the evening and enjoy the outdoor use of their property without the intrusion of amplified music.

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- b. Regarding sound from the uses which are allowed with an approval of this EEO application, any sound produced from any activity is required to follow the conditions of 140-20(F) of the Town zoning code.
 - c. The Town Board encourages the Planning Board in Site Plan review to review the potential noise impacts according to the standards of 140-20(F)(1) stating “The Planning Board may, as a condition of site plan review and approval, require additional setbacks, buffers and fencing, or reasonably limit the hours of operation to attenuate or mitigate any potential noise impacts of any proposed use.”
75. The Town Board finds the proximity of the project site to the Accord Fire District is a positive should such services be needed, however, notes a coordinated review with emergency services agencies is a function of Site Plan review by the Planning Board.
 76. Landscaping details have not been provided. The Town Board notes this is a function of Site Plan review by the Planning Board.
 77. Exterior lighting details have not been provided. The Town Board notes this is a function of Site Plan review by the Planning Board, however, notes the applicant has stated all fixtures are to be full cut-off, dark sky compliant.
 78. A full signage detail plan has not been provided. The Town Board notes this is a function of Site Plan review by the Planning Board, however, notes the application must present such and comply with Town signage code.
 79. General commercial and industrial standards [140-20 of the zoning code] have not been addressed in finality by the Town Board in review of the Conceptual Development Plan. The Town Board notes this is a function of Site Plan review by the Planning Board.
 80. The Town Board finds the O&W Rail bed lies on this property, however, the Town Board is not seeking to continue the rail trail through this parcel at this time and notes any future consideration of such would require amendment to the Site Plan. The current Town Board is exploring options along Granite Road with Ulster County. The Town Board further notes the applicant is not proposing a continuation of the trail through this property with this application.
 81. Town code 140-18.1 states “In determining whether to approve the application for an EEO District, the Town Board shall consider the public health and welfare of the surrounding area, together with the criteria of 140-18.1(8), and the intent and objectives of this section:”
 82. The Town Board, through the review of the application materials, plans, studies, and the determination of a Negative Declaration under the SEQRA statute finds the requirements of chapter 140-18.1(8) have been achieved.
 83. The application contains 6 occurrences for the zoning code to be modified by the Town Board as follows:
 - a. Use of offsite parking to accommodate 6 required parking spaces.
 - b. Reduction of parking space size from 10’ x 20’ to 9’ x 18’.
 - c. Proposed parking of 13 spaces in a continuous row.
 - d. Commercial parking area in the front yard.
 - e. Relief from requirement of a 20-foot depth planting strip separation from the roadway.
 - f. Coal Barn and Granary Cupolas height [39’7” and 40’10”, respectively].
 84. The Town Board, in review of an EEO zoning designation is empowered to offer waiver

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relief from sections of code requirements without the applicant seeking a variance from the Zoning Board of Appeals. The Town Board finds the following;

- a. Regarding use of offsite parking to accommodate 6 required parking spaces.
The Town Board will entertain a request for use of municipal parking independently upon proposal by the owners which would require negotiation of a signed contract between the Town Board and the owners with conditions imposed. Should these 6 spaces not be provided onsite, the owner shall still provide these 6 additional spaces in some form.
- b. Regarding reduction of parking space size from 10' x 20' to 9' x 18'.
The Town Board finds such size already occurs in the Town and was the code until amendments were made to the zoning code in the 2010 update due to larger vehicles becoming more prevalent. With current times the Town Board sees this as a lesser concern and is also proposing a reversion back to these dimensions with the current zoning code update under consideration for adoption by the end of 2023.
- c. Regarding proposed parking of 13 spaces in a continuous row.
The Town Board notes the code sets a maximum of 12 spaces, however finds this concern is not significant. The Town Board further notes the parking section of code is allowed to be modified under the zoning code upon a written request and the basis for such request.
- d. Regarding location of a commercial parking area in the front yard.
The Town Board finds this concern is not significant, as the number is minimal, and the access is channelized by fencing and gated restrictions and will be restricted from backing onto the street or backing into the project site. The Town Board notes this front yard area has been previously disturbed and utilized for parking. The Town Board further notes the Post Office parking across the street has front yard parking that does access the street without channelized access. The Town Board further notes the parking section of code is allowed to be modified under the zoning code upon a written request and the basis for such request.
- e. Regarding relief from requirement of a 20-foot depth planting strip separation from the roadway.
The Town Board finds the project site will follow a detailed landscaping plan and such a strip is more designed for high traffic volume areas which require such separation from roadways and sidewalks. The Town Board finds the overall landscaping will be considered.
- f. Regarding existing Coal Barn and Granary Cupolas height [39'7" and 40'10", respectively].
The Town Board finds these structures are pre-existing and are a vital part of the historical nature of the project site. Also, the structures were previously utilized in an agricultural manner when constructed. The benefits of restoring these structures outweighs the negative of any height concerns.

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Draft findings were prepared by the Supervisor and were read, discussed, and amended by the Town Board in public meeting on 10/5/2023 and 10/12/2023.

Motion: Councilman Paddock

Second: Councilman Coleman

Ayes: 5 Nays: 0

Adopted 10/12/2023

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Local Law 10 of 2023

A Local Law amending the Zoning Map of the Town of Rochester

Section 1.

The Zoning Map of the Town of Rochester shall be amended to reflect that the parcels contained in Ulster County Tax Map known as SBL 77.9-1-25, 77.9-1-27, 77.9-1-28, 77.9-1-29, and 77.9-1-31, located at Granite Road, 17 Devou Lane, 2 Towpath Rd., 4 Towpath Rd., and 8 Towpath Rd., Accord, NY, and located in the Hamlet (H) zoning district shall be further included in the Economic Enterprise Overlay (EEO) zoning district with the adoption of this local law, and

Section 2. Severability

If any part or provision of this local law is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of this Law even without such part or provision or application.

Section 3. Effective Date

This local law shall become effective upon the filing in the office of the New York Secretary of State pursuant to Section 27 of the Municipal Home Rule Law, and the completion and filing of a lot improvement in the County Clerk's office of the five parcels identified in Section 1 of this local law.

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RESOLVED,

The Local Law identified during public hearing as Local Law _ of 2023 is hereby renamed Local Law 10 of 2023 and is adopted, pursuant to these resolutions.

The Town of Rochester Town Board grants Economic Enterprise Overlay zoning designation to Accord, LLC for the lands situate at Granite Road, 17 Devou Lane, 2 Towpath Rd., 4 Towpath Rd., and 8 Towpath Rd., known as S/B/L 77.9-1-31, 77.9-1-29, 77.9-1-28, 77.9-1-27, and 77.9-1-25 located in the ‘H’ [Hamlet] and ‘AP Overlay’ [Aquifer Protection Overlay] zoning districts.

The Town of Rochester Town Board grants the following uses for the above-named parcels:

- a. Restaurant/Tavern with indoor and outdoor dining
- b. Retail - Bike Shop
- c. Artist Gallery
- d. Office [Co-Workspace]
- e. Inn
- f. Two-Family Housing - Worker Housing [2 units]

The Conceptual Development Plan dated 8/23 and identified by label as ‘added signage sheet’ and all related plan documentation reviewed are hereby incorporated into the record of review and is conceptually approved with the following conditions of approval. This EEO zoning designation approval and associated conditions shall be binding upon the application and all successive owners of the land so long as such use shall occur.

This approval shall remain effective as an authorization to secure the required permits and establish the uses for a maximum of one year from the date of Site Plan approval unless the application shall have submitted written request and the Planning Board shall have adopted such resolution granting an extension and provided the application has submitted proof of having diligently pursued the implementation of the plans.

1. Any and all fees due to the Town of Rochester involving this application shall be paid in full prior to the zoning map being amended with this zoning designation.
2. The applicant shall make application to the Code Enforcement Office for Lot Improvement according to Chapter 125 of the Town of Rochester code to merge the 5 lots as one and submit application to the Planning Board for same.
3. Should such Lot Improvement be certified by the Planning Board, the plan and deeds shall be filed in the office of the Ulster County Clerk.
4. Subsequent to such filing, the applicant shall be required to apply to the Town of Rochester Planning Board for site plan approval. This submission shall include all documents, plans and items required in conformance with Article VII of Chapter 140, Zoning of the Town of Rochester Town Code. The Planning Board shall review said application pursuant to this chapter and by New York State Town Law§ 274-A., utilizing the version of the Conceptual Development Plan as identified as dated 8/23 and identified by label as ‘added signage sheet’.

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5. Following a zoning amendment to create an EEO District, site plan review and approval by the Planning Board shall be required prior to the issuance of a building permit for any readaptation or modification of development of the property.
6. The Planning Board shall not approve any site plan application within an EEO District unless such Board finds that the plan is in substantial conformance with the conceptual development plan that was submitted to the Town Board and that served as the basis for the zone change to the EEO District.
7. Modifications.
 - a. Any further proposed change in use of a property that does not comply with the underlying zoning for the property shall be required to go back before the Town Board for review pursuant to the provisions of 140-18.1 of the Town zoning code
 - b. Following the lot improvements required herein, any further proposed subdivision of a property shall require amendment to the EEO by the Town Board and subdivision approval of the Planning Board.
 - c. Following initial construction and occupancy, any changes other than use changes shall be considered as a request for a site plan amendment and be referred to the Planning Board for amended site plan review.
 - d. Modifications to the zoning of properties within an approved EEO Overlay District require application and approval by the Town.
8. The Town Board further imposes these conditions on the EEO approval, and same shall be made conditions of any subsequent Site Plan approval.
 - a. Any and all other agencies permits or approvals which are currently required or any which may be determined in the future to be required in conjunction with the construction and/or operation of these uses shall be secured or renewed as applicable. Should any conditions imposed by other agency permits cause conditions to be in conflict, the more restrictive condition shall prevail. Should any permit approvals necessitate a change to the approved Site Plan, the matter shall be referred to the Planning Board for consideration.
 - i. UC DPW
 - ii. T/ Rochester Highway
 - iii. UC Dept. of Health
 - iv. Others as determined via review.
 - b. Outdoor lighting shall be illuminated only during the time period per use of one hour prior to business opening through one hour after business closing. They shall remain dark during all other hours, except those determined by the Planning Board as being necessary for safety and security illumination. The Planning Board is encouraged to mitigate light intrusions onto neighboring properties.
 - c. There shall be no internally lit signage.
 - d. The residential ‘worker housing’ shall remain long-term housing and may not be applied for a permit as a short-term rental unit. It further cannot be rented as part of the Inn.
 - e. Voluntary sound mitigation measures proposed by the applicant as set forth in section 72 a-d of the findings established in this decision shall be made a condition of approval.

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- f. Outdoor amplified music shall not occur after 9:00pm on Sunday through Thursday and 10:00pm on Saturday and Sunday. The Planning Board may impose more restrictive conditions in accordance with 140-20(F)(1) of the Town zoning code.
- g. Applicant shall install all parking devices and access points as are indicated on the approved Conceptual Development Plan.
- h. Applicant shall provide six offsite parking spaces or provide equivalent increase onsite.
- i. There shall be no deliveries between the hours of 10PM and 6AM.
- j. Onsite parking shall be in approved designated parking spaces only. All designated parking spaces shall be kept in safe and accessible condition, free from any obstructions. There shall be no use of designated parking spaces for any purpose other than vehicle parking, including display or storage of products, materials, or supplies.
- k. There shall be no parking or standing permitted in any public road right-of-way, including delivery vehicles making deliveries. The designated loading area shall be the only location to receive deliveries.
- l. A location for customers who may travel via bicycle to safely secure their bicycles shall be established and maintained.
- m. A dumpster and related enclosure area shall be maintained in a safe and secure manner and always remain inaccessible to non-employees.
- n. All landscaping to be retained or added and depicted on an approved Site Plan, shall be maintained, and replaced if dead or diseased with like kind plantings.

Motion:

Second:

Ayes:

Nays:

Absent:

Date

Michael Baden, Supervisor

cc: Kathleen Gundberg, Town Clerk, T/ Rochester
 Mary Lou Christiana, Esq., Attorney for the Town
 Marc Grasso, Chair, T/ Rochester Planning Board
 Jerry Davis, Code Enforcement Officer, T/ Rochester
 Assessor, T/ Rochester
 Ulster County Planning Board
 Ulster County Dept. of Health
 Ulster County DPW
 NYS DEC
 NYS SHPO
 All SEQRA Involved Agencies
 Accord LLC
 Brinnier & Larios, PC
 Dutton Architecture, PLLC
 Michael Moriello, Esq.