

TOWN OF KENT
PLANNING AND ZONING COMMISSION
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KENT TOWN CLERK

2016 FEB 18 P 12: 13

BY *Donna Hayes*
TOWN CLERK

FEBRUARY 11, 2016 REGULAR MEETING MINUTES

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, **February 11, 2016 at 7:00 p.m.** in the Kent Town Hall.

1. CALL TO ORDER

Mr. Johnson opened the meeting at 7:29 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: John Johnson, Chairman; Karen Casey, Richard Chavka, Darrell Cherniske, Anne McAndrew, Adam Manes, Matt Winter, Wes Wyrick

Staff Present: Donna Hayes, CZEO
Jennifer Calhoun, Land Use Clerk

Mr. Johnson elevated Mr. Chavka to voting status.

3. READING AND APPROVAL OF MINUTES:

3.A. Regular Meeting Minutes of January 14, 2016.

Mr. Winter moved to approve the Regular Meeting Minutes of January 14, 2016, as written. Mr. Manes seconded and the motion carried unanimously.

4. PUBLIC COMMUNICATIONS (ORAL):

Linda Palmer from Carter Road was present to state the problems she had associated with High Watch Recovery Center. She stated that there are tractor trailers going up every day. Also ambulances at least once a day.

Mr. Johnson stated that he would like to discuss this further and therefore would like to add it to the agenda for discussion.

Mr. Manes moved to add "High Watch Complaint by Linda Palmer" as item 6.B.1. to the agenda. Mr. Winter seconded and the motion carried unanimously.

Mr. Manes moved to hear agenda item 6.A.1. at this point in the meeting. Ms. Casey seconded and the motion carried unanimously.

TOWN OF KENT PLANNING AND ZONING COMMISSION
REGULAR MEETING MOTIONS FOR FEBRUARY 11, 2016

These are draft minutes. Corrections may be made by the Commission at the subsequent meeting. Please refer to subsequent meeting minutes for possible corrections and approval of these minutes.

6.A.1. Applications #05-16SP and #06-16C, Joseph Tobin, 575 Skiff Mountain Road, accessory dwelling unit, Map 7 Block 17 Lot 3.

Mr. Johnson opened the public hearing at 7:32 p.m. and read the public notice into the record. Mrs. Hayes noted that this was an after the fact application. An addition had been built with associated permits, but the owners finished the inside of the building as an accessory dwelling without approval. They also received after the fact approval from Torrington Area Health.

Mr. Winter asked if he had a building permit and Mrs. Hayes noted that it was in the works.

There were no more questions or comments from the Commission.

Mr. Manes moved to close the public hearing at 7:40 p.m. Mr. Winter seconded and the motion carried unanimously.

Mr. Winter moved to approve the following waivers: 4.3.3., 4.3.8., 4.3.9., 4.3.10., 4.3.11., 4.3.12., 4.3.13. and 4.3.14. Mr. Manes seconded and the motion carried unanimously.

Mr. Manes moved to approve Applications #05-16SP and #06-16C, Joseph Tobin, 575 Skiff Mountain Road, accessory dwelling unit, Map 7 Block 17 Lot 3. Mr. Wyrick seconded and the motion carried unanimously.

5. OLD BUSINESS:

5.A. PUBLIC HEARINGS (Possibility of closure, discussion and decision on the following):

No action taken.

5.B. DISCUSSION AND POSSIBLE DECISION

5.B.1. Application #97-15C, 3 Maple Street, LLC, change of use from retail to restaurant, Map 19 Block 42 Lot 33.

Mr. Wyrick left the meeting at this point in time. Mr. Manes and Mr. Cherniske recused themselves from this discussion. Mr. Johnson elevated Ms. McAndrew to voting status.

Attorney William Manasse was present to represent the application. He stated that when the barn shops were approved in the year 2000, the parking was approved under a shopping center. He noted that both LLC's for the properties are managed by the same entity. He then submitted a draft cross-easement parking agreement for the Commission to review.

Mr. Johnson asked if the agreement was expanding and Mr. Manasse stated that the original agreement did not include 10 North Main Street.

Mr. Manasse read the parking regulation that a shopping center requires 1 space for every 400 square feet of floor area. The proposal before the Commission would require 74 parking spaces.

When Giffords was approved, 6 additional parking spaces were added up front. They now have a total of 106 parking spaces on the three properties.

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Mr. Manasse read several definitions for shopping center from different sources because the Kent Zoning Regulations did not define shopping center. He added that the three properties in question would be considered a shopping center by definition.

Mr. Manasse stated that they exceed 1 space for every 400 sf.

Mr. Manasse added that some people do not understand what the Commission's charge is. He added again that they currently exceed the requirements. They also meet the requirements for shared parking. They could allocate specific area for employees, but would not if the Commission disagreed.

He stated that the Commission's charge is health, safety and welfare and that this application complies with the regulations.

Mr. Paul Szymanski, Professional Engineer from Arthur Howland and Associates was present for the application. He stated that there were 100 existing spaces and they had recently gotten approval by the Commission for 106 spaces on 3 Maple Street, 9 Maple Street and 10 North Main Street.

Mr. Szymanski reiterated section 18.1.3.5.1 that 1 space for every 400 square feet of gross floor area was what they were applying under. He added that this section requires more parking for the apartments than the parking requirement for the apartment itself.

Mr. Winter stated that they thought the shopping center was a stretch. 2 parcels have been added. The basic premise is flawed. He noted that we have shopping center in parking regulations. He asked why there was no use change to shopping center.

Mr. Manasse stated that you have to get change of use for individual buildings.

Mr. Szymanski stated that would like to expand the shopping center with the other 2 parcels.

Mr. Manasse stated that condos have lots of owners and Mr. Johnson stated that they are on one lot.

Mrs. Hayes stated that the Town Center is the same ownership and on two separate properties.

Mr. Manasse stated that he does not believe it has to be the same owner. That is not a requirement.

Mrs. McAndrew asked then if all the downtown shops were a shopping center. Mr. Manasse replied that they must have a common scheme and the properties in question have parking easements.

The 2000 village barns minutes stated something about shopping centers, but the motion did not reflect that it was approved under that section.

Mr. Winter stated that the lot lines are clear.

Mr. Manasse stated that the lot lines do not matter because the properties have a common scheme. A shopping center owned by multiple people is okay.

Mr. Winter noted that it is different than the shopping center approved in 2000 because they are talking about an addition of property.

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The Commission then reviewed the chart Mrs. Hayes provided with each business's hours and parking requirements by use.

Mr. Winter stated that he did not think the parking worked if this was considered a shopping center.

Mr. Szymanski then read the TAHD food service regulation and the service establishment definition from the code of federal regulations.

Mr. Johnson stated that the original application approved 77 parking spaces. 6 +1 were added when Gifford's was approved. Now there are 106 parking spaces proposed. He stated that he was unsure of the shopping center.

Mrs. McAndrew asked if Doc's was approved as a shopping center or restaurant.

Mr. Szymanski stated that the parking spaces approved matched those required by the shopping center regulation.

Mr. Winter stated that would leave 30 spaces for the other 2 buildings.

Mr. Manasse stated that given the definitions, does the Commission have the discretion to make that determination. He added that he cannot see how it could not be part of the shopping center.

Mr. Johnson stated that he does not have an opinion yet. He wonders how much discretion the Commission has.

Ms. Casey stated that if that was not considered a shopping center, what would we call it? The label affects the parking.

Mr. Winter stated that he would prefer to know what he is allowed to feel.

Mr. Johnson stated that under shared parking, the Commission could reduce parking 25 or 50%.

Mr. Manasse stated that the Commission cannot hold this application to a different standard.

Mr. Winter stated that when the applicants came before them months ago, they did not mention shopping center.

Mr. Johnson stated that it was a new concept for the Commission that all three properties would be considered a shopping center. He suggested the Commission talk with its attorney.

Mrs. Hayes stated that the proposed restaurant could require 41.3 spaces under restaurant or 7.68 spaces under shopping center, under her calculations. She then asked why the restaurant would need a shared parking agreement if they already have 7.68 spaces on its property.

Mr. Szymanski stated that the shared parking agreement is for vehicular and pedestrian access and without that would not be a shopping center.

Mr. Manasse stated that it would create traffic problems without it.

Mr. Johnson stated that it was a good argument for the shopping center but that he was not ready to decide tonight.

The Commission would seek an opinion from Attorney Mike Zizka.

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Mrs. Hayes asked Mr. Szymanski how many seats were proposed and he responded by saying that they reserve comment until they hear back from the Commission's attorney.

Mr. Winter moved to continue Application #97-15C, 3 Maple Street, LLC, change of use from retail to restaurant, Map 19 Block 42 Lot 33 to the next meeting. Ms. McAndrew seconded and the motion carried unanimously.

Mr. Manes and Mr. Cherniske returned to the meeting at this point in time.

5.B.2. 2014 Annual Monitoring Report, Natural Resource Management Plan, Bull's Bridge Golf Club.

The following are the notes after Mrs. Hayes spoke with Michael Kapareiko from Leggette, Brashears and Graham, Inc.

January 19, 2016

I spoke with Michael Kapareiko who compiled the report and got the following information:

- The reason the report was so late was his fault. He explained that there are no regulatory guidelines with regard to submission of this report, but he is also responsible for other reports that do have regulatory guidelines. Basically, this report was pushed aside so that he could work on those reports that do.
- The homeowners' wells (Woodward and Edelman) are tested in either December or January. This year they were tested in early January. Those samples are then shipped to Indiana for testing, which is one of the slowest, but the only they can use for these types of tests.
- When asked if Audobon has to acknowledge the reports, Mr. Kapareiko replied that they do not and that they have been very quiet.
- He did say that back in 2010 they did approach Kent about stopping the testing of the private wells and was told that if they did stop and there was any detection, every well (Kent and New Milford) would have to be tested. They backed off and have continued to test the two wells in Kent.
- He did ask if I thought the Commission would agree to discontinue well testing now and I told him to resubmit and I would present it to the Commission. Right now the Woodward well is stable and the Edelman well has shown signs of phosphorus and TDS which is not attributed to the course but to road runoff. Mr. Kapareiko explained that the Edelman well is the only hand dug well at 36" in diameter with no cap and very susceptible to road runoff. Since the Edelman house is not used in the winter time, they cannot take their samples from inside the house. They actually lift the lid, drop in the bottle and take the sample that way. He said that this does stir up the sediments.
- When asked if it would be better to schedule inside testing of the water, Mr. Kapareiko replied that it would serve no purpose for them since the phosphorus and TDC do not come from the course.
- When asked if he thought the results should be shown to the Health Department, he said that he did not think so as the phosphorus and TDC are esthetic (cloudy water, staining fixtures).
- When asked if they would continue to test the surface and ground water if Kent approves their request to stop testing the wells, he said they would as that is a requirement by Audobon. Right now they test the ground water wells and surface water spring, summer and fall. At some time they might be allowed to do annual testing.

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- Mr. Kapareiko said that at some point in time, the testing of wells can stop. Their threshold is 3 consecutive testings without any constituents. Right now Woodward is at 8 and Edelman is “probably good”

Mr. Winter moved to hear agenda item 6.B.1. at this point in time. Mr. Manes seconded and the motion carried unanimously.

6.B.1. High Watch Complaint by Linda Palmer

Ms. Palmer stated that she had lived on Carter Road for 40 years and the traffic has greatly increased. They never used to have tractor trailer trucks on Carter Road. U.S. Food delivers every morning between 6 and 7 a.m. High Watch is constructing a geo thermal well, they have meetings every Saturday evening, on holidays they have picnics, an ambulance goes to the property at least once a day but luckily turns off the siren when they turn on Carter Road. She added that High Watch is now taking mental health patients, they pay no taxes, but do provide a donation to the fire department. Ms. Palmer noted that in the winter, tractor trailers get stuck on Carter Road frequently. She asked if the Commission would consider sending out written notice to neighbors when there is an application. Ms. Palmer summarized the buildings and bedrooms on the property. She stated that traffic, safety and damage to the road are her concerns. She added that she didn’t think this activity should be going on. She stated that the septic is pumped once a week.

Mrs. Hayes stated that she spoke with Vincent Roberti, the head of maintenance and he stated that they consolidated trucks so that there are less deliveries, but a larger truck. She stated that with the activity going on, the bed count has remained the same, but is probably full and is a sign of the tough times.

The Commission asked that Mrs. Hayes speak with Mr. Roberti about keeping the tractor trailers off of Carter Road when the road is icy and when school buses are picking up and dropping off schools.

5.B.3. Rewrite of Zoning Regulations – identification of sections to be sent to attorney for review.

Glenn Chalder presented the Commission with a summary of major changes. Mrs. Hayes stated that they could send that to Attorney Zizka with the entire regulations and let him decide which sections to review or the Commission could choose in advance. The Commission decided to send the summary and regulations to Attorney Zizka as is and wait to hear back from him.

6. NEW BUSINESS:

6.A. PUBLIC HEARINGS (Possibility of closure, discussion and decision on the following):

6.B. DISCUSSION AND POSSIBLE DECISION

7. STAFF REPORT:

7.A. Cease and Desist Order: 8 South Road, Map 10 Block 40 Lot 38

Mrs. Hayes stated that Mr. Johnson had signed the official contract and Attorney Zizka would file the lawsuit.

8. REPORT OF OFFICERS AND COMMITTEES:

No action taken.

9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

9.A. Administrative Permits and Certificates of Compliance

No information was provided to the Commission; no action taken.

9.B. Northwest Hills Transportation Vision and Policies, Draft 1-11-16 and Regional Transportation Wish List, NWHCOG, as of 1-14-2016

No action taken. Mrs. Hayes noted that she would resend the information to the Commission.

9.C. Connecticut Federation of Planning and Zoning Agencies, *Quarterly Newsletter*, Winter 2016.

No action taken.

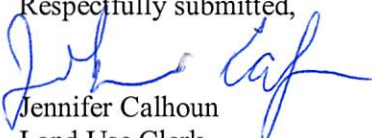
9.D. Communication from Connecticut Federation of Planning & Zoning Agencies regarding CFPZA Annual Conference – March 17, 2016.

No action taken.

10. ADJOURNMENT

Mr. Winter moved to adjourn at 9:23 p.m. Mr. Manes seconded and the motion carried unanimously.

Respectfully submitted,


Jennifer Calhoun
Land Use Clerk

My Name is Elissa Potts and I am the Owner of the Fife 'n Drum Restaurant and I live on Main Street.

I am concerned that there is way too much density at the monument.

Residents tell me all the time that **they don't even come in to Kent on the weekends** because it's **too crowded** at the intersection of Route 7 and Route 341.

Having a use at this intersection with ***another high density parking requirement*** will be another step towards **changing the rural character of our town.**

Using the field cards for all the buildings on this property, I added up all the living space.

It totals approximately 37,000 sq feet. This does not include JP Giffords Market which is on the site plan.

When you add in 3 Maple Street, the former pharmacy, you add in almost an additional 3000 square feet.

I then applied the parking requirements in the zoning regulations to the buildings

I based the living area on 40,000 square feet and then considered the USE for each building. I based the parking on 1 space for 400 square feet for retail. I first assumed a retail use for 3 Maple St AND so 7 parking spaces.

If you look at the required parking for 40,000 square feet, according to the regulations **you would have been required to provide 144 spaces.** The Zoning Board gave this project a break and approved the plan for 105 parking spaces – **38 spaces less than the regulations require.**

Now, if 3 Maple Street becomes a restaurant and you have the same parking requirements as say, Giffords, *which I believe is an 80 seat restaurant requiring 36 parking spaces* – what happens now...???

Gifford's needs 36 parking spaces, the “new restaurant”, if it is the same size, **needs 36 spaces AND** then if the former Morrison Gallery becomes a grocery store they will need at least 15 spaces - right off the bat

Now you have used 87 parking spaces with only 18 spaces left for your other 12 buildings **and 22**

tenants...the Doctors Office, and the Farmers Market at Gleason's Barns, and then you are out of parking

SO What happens? Do they all spill out and park on the street? How will it affect the other businesses in the surrounding area? It's going to be a disaster.

Customers who **can not park, and we all know people try and park as close as possible to their destination,** would keep on driving.

This would cause the already established businesses to lose income.

This proposed density will compromise the safety **and change** the whole character of the town.,

Relaxing zoning standards too often causes long term problems and this project **has had more than its share of breaks.**

Look at the problems NO Bathrooms have caused over the years.

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2/5/16
JMH

For the consideration of Kent P&Z in regards to the proposed change of use by 3 Maple Street LLC

The concern of Giffords LLC and J.P. Gifford Market & Catering Company LLC is a new 85+ seat restaurant next to our established 80 seat restaurant at full capacity will use all the parking between J.P. Gifford Market and the Weantinoge Building and continue to flow into the area used by Tea & Dreams and Panini. I think this would also have a cascading effect on parking for St. Andrews Church, Backcountry Outfitters, Annie Bananie, Kent Coffee and Chocolate, The House of Books, Main Street Antiques, JP Gifford Market, 109 Cheese, Kingsley Tavern, Country Clothes, Heron Gallery and essentially anyone a bit south of the rail road tracks. There are between 25 and 30 occupied or potentially occupied rental properties within the property that Kent Center LLC is managing. There are currently 95 parking spaces in the complex. The proposed restaurant would require 36 parking spots for staff and clientele and operate from 11:30 am – 10:00 pm 6 days a week. Giffords requires an additional 35 spaces for our staff and clientele. With only 95 parking spots that leaves 24 spots for the 25-30 occupied or potentially occupied rental properties in the complex. If you add up all the current and possible tenant locations and are conservative with parking space allocation the current use is not supported by the current parking.

Thank you for your consideration into this matter.

Michael Moriarty – Owner

James Neunzig – Owner

Other considerations and questions

The number of 108 or 106 parking spots is not the true amount. It is what is proposed, how can decisions be made on imaginary spots that do not exist. After the new road was put through the number is more like 95.

What percent of the parking lots will be available during the construction phase?

How many parking spots will be occupied by construction vehicles and where will they be parked during business hours on weekends while the village barns project is being completed?

How will the parking lot be policed?

Will town visitor's cars be towed if they are not frequenting a village barns business?

Will people attending church at St. Andrews have cars towed Sunday morning when they use the barns lot ?

P&Z Meeting Minutes January 14th – Mr. Szymanski suggested that employees park at the rear of the complex in a less used area.

P&Z Meeting Minutes - September 10, Mr. Szymanski was quoted as encouraging employees to park in the more/less used spots.

P& Z Meeting Minutes October 8th – Hiram Williams asked to have permission to put up a fence because young people congregating near the railroad track have been known to bother female employees and tenants. The ownership is now suggesting we send our employees into an area they know is a safety concern.

Who are we relying on that we currently have 95 spaces available, has anyone counted?

Please poll other restaurant owners in town but to run an 85+ seat dual concept restaurant with an additional private dining room at full capacity on a weekend with six employees is not realistic. The number would be closer to 12 or more employees.

With six parking spots proposed to be 15 minute only parking, that will further limit parking for my customers and push them into parking in front of Panini and Tea and Dreams

15 Buildings and 30 possible rental properties are currently sharing 95 parking spaces

With the ownership advertising that the former Morrison gallery would be an "Ideal Location for Grocers & Specialty Stores" it shows that they find tenants first and consider parking last.

Kent Wine and Spirit has to put up a sign to try to limit parking in that lot because we have such a parking issue on the weekend.

Giffords has 80 seats and 12 employees that is 27 parking spots for customers and 8 for employees – 35 parking spots are needed.

If anything that requires substantial parking is allowed into the former Pharmacy space it will have a lasting effect on Main Street and its small family run operations.

If Mr. Szymanski uses any kind of data about parking from any study using national data it should be disregarded. Kent is a very unique town with weekend traffic driven by numerous private schools, tourist and weekenders.

Unless you have run a business in this town during the 30 epic weekends that town is so packed you cant park you would not understand.

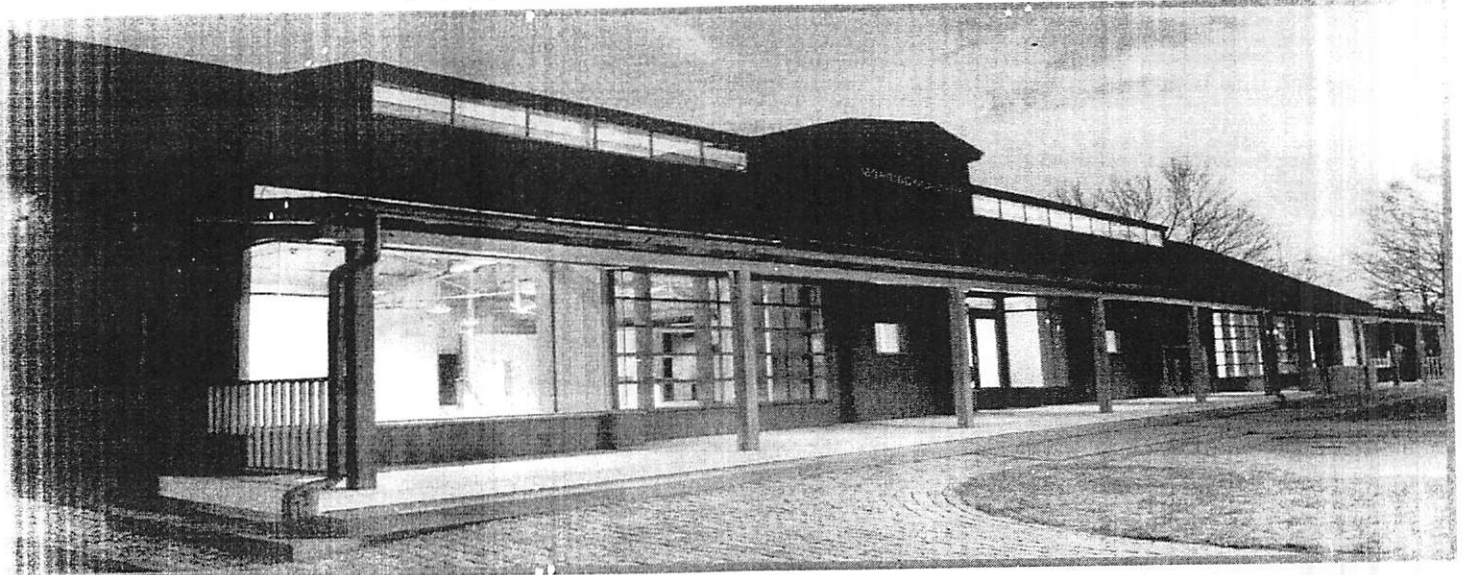
Unless you know it can take 15 minutes to drive through town on a weekend you wouldn't understand

A true comparison is parking at Kent Falls. On any given weekend May-October the parking lot is often at capacity, closed and monitored by the State Police before 11am.

Please don't let a parking shortage develop in Kent that will harm the small family run businesses in town, it is bad enough that the ownership decided to close the bathrooms at the barns, but I still need a place for my customers to park.

Retail Space For Lease

8 Old Barn Road ~ Kent, Connecticut



Ideal Location for Grocers & Specialty Stores

The Kent Village Barns Shops is a 40,000 +/- SF 16 building retail/office/residential complex located in the heart of Kent, Connecticut. The property's location is on Route 7, which serves as one of Connecticut's major North/South connectors. Kent Village Barn Shops is located just off Main Street in Kent, CT.

8 Old Barn Road

- Space Available: 7,000 SF
- Rental Rate: \$18.00 NNN
- 7,000 SF free standing building with additional 4,000 SF of storage.
- Vaulted ceilings, hardwood floors and natural light make for an ideal location for your next store.

Kent Village Barns

- **SITE:** 3.09 +/- acres.
- **ZONING:** C ZONE: allows for medical, office, retail, restaurant, residential
- **YEAR BUILT:** 1999
- **STRUCTURAL/ ARCHITECTURAL:** The Kent Village Barns is an architecturally significant property in the region designed by the Bridgeport Design Group.
- **UTILITIES:** Public water (Aquarion), Municipal Sewer
- **HVAC:** Each building is served by individual HVAC units (propane or oil)

CONTACT:

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Assembled Properties

Building	Tenant	Property Address	Living Area	Parking Ratio/SF	Req'd Spaces
1	Grocery / Gallery	2 Old Barns	6,980	1 per 400	17
2	Black Sheep - A	12 Old Barns	1,086	1 per 400	3
2	MFG Financial - B	12 Old Barns /	1,086	1 per 400	3
3	Cramer & Anderson - A	14 Old Barns	2,112	1 per 400	5
3	Fitness Matters	14 Old Barns	2,112	1 per 400	5
4	Dr. MacIntosh - A	17 Old Barns	2,598	1 per 150	17
4	Jas. Barron Art - B	18 Old Barns	988	1 per 200	5
4	Wyrick Architects - C	17 Old Barns	988	1 per 200	5
5	Jas. Barron Art - A	Old Barns	1,680	1 per 400	4
6	Vacant	Old Barns	362	1 per 400	1
7	Panini	9 Maple	520.00	1 per 200	3
8	Tea & Dreams - A	7 Fulling	1,224	1 per 400	3
8	Vacant - B	5 Fulling	640	1 per 400	2
9	Ober/Bathrooms - A	9 Maple	1,364	1 per 400	3
9	Vacant - B		1,245	1 per 200	6
10	Giffords	9 Maple	3,820	Designated	36
11	Weantinoge	5 Maple	1,914	1 per 200	10
13	B. Johnstone	8 N. Main	896	1 per 400	2
	House of Books, Coffee & Chocolate,				
14	Main St. Antiques	10 N. Main	6,760	1 per 400	17
16	Gleason Barns	10 N. Main	2,800	1 per 400	7
			34,194		137
12	Proposed 50 Seat Restaurant	3 Maple	2,783	1 per 150 + 4	23
			36,977		160

Have 105 spaces including proposed restaurant
 Total 1000 sf Per 1,000
 105 36.98 2.840

Third Party Properties Close By

Building	Tenant	Property Address	Living Area	Parking Ratio/SF	Required Parking
A	Heron Gallery	14-16 N. Main	1,849	1 per 400	4.62
B	Kingsley Tavern	14-16 N. Main	1,849	1 per 400	4.62
C	109 Cheese	14-16 N. Main	1,849	1 per 400	4.62
15	J.P. Gifford Deli	12 N. Main	1,802	1 per 400	4.51
D	Country Clothes	11 N. Main	3,700	1 per 400	9.25
E	St. Andrews	1 N. Main	2,890	1 per 400	7.23
			13,938		35

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