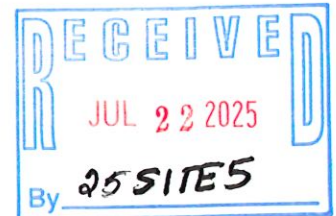


TOWN OF MONTVILLE
Department of Land Use & Development
Staff Report
Prepared by Meredith Badaluca on July 22, 2025



Property Address: 375 Maple Avenue (031-015-000) &
Route 163 Parcel ID 031-019-000

Application: 25 SITE 5

Property Owner: Rand-Whitney Realty, LLC

Applicant: Same

PE: Darren Hayward, PE – CLA Engineers, Inc.

Attorney: Harry Heller, Esquire - Heller, Heller & McCoy

Lot Size: 3.01 +/- Acres - 375 Maple Avenue
24.6 +/- Acres – Route 163 Parcel ID 031-019-000

Lot Frontage: 481 +/- feet – 375 Maple Avenue
1223 +/- feet – Route 163 Parcel ID 031-019-000

Zoning District: I (Industrial)

Public Water/Sewer: N/A

Flood Hazard Zone: Yes – However, not in the project area.

CAM Zone: No

Public Water Supply Watershed: No.

Wetlands: Approved by the IWC on July 17, 2025

Site Restoration Bond: \$62,000

Legal: Submitted to Land Use Dept. on 6/10/25. Date of Receipt by PZC 6/24/25,
Decision Required Date – 8/28/25.

Site Inspection: A site visit was completed in the spring of 2024 as part of a pre-application meeting. ZEO Radford and myself completed another visit on June 26, 2025. Please see attached photos from June 26, 2025.

Proposal: Development of an industrial trailer parking facility and relocation of drainage system.

Staff Comments/Review:

375 Maple Avenue was previously developed with a single family residence and detached garage. Both structures were demolished in 2024 by the previous owner. There is an existing Town of Montville 30” stormwater pipe, that currently discharges onto this parcel. This pipe will be relocated and extended and a new drainage easement in favor of the Town of Montville will be established.

A WPCA sewer line runs through both parcels as indicated on the plan and as recorded on the Town of Montville Land Records.

Both parcels are located in the Industrial Zoning District. The proposed use of an industrial trailer parking facility is allowed per Zoning Regulation Section (ZR) 13.2.9 Shared Parking.

Robertson Road was discontinued in April of 2006. Former Assessor, Lucy Beit requested a legal opinion from Town Attorney Carey in 2013 regarding local road abandonment and abutting property owners. The notes she provided me with state in part "For most local roads (roads not set up in Colonial times or State roads), Abutters own up to the center of the road. When a road is discontinued it can still be a public ROW for abutters to use to access the next nearest ROW." Rand Whitney Realty LLC is the owner of all parcels that abut Robertson Road.

ZR Section 4.11.5.5 states "*Sidewalks abutting any street, driveway, access or interior circulation road on which the development is located may be required by the Commission if (1) such sidewalks interconnect with existing or proposed sidewalk system on the adjacent street and (2) the project is located within 1,000 feet of an existing commercial center, school or place of public gathering All sidewalks shall be privately owned and maintained.*" There are currently no sidewalks on the adjacent street in the area of this parcel. Therefore, staff feels this section is not applicable.

The trailer storage area for the proposed project is 70,500 sf. Our ZR do not require any landscaping for parking lots less than 80,000 sf. However, the applicant has provided a landscaping buffer along Maple Avenue. There will also be plantings along the north side of the trailer storage area along Rockland Pond, as can be seen on the plan entitled "Site Improvement Plan Proposed Trailer Storage Facility, 375 Maple Avenue/Route 163, Town of Montville, Connecticut, Prepared for Rand-Whitney Realty, LLC, 370 Route 163, P.O. Box 336, Montville, CT 06353, Prepared by CLA Engineers, Inc., Dated June 2, 2025, Revised July 21, 2025".

An area of 4 spaces has been reserved for snow storage. There is a note on sheet 7 of the above referenced plans that indicates: "Storage of snow shall be limited to the designated snow removal area shown on the plans. If required, additional tractor trailer spaces shall be made available for the storage of snow as required. Under no circumstances shall snow be deposited into the on-site stormwater management system which comprises the vegetated swales, sediment forebays or stormwater basins."

ZR 17.4.8 "*Location and size in square feet of all existing and proposed structures including underground storage tanks and uses on the property and the approximate locations and size of all existing structures on the abutting properties which are within one hundred feet (100') of the property lot lines.*

ZR 17.5 *Determination of Applicability – "The Commission may determine that one (1) or more of the site plan ingredient requirements of Section 17.4 is not necessary or required to reach a decision on the application. A determination of applicability of the applicable section(s) must be requested in writing by the applicant."*

Per ZR 17.5, the applicant has provided a letter dated June 25, 2025 requesting a determination of applicability of ZR 17.4.8 (above) with respect to areas of the property located at and known as Route 163, Montville, CT which are remote from the area in which the proposed trailer storage facility will be located. The trailer storage facility is

located on the 375 Maple Avenue parcel with a portion of the access drive on the Route 163 parcel. The applicant has provided the information requested for the southerly abutters along both side of Maple Avenue extending from the westerly edge of project area easterly of Robertson Road as well as, the property at 385 Maple Avenue to the west of the project area.

The applicant in the response letter dated July 16, 2025 has also requested a determination of applicability of ZR 17.4.3 *“Property boundaries, dimensions and area in acres and square feet and all existing monuments, pipe markers, and other physical evidence concerning property boundaries.”* The response letter states *“The proposed project area has been surveyed and improvements and environmental features located to Class A-2 standards as provided on a plan entitled “Property Survey Prepared For Rand-Whitney Realty LLC #375 Maple Avenue Montville, Connecticut Project No. 25-065 Drawn By: R.A.D. Date 6/17/25 Scale: 1” = 30’ Sheet 1 of 1 Advanced Surveys, LLC 60 Terry Road, Griswold, CT 06351 Phone (860) 639-8928”.* The remainder of the property shown and designated as “Route 163” on the Town of Montville Assessor’s maps provides no probative information for Commission consideration with respect to this application; and, to the extent that such information is deemed required by Section 17.4.3 of the Montville Zoning Regulations, a waiver of that requirement, to the extent not shown on the above referenced survey, is hereby requested.”

Staff feels that these requests are reasonable as this information is not necessary to reach a decision. However, the Commission shall make the determination.

ZR Section 18.8.4 states: *“Driveways in commercial and industrial districts shall not be more than thirty feet (30’) wide at the right-of-way line and fifty five feet (55’) wide at the curb line. Greater widths may be permitted where, in the opinion of the Commission, they are necessary to accommodate traffic volumes or movements, public safety requirements, or larger vehicles. Each parcel within these districts shall be entitled to one (1) driveway where the property has two hundred feet (200’) of frontage or less, and additional driveways only when permitted and approved by the Commission on the site plan.”.* The plan indicates 50’ wide at the right-of-way and 80’ wide at the curb line. Staff requested the applicant confirm that the greater width is to accommodate one or more of the above. As stated in the response letter dated July 16, 2025, it is to accommodate a larger delivery vehicle (WB-67). The applicant has further stated that the driveway opening on Maple Avenue has been mitigated to only allow right in and left out maneuvers of these larger delivery vehicles. They also noted that general access via this driveway will be restricted by a double leaf bar gate, as shown on the plan.

The applicant does not propose any signage at this time. Should they require signage in the future, a zoning permit will be required.

Staff Technical Review Comments:

All of my previous technical review comments have been addressed.

Agency Comments:

Town Engineer: Comments dated 7/21/25 "All prior comments have been addressed and there are no further comments/questions on the revised application materials."

Fire Marshal: Comments dated 6/16/25 "The Fire Marshal's Office has no comment at this time."

Building: See comments dated 6/16/25

Uncas Health: Comments dated 7/17/25 "My recommendation would be to properly abandon the existing two wells. If they are kept for monitoring wells, what will they be monitoring for?"

The applicant stated in the July 21, 2025 response letter "A Rand-Whitney representative contacted Uncas Health District ON 7/18-25. Each party mutually agreed that the wells will remain in place and be modified to allow the monitoring of ground water elevations."

Public Works: Referred on 6/12/25

Police Department: Comment dated 7/22/25 "The Montville Police Department response is acceptable."

WPCA: Comments dated 6/12/25 "As it appears that the project will not be utilizing public water or sewer we have no comments at this time." Comments dated 7/17/25 "As it appears that there has been no change to add sewer or water to the site we have no additional comments."

Town Attorney: Staff referred easement documents for review and approval on June 25, 2025. Town Attorney Redline document was provided to the applicant on July 18, 2025. The applicant has agreed to the proposed revisions.

Attorney Cody provided staff with advice on CGS 13a-138 - Highways may be drained onto private lands. See attached.

SUGGESTED MOTION FOR DETERMINATION OF APPLICABILITY:

I make a MOTION to find that ZR Sections 17.4.8 and 17.4.3 for the reasons stated in the application materials and staff report dated July 22, 2025 are not necessary or required to reach a decision on Application 25 SITE 5.

SUGGESTED MOTION FOR ANY FAVORABLE APPROVAL:

I make a MOTION to APPROVE with condition numbers 1-22 as indicated in the staff report dated July 22, 2025, application number 25 SITE 5 for the development of an industrial trailer parking facility and relocation of drainage system and site improvements at 375 Maple Avenue (031-015-000) & Parcel ID: 031-019-000 Route 163 in accordance with the Montville Zoning Regulations and the application, supporting documentation

and a plan set entitled "Site Improvement Plan Proposed Trailer Storage Facility, 375 Maple Avenue/Route 163, Town of Montville, Connecticut, Prepared for Rand-Whitney Realty, LLC, 370 Route 163, P.O. Box 336, Montville, CT 06353, Prepared by CLA Engineers, Inc., Dated June 2, 2025, Revised July 21, 2025".

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. All drainage structures proposed for the project shall be constructed and maintained post construction in accordance with the approved Plan Set.
8. All landscaping shall be maintained post construction.
9. Owner of property used for parking and/or loading shall maintain such area and all required sidewalks and buffer areas in good conditions without holes and free of all dust, trash, and other debris.
10. Site signage not shown on plan shall require an approved zoning permit prior to installation.
11. Silt fence in close proximity of property lines shall be staked out by Licensed Land Surveyor.

Conditions to be met prior to signing of plans:

12. All plans submitted for signature shall bear the seal and live signature of the appropriate professional(s) responsible for the preparation of the plans.
13. The applicant shall also submit final plans as approved by the Commission in a digital format per ZR section 17.3.
14. A list outlining how the conditions of approval have been met shall be submitted along with final plans submitted for signature.

15. 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:

16. Four (4) sets of paper plans with any required revisions incorporated, shall be submitted to the Land Use Department for signature of the Commission.
17. 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.
18. Approved "Grant of Storm Sewer Easement and Rights to Drain" shall be accepted by the Town Council and shall be filed on the Land Records.
19. A soil erosion & sediment control bond shall be posted in the amount of \$62,000 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.

Should the Commission vote to DENY the application, it shall state its reasons on the record.

From: [Richard S. Cody](#)
To: [Stacy Radford](#); [Meredith Badalucca](#)
Cc: [Leonard Bunnell Sr.](#)
Subject: FW: CGS 13a-138 HIGHWAYS MAY BE DRAINED ONTO PRIVATE LANDS
Date: Friday, July 18, 2025 10:38:04 AM

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Stacy and Meredith:

You asked for advice on the right of a town to drain water from roads onto abutting property. On this topic, the statutes below are self-explanatory.

Let me know if you have any questions.

Thanks.

Rich Cody
Suisman Shapiro
Attorneys At Law
P.O. Box 1591
New London, CT. 06320
(860) 271-2214 direct
(860) 442-0495 fax
rcody@sswbgg.com

Sec. 13a-138. Highways may be drained into private lands. (a) Persons authorized to construct or to repair highways may make or clear any watercourse or place for draining off the water therefrom into or through any person's land so far as necessary to drain off such water and, when it is necessary to make any drain upon or through any person's land for the purpose named in this section, it shall be done in such way as to do the least damage to such land.

(b) Nothing in this section shall be so construed as to allow the drainage of water from such highways into, upon, through or under the yard of any dwelling house, or into or upon yards and enclosures used exclusively for the storage and sale of goods and merchandise.

(1949 Rev., S. 2134; 1958 Rev., S. 13-18; 1963, P.A. 226, S. 138; P.A. 81-162, S. 1.)

History: 1963 act replaced previous provisions: See title history; P.A. 81-162 divided section into Subsecs. (a) and (b). Municipalities are not liable for damage from draining water from highways onto private lands within statutory restrictions. 54 C. 520. Section not applicable to draining water off private land. 64 C. 375. Section does not prohibit grading of street so that surface water runs into dooryard. 73 C. 35. Meaning of "dooryard". 74 C. 321. Constitutionality of statute quere. Id.; 79 C. 91. Does not apply where draining on land can be avoided by reasonable expense. Id. Scope limited. 81 C. 392. Section, as in derogation of private rights, to be strictly construed. 112 C. 568. Cited. 120 C. 551. Does not imply consent on part of state to be sued. 146 C. 316. Drainage easement not created in state in any particular land so as to constitute breach of covenant against encumbrances. 151 C. 183. Cited. 189 C. 740; 217 C. 520.

Cited. 6 CA 229. 15-year limitation period of Sec. 13a-138a applies to both Subsecs. (a) and (b); to construe otherwise would yield an unworkable result. 110 CA 591.

Town liable where it did not drain so as to do least damage to land. 3 CS 404. Proviso construed. 5 CS 487. Unnecessary discharge of surface water from state highway. 6 CS 485. No right of recovery where highway commissioner has neither drained water onto nor opened or cleared any watercourse on plaintiff's land. 20 CS 142. Cited. 29 CS 499.

Subsec. (a):

Clear and unambiguous language that drainage "shall be done in such way as to do the least damage to such land" does not provide for a balancing test that weighs the least damage against the least expense and other considerations claimed by defendant town. 49 CA 781.

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Sec. 13a-138a. Limitation on actions for drainage damage. No action shall be brought by the owner of land adjoining a public highway, or of any interest in such land, for recovery of damage to such property or interest by reason of any draining of water into or through such land by any town, city, borough or other political subdivision of the state pursuant to subsection (a) of section [13a-138](#), but within fifteen years next after the first occurrence of such drainage, except that if such drainage first occurred prior to October 1, 1981, no such action shall be brought after October 1, 1986.

(P.A. 81-162, S. 2.)

Cited. 217 C. 520.

15-year limitation period applies to both Subsecs. (a) and (b) of Sec. 13a-138; to construe otherwise would yield an unworkable result; public policy favors limitation periods for cause of action to grant degree of certainty to litigants. 110 CA 591.

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Building Official's Comments

Date: 06/16/2025

Project Address: 375 Maple Ave 25- site 5

Project Name: Rand Whitney trailer storage

Reviewer: Doug Colter, Building Official

Upon review of land use documents submitted to the town planning officials, the Building Official notes the following:

- 1.) No structures or electrical installations noted on plans
- 2.) Any new retaining walls over 3' in height require engineering and a building permit
- 3.) Site storm water drainage infrastructure is governed by the IPC portion of the CT State Building Code, requires a permit and a licensed plumbing contractor
- 4.) Any proposed site lighting is regulated by the 2022 CSBC for full cut off fixtures, maximum lighting power, and lighting controls. There is insufficient information on the land use plans to determine compliance.

These comments should be considered a preliminary courtesy review, and not a thorough review under the auspices of the CT State Building Code. These are not exhaustive or limiting comments, do not create an estoppel, and are not an approval. A formal Building Permit application accompanied by Construction Documents per CT State Statutes and the CT State Building Code are required for a formal review, and work is not authorized until a Building Permit is issued by the Building Official. It is the applicant's responsibility to coordinate State and Town requirements at the time of application for approvals.