

TOWN OF MONTVILLE
310 Norwich-New London Turnpike, Uncasville, CT 06382
Telephone: (860) 848-6779

MEMORANDUM FOR THE RECORD

July 9, 2024 PZC Meeting

Prepared by Meredith Badalucca, Asst. Planner & M. Davis, Director

Property Address: 1492 Route 85, Parcel ID: 005-027-000

Application: PZ #24SITE3

Applicant/Property Owner: Jeffery Daniels

Engineer: Ellen Bartlett, P.E., Greensite Design LLC

Land Surveyor: Ryan Chevire, L.S.

Lot Size: 5.62 acres (244,807 +/- SF)

Zoning District: Light Industrial

Public Water: No.

Public Sewer: No.

Wetlands/Watercourses: Yes, 0.38 acres of wetlands. No activity within wetlands or upland review area.

Flood Hazard Zone: No.

CAM Zone: No.

Public Water Supply Watershed: Yes, requires referral to NLP.

Proposed Public Improvements: CT DOT Encroachment Permit required (driveway removal).

Legal: Submitted to Land Use Office 4/10/24, Date of Receipt by PZC 4/23/24, Decision Require Date: 6/27/24. Extension to 7/9/24.

REFERRALS:

	<u>Referred:</u>	<u>Comments Received:</u>
Town Engineer (Boundaries)	4/11/24 5/10/24 6/11/24 6/18/24 6/21/24 6/26/24 7/2/24	4/16/24 5/20/24 6/14/24 6/18/24 6/25/24 6/27/24 7/2/24
Building	4/11/24 5/10/24 6/11/24 6/18/24 6/21/24 6/26/24	5/13/24 6/12/24 6/20/24 6/27/24
Fire Marshal	4/11/24 5/10/24 6/11/24 6/18/24 6/21/24 6/26/24	5/7/24 6/12/24 6/27/24
Uncas Health	4/11/24 5/10/24 6/11/24 6/18/24 6/21/24 6/26/24	4/17/24 5/14/24 6/12/24

UNCAS HEALTH DISTRICT: Comments dated 6/12/24 state "I have no additional comments."

TOWN ENGINEER: See comments dated 6/27/24.

FIRE MARSHAL: Comments received 6/27/24 "The Fire Marshal's Office has no comments at this time. This office will require plans for the proposed office building once they're available".

BUILDING DEPT.: See comments dated 5/13/24, 6/12/24 and 6/20/24. Comments received 7/3/24 "No further comments from the Building Dept."

CITY OF NEW LONDON WATER: Referred by applicant on 4/24/24.

CT DOT: Copy of preliminary comment letter dated 6/5/24 received 6/11/24.

BOND ESTIMATE: \$37,395

SITE WALK: Multiple site inspections from February to present.

BACKGROUND:

This parcel (1492, aka Lot 19 of the subdivision) has been used since at least 2016, more or less as a stockpile and processing area, via multiple overlapping and/or successive "temporary" zoning permits, none of which were ever properly closed out. Some of these permits also concern **both** 1492 and 1502. Specifically:

- 5/24/16 – ZP 216-039 (for 1492), issued to Lombardi Gravel & Excavation LLC for "temporary" stockpile and slope stabilization. Never closed out.
- 5/25/16 – ZP 216-040, issued for **1502**, for grading and E&S concerning 92,000 sf of area. The same \$2,000 bond used for ZP 216-039 was used for ZP 216-040. Never closed out.
- 5/25/16 – ZP 216-041 (for 1492), issued to Mr. Daniels for "grading and E&S." Never closed out.
- 8/4/17 – ZP issued for 1492 **and 1502** for "temporary stockpiling" of excess material from 252 Butlertown Road. Never closed out.

In July of 2013, Mr. Daniels purchased the adjacent lot at 1502 Route 85 (aka the home lot). Five years later, in June of 2018, he received a Site Plan approval to develop 1502 in three phases. Site work to implement phase I of that 2018 approval was initiated and has been on-going for some time, however, the issuance of the above overlapping and sequential "temporary" permits, together with the failure to monitor the work for compliance with the approved scopes, the "shared" use of E&S bonds for multiple permits and the failure to properly close out each permit, greatly complicated the ability to assess compliance and resolve concerns regarding the scope of on-going activities on both 1492 and 1502. As of this date, phase I of the 2018 site plan is not completed and we have no associated as built or CZC for use of 1502.

In November of 2023, Mr. Daniels purchased 1492 and in December of 2023, he was issued a ZP to clear 1492 to allow a topo survey to be done. For this new ZP, the \$2,000 bond posted for 216-041 was used.

A more detailed and inclusive permit chronology is provided at the end of this staff report.

PROPOSAL:

Applicant is proposing an earth materials processing storage and construction equipment storage facility, as well as, wholesaling of earth materials to contractors on a 5.62-acre parcel (1492 - lot 19 in the Lombardi Industrial Park subdivision).

The project will be completed in two phases. Phase I includes an access drive from the entrance of 1 Sachatello Industrial Drive, grading, a water quality basin and forebay, a concrete block material storage bay, a processing area and several stockpile areas.

Phase II will include an office, septic system, and additional concrete block material storage bays.

The on-site stored equipment is listed on sheet 5 of the plan entitled "Daniels & Sons Construction, LLC, 1492 Hartford-New London Turnpike, Montville, CT, Applicant/Owner,

Jeffrey Daniels, Dated April 2024, Last Revised June 25, 2024, Prepared by Green Site Design LLC". Also provided on sheet 5 of the plan are operating hours in accordance with ZR Section 4.11.11.3, operation and maintenance of drainage system and dust suppression plan.

PLANNING STAFF REVIEW:

On 3/6/24, a ZP was issued for a period of 30 days to allow topsoil screening and rock crushing on 1502 and 1492. This permit expired on 4/6/24. The new Director requested staff to review the permits issued for both lots, so we could determine compliance relative to the scope of work on-going at these locations.

On 4/12/24, staff met with Mr. Daniels and his PE to discuss the current status of site activities (both 1502 and 1492), compliance with permits issued to date and his intentions going forward, particularly with regard to the 2018 site plan approved for 1502. The basic objective was to eliminate confusion created by the issuance of multiple overlapping and/successive zoning approvals and to establish a clearer understanding of the approved scope of activity. In addition, a landscaping company was occupying a small portion of 1502 without a CZC. This use was relocated.

Also, on 4/12/24, in order to assist Mr. Daniels with the continued implementation of phase I of the 2018 site plan, staff issued a ZP to allow the removal of dirt from 1502 and its placement on 1492 (not for processing or sale).

Both 1492 & 1502 Route 85 have been allowed to operate together in ways that make it difficult to determine the status of compliance with regard to the multiple permits and approvals issued for one or both lots. "Linking" the sites also makes the evaluation of this current proposed site plan difficult in terms of existing and proposed conditions, proposed grading, erosion controls, drainage, site access/traffic and other applicable site plan requirements.

Staff believes we've reached an accommodation that will be suitable to the client, whereby the two sites will be permitted and operated independently, however with a limited allowance for internal vehicular access between the two. Specifically, for a period not to exceed 60 days, a vehicular connection will exist between the lots by which material may be moved from one to the other to implement the approved grading plans. In addition, 1492 will be accessed via Sachatello, using the approved access easement. The proposed drive to 85 for 1492 has been eliminated. The home lot (1502) will be accessed via its own separate drive to 85, as approved per the 2018 site plan.

After 60 days, a physical barrier will be established between the two lots (on the common property line) to prohibit vehicular and operational use between the two. Segregating the uses/lots in this manner will prohibit use of the 1502 drive to 85 by the (to be permitted) use on 1492.

Staff did offer the option of combining the lots and seeking permits for one use/approval, however, in that scenario, the SR 85 drive to 1502 would be completely eliminated and access to the "combined" lot/use would only be via the Sachatello Drive. This "combined" option would also require a site plan mod for 1502. The applicant prefers to operate the two sites independently.

In addition, with respect to 1502, the applicant has suggested that he may not go forward with the structures as approved in 2018. If that is the case, the applicant should move to complete phase I as approved for 1502, submit the required as built and receive a partial CZC for phase I, in order to allow legal use of 1502 under the 2018 site plan approval. The scope of phase I work required/approved under the 2018 approval is fairly minor given the applicant's experience and ability and it would seem feasible to have this phase I work completed this season, especially if the approved building is not built.

Last – the use of a site plan approval as a means of gaining compliance is not ideal, in that a site plan approval is “enabling” and not a mandate. In addition, the timeframes in the Statutes for site plan completion are very generous. In the present situation, absent full implementation of the 2018 site plan (at least phase I) and the scope of work staff presumes the PZC will approve under this current application for 1492, to some degree, both sites will be operating outside the scope of the regulations and compliance will need to be pursued by other means. The Department strongly prefers to work with clients to resolve compliance matters in a way that avoids formal enforcement whenever possible, and we are reasonably confident this client will work promptly to finish phase I of his 2018 approval for 1502 this season, as well as immediately pursue implementation of the proposed work under this pending application, should it be approved.

TECHNICAL REVIEW:

Please be advised of the following technical comments regarding our review of the application, supporting documentation and plan set entitled “Daniels & Sons Construction, LLC, 1492 Hartford-New London Turnpike, Montville, CT, Applicant/Owner, Jeffrey Daniels, Dated April 2024, Revised June 25, 2024, Prepared by Green Site Design LLC”. 6/25/24 Revised plan was received on 6/27/24.

Most of these are minor in nature and while many other edits could be made to the application materials to make the plans clearer, in order to help expedite action, we are only recommending modifications we feel are essential.

As noted above, recent changes to the grading/topo for the site, approved materials storage and other factors make it difficult to prepare a current accurate existing conditions plan.

The final plans shall be modified to address the following on all plan set sheets, as applicable.

- Sheet 1 does not reflect existing conditions on site.
- Indicate “Temporary” construction entrance
- Indicate 60-day Temporary Access Drive and add note that immediately upon the expiration of the 60-day period a permanent physical barrier shall be installed to prohibit vehicles to/from/between 1492 and 1502 Route 85.
- Include temporary access drive and construction entrance as well as time frame for both and which phase they will be constructed in.
- Add note: Due to current of ownership of 1492 & 1502 Route 85, a physical barrier shall be placed between properties to prohibit access from 1502 Route 85 curb cut to 1492 Route 85.

- Construction Sequence indicates oil separator will be installed during Phase II. Indicate on Phase II sheet.
- Sheet 3B - Remove the temporary construction access from 1502 Route 85. Access can be obtained through Sachatello Drive. Both parcels shall remain separate and operate separate from each other unless a site plan application is filed to combine the properties and uses.
- Revise General Note 1, to state "Green Site Design LLC" vs. CLA Engineers. (Sheet 4)
- Revise sequence of construction to include the following:
Phase I: Temporary access, Landscape Buffer, Removal of curb cut, 2 conex boxes, equipment storage area.
Phase II: Removal of temporary access, parking area, material storage bin, 2 conex boxes, power pole, overhead and underground electrical work.

DETAILED PERMIT CHRONOLOGY

Based on available records, it appears the following approvals and permits have been issued for 1492 and 1502:

- September 28, 2004 – 19 lot subdivision (Lombardi Business Park) was approved. This parcel (1492 Route 85) is lot number 19
- June 26, 2007 - A site plan application for 1492 Route 85 was approved by PZC for a 42,750 SF Light Industrial Building of which 14,000 SF was for office space. The applicant was BADCO, LLC and Property Owner was Lombardi Business Park, LLC. This approval has since expired and the project was not constructed. As part of this application, there was a CT DOT Traffic Investigation Report which included a recommendation that the driveway on Route 85 be eliminated since the new proposed driveway to Sachatello Industrial Drive should be sufficient for traffic entering/exiting Lot 19.
- July 9, 2007 – Lot 13 and Lot 19 Reconfiguration, Property of Holly Lombardi Land Holdings, LLC, Lombardi Business Park, 1485 Route 85 & 1 Sachatello Industrial Drive, Town of Montville, CT, Dated 5/1/07 filed on the land records (created the common drive for 1492 off Sachatello).
- September 19, 2008 – Lot Layout, Lombardi Business Park, Sachatello Industrial Drive, Montville, CT, Dated 2/15/08, Rev. 2/27/28 filed on the land records
- May 24, 2016 - A zoning permit (216-039) was issued to Lombardi Gravel & Excavation LLC as applicant, BADCO LLC as owner, for Temporary Stock Pile & Slope Stabilization at 1492 Route 85.
- May 25, 2016 - A zoning permit (216-041) was issued to Jeffrey Daniels as applicant and BADCO LLC as owner for Grading and E&S Controls at 1492 Route 85. Site Plan entitled "Grading and Erosion control Plan prepared for Jeffrey S. Daniels, #1502 Route 85, Montville, CT Dated May 2016." Letter from Liz Burdick dated 5/25/2016 requesting \$2,000 bond, E&S Controls and proposed sediment trap shall be installed in accordance with the approved plan and inspected by the Town Planning Dept. staff prior to the start of any grading work; finished grades shall be stabilized with loam and seeded as completed. \$2,000 bond was provided, CZC was never issued and bond was transferred per Liz Burdick on 12/26/23 to 23ZP211.
- May 25, 2016 - A separate zoning permit (216-040) was also issued 1502 Route 85 for Grading and E&S Controls. Plan provided indicated 92,000 SF area to be regraded. Same conditions as above applied and same bond used for both properties.
- August 4, 2017 - A zoning permit was issued to Jeffrey Daniels as applicant & owner of 1502 and BADCO LLC as owner of 1492 for both 1492 & 1502 Route 85 for Temporary

Stock Pile of excess material from 252 Butlertown Road. A \$2,000 E&S Control Bond was required. A CZC was never issued.

- June 12, 2018 - A site plan application for 1502 Route 85 was approved by PZC for Light Industrial Use and Residential Occupancy. The applicant is Daniels and Sons Construction and owner is Jeffrey S. Daniels. This is a three-phase plan, Phase I is a 6,000 SF building with no office or bathroom as the existing residence presently has office space for construction business. Residence is to remain during Phase I and to be demolished along with existing well and septic during Phase II. Phase II is an additional 6,000 SF to building, construct septic system and demolish residence. This building will have an office. Phase III is a 12,000 SF building with office. Work was started on this site to "implement the site plan" without the required \$10,000 E&S Control Bond and without a Zoning Permit. The owner has stated to staff that he does not intend to construct the buildings at this time.
- November 1, 2023 – 1492 Route 85 purchased by Jeffrey Daniels
- December 26, 2023 - A zoning permit was issued for 1492 Route 85 to clear site for LS to survey topo. \$2,000 Bond was transferred from ZP 216-041 which had not been issued a CZC.
- March 6, 2024 - A temporary (30 day) zoning permit was issued for both 1492 & 1502 Route 85 to screen topsoil and crush stone. This permit expired April 6, 2024.
- April 12, 2024 Meeting with department staff, Jeff Daniels and Ellen Bartlett to discuss all of the above open permits and sort out what activities were being conducted on each property. Informed Jeff Daniels that the landscaping company that was subleasing a portion of 1502 Route 85, did not have proper permits and could not occupy the site. A zoning permit cannot be issued for any use at this site until the CZC is issued for the completion of work in conjunction with 218SITE1. It was also discovered that a zoning permit had never been issued for the work in conjunction with approved 218SITE1. Nor had the required \$10,000 bond been received.
- April 12, 2024 – After meeting with Jeff Daniels and Ellen Bartlett, a zoning permit was issued for 1502 Route 85 for the removal of dirt from site in accordance with Phase I of Site Plan (218SITE1). The \$10,000 E&S Control Bond was posted as required.

SUGGESTED MOTION FOR ANY FAVORABLE APPROVAL:

I make a MOTION to APPROVE with conditions and modifications, Application 24 SITE 3 for an earth materials processing storage and construction equipment storage facility, as well as, wholesaling of earth materials to contractors at 1492 Route 85 (005-027-000) in accordance with the Montville Zoning Regulations and the application, supporting documentation and a plan set entitled "Daniels & Sons Construction, LLC, 1492 Hartford-New London Turnpike, Montville, CT, Applicant/Owner, Jeffrey Daniels, Dated April 2024, Last Revised June 25, 2024 Prepared by Green Site Design LLC".

CONDITIONS:

General Conditions:

1. This approval is for the specific use, site and structure(s) identified in the application. Any change in the nature of use, site or the structure will require new approvals from the Planning and Zoning Commission.
2. This project shall be constructed and maintained in accordance with the referenced plans.

3. Soil erosion and sediment controls shall be installed in accordance with the approved plan set and inspected by the Zoning Officer prior to the start of any work.
4. An approved Zoning Permit is required prior to the start of any work.
5. By acceptance of this permit and conditions, the applicant and owner acknowledge the right of Town staff to periodically enter upon the subject property for the purpose of determining compliance with the terms of this approval.
6. No business/use under this permit/approval shall be initiated until a Certificate of Zoning Compliance is approved by the Zoning Officer.

Site Specific Conditions:

7. Per ZR Section 4.11.11.3 2. C., Permits for Excavation or Processing (crushing) operations shall not be issued for periods exceeding one (1) year for a new operation and may be renewed for periods up to five (5) years if it can be shown that the operation is in compliance with these Regulations.
8. All drainage structures proposed for the project shall be constructed and maintained post construction in accordance with the approved Plan Set.
9. All landscaping shall be maintained post construction.
10. Site signage not shown on plan shall require an approved zoning permit prior to installation.
11. Operating hours shall be as indicated on sheet 5 of the approved plan in accordance with ZR Section 4.11.11.3 2. a.

Conditions to be met prior to signing of plans:

12. Plans shall be revised as follows:
 - o Sheet 1 does not reflect existing conditions on site. Revise title block.
 - o Indicate "Temporary" construction entrance
 - o Indicate 60-day Temporary Access Drive and add note that immediately upon the expiration of the 60-day period a permanent physical barrier shall be installed to prohibit vehicles to/from/between 1492 and 1502 Route 85.
 - o Add note: Due to current of ownership of 1492 & 1502 Route 85, a physical barrier shall be placed between properties to prohibit access from 1502 Route 85 curb cut to 1492 Route 85.
 - o Sheet 3A - Update emergency spillway elevation. The emergency spillway elevation is listed as 207.5 instead of 208.5 as noted in the stormwater model and on Sheet 3B and the detail on Sheet 5.
 - o Construction Sequence indicates oil separator will be installed during Phase II. Indicate on Phase II sheet.
 - o Sheet 3B - Remove the temporary construction access from 1502 Route 85. Access can be obtained through Sachatello Drive. Both parcels shall remain separate and operate separate from each other unless a site plan application is filed to combine the properties and uses.
 - o Sheet 3A & 3B - Based on the Level Spreader detail on Sheet 5 the top of berm elevation should be 210.0 to accommodate the modified emergency spillway elevation. Ensure the grading around the water quality basin is shown correctly to provide the specified top of berm width and top of berm elevation.

- Revise General Note 1, to state "Green Site Design LLC" vs. CLA Engineers. (sheet 4)
 - Revise sequence of construction to include the following:
Phase I: Temporary access, Landscape Buffer, Removal of curb cut, 2 conex boxes, equipment storage area.
Phase II: Removal of temporary access, parking area, material storage bin, 2 conex boxes, power pole, overhead and underground electrical work.
13. All plans submitted for signature shall bear the seal and live signature of the appropriate professional(s) responsible for the preparation of the plans.
 14. The applicant shall also submit final plans as approved by the Commission in a digital format per ZR section 17.3.
 15. A list outlining how the conditions of approval have been met shall be submitted along with final plans submitted for signature.
 16. A list outlining all changes to the plans shall be submitted along with final plans submitted for signature. The list should cite the sheet number where each change has been made.

Conditions to be met prior to the issuance of zoning permits:

17. Four (4) sets of paper plans with any required revisions incorporated, shall be submitted to the Land Use Department for signature of the Commission.
18. Any required certificates and/or approvals from State or Federal agencies (i.e. CT-DOT, DEEP, Army Corps of Engineers) shall be obtained by the applicant and submitted to the Land Use & Development Office. Any changes to the plans required by such entities may require a plan modification from the Planning and Zoning Commission.
19. A soil erosion & sediment control bond shall be posted in the amount of \$37,395 in a form acceptable to the Finance Director. No bond, or portion thereof, shall be released without prior approval of the Zoning Officer and/or Director of Land Use & Development.
20. A pre-construction meeting between the applicant, site contractors, project engineer and Town Staff shall be held.

Conditions which must be met prior to Issuance of a Certificate of Zoning Compliance:

21. Complete as-built plans certified to Class A-2 accuracy shall be submitted prior to the issuance of any certificate of zoning compliance. The as-built plan shall also contain a certification by a Professional Engineer that they have inspected the site improvements and that they have been installed in accordance with the approved plans. Any deviations or omissions must be noted.
22. No Certificate of Occupancy or other final approval may be issued until the Zoning Officer has signed off on the final work.

Note: The Conditions of Approval do not take the place of other requirements found in the Town Codes, Regulations, and Application Instructions.

Reference Plans and Application Materials:

1. Application, dated received April 10, 2024 and Revised Application, dated received May 10, 2024
2. Narrative, dated received April 10, 2024 and Revised Narrative, dated received May 10, 2024

3. Drainage Report, dated received April 10, 2024 and Revised Drainage Report, dated received May 10, 2024, Revised Drainage Report, dated received June 11, 2024, Revised Drainage Report dated received July 2, 2024.
4. Bond Estimate, dated received May 10, 2024 and Revised Bond Estimate, dated received June 11, 2024.
5. Soil Scientist Letter, dated received May 10, 2024
6. Site plan entitled "Daniels & Sons Construction, LLC, 1492 Hartford-New London Turnpike, Montville, CT, Applicant/Owner, Jeffrey Daniels, Dated April 2024, Last Revised June 25, 2024 Prepared by Green Site Design LLC".