

NEW HAVEN CITY PLAN COMMISSION ADVISORY REPORT

RE: 175 HUMPHREY STREET, 504, 506 EAST STREET, Special Exceptions to expand an existing restaurant and to permit zero additional parking spaces where 4 are required. All in a RM-2 zone (Owner: Heide McIntosh. Applicant: HBRC, LLC. Attorney: Anthony V. Avallone).

REPORT: 1447-13

ADVICE: Approval with condition

PRINCIPAL APPLICABLE REGULATIONS

Section 67(c)(3)a. Change of use

a. No nonconforming use of land or of a structure shall be changed to any use which is substantially different in nature and purpose from the former nonconforming use, except such uses as are permitted in the district in which they are located, unless a special exception is granted under subsection 63(d) of this ordinance, upon a finding, among other things, that the new use will have a lesser impact upon the surrounding area than the old one.

Section 45(a)(7) Board of Zoning Appeals shall have the power to lessen the requirements of this ordinance as to the number of parking or loading spaces required and/or increase the maximum allowable walking distance to such parking spaces, but only upon a finding that such other standards will be adequate. All deviations from normal requirements by means of this paragraph (7) shall be considered as special exceptions under subsection 63(d) of this ordinance, and the Board of Zoning Appeals may impose time limits where it finds that the continued adequacy of such other parking or loading standards cannot be fairly predicted.

Section 63(d) concerning all Special Exception Standards

BACKGROUND

Humphrey's East is located at 175 Humphrey Street on the northwest corner of East Street, in a truncated triangular area bounded by I-91, East and Humphrey Streets that is separated from the Upper State Street BA zone to the northwest by I-91. The RM-2 zoned area contains Humphrey's Restaurant with upper story apartments and parking. Immediately north at 524 East is a commercial structure; to the east are multi-family residences; to the southeast are commercial uses and multi-family residences; to the south are Jocelyn Square Park and multi-family homes; and on the west side of the park is an 8 unit condominium.

The applicant is seeking a Special Exception to permit the substitution of an approved nonconforming use (outdoor patio) with a new (existing) nonconforming use (building addition) and reduced parking.

PLANNING CONSIDERATIONS

The existing 124 seat restaurant on this residentially zoned property was granted a series of variances in the 1990's that permitted both its initial operation as well as subsequent expansions. The last approval in 1998 showed the area currently at issue, located in the northwest corner of the overall site as an open patio. In fact it is located on the site of a garage and given that the approved plan shows this area enclosed by three existing walls its construction would have involved little more than the removal of the garage roof and one wall. It was also a condition of approval that there be no music or other entertainment in this area and that it had a 16 seat seasonal limit on its use. At some time subsequent to that approval this patio area was recovered by a new roof and incorporated into the rest of the restaurant. The year-round use of the space requires parking relief. In terms of the remaining Special Exception request it is the applicant's contention that this situation does not really represent an expansion of a nonconforming use in that there is evidence that what is being proposed has less of an impact on the surrounding area than what was approved.

Special Exception Criteria Section 63(d)(3)

Nature of the Proposed Site: Humphrey's East is located at 175 Humphrey Street on the northwest corner of East Street, in a truncated triangular area bounded by I-91, East and Humphrey Streets that is separated from the Upper State Street BA zone to the northwest by I-91. This location adjacent to a major limited access highway lends to the use a level of appropriateness that it might not have if located in a more residential area but can still pose issues for residents located to the south and east.

Resulting Traffic Patterns: Because the proposed areas of expansion are already in use this application will generate little or no new vehicle traffic and consequently will have negligible impact on existing parking and traffic in the immediate neighborhood. What the Board should have evidence of however, is that current conditions do not in any way represent a significant threat to the residential quality of life in the area.

Nature of the Surrounding Area: The residentially zoned (RM-2) area contains Humphrey's Restaurant with upper story apartments and parking. Immediately north at 524 East is a commercial structure; to the east are multi-family residences; to the southeast are commercial uses and multi-family residences; to the south are Jocelyn Square Park and multi-family homes; and on the west side of the park is an 8 unit condominium. As above, the applicant should be prepared to demonstrate that the restaurant is currently operating in a manner that takes the reasonable concerns of nearby residents into consideration.

The Comprehensive Plan: The Plan's Housing and Neighborhood Planning section advises that neighborhoods be protected against potentially deleterious and/or nuisance influences. Any approval of this application should provide assurances of that protection.

Other Considerations:

It is the applicant's contention that the illegally constructed addition and the activity that takes place within its walls represent less of an impact on the area than a seasonal outdoor patio with no entertainment. While not necessarily an easy concept to accept in a technical sense, there are practical considerations. With an enclosed space such as what currently exists noise related concerns are minimized; on the other hand, an outside seating area, regardless of conditions imposed upon its use, always represents at least the potential for noise related problems.

PUBLIC HEARING

Attorney Anthony Avallone presented for the applicant.

Attorney Avallone explained that the application is based on the fact the previous owner attached a roof over the existing patio without seeking zoning relief. He estimates that the roof was constructed around 2001-2002. He noted that the covered patio is simply an extension of the existing restaurant and that there is music is throughout building. Lastly, he pointed out that the roof will help to reduce ambient noise.

Deputy Director Thomas Talbot explained the applicant, in applying to replace one nonconforming use with another that is less objectionable, is in effect claiming that the building addition has a lesser impact on the surrounding area than the open patio.

Alderman Smart spoke in favor and submitted a letter into the record.

7 hands were raised in favor of the application and two additional individuals spoke in favor of the application.

Mr. Ming Lav, owner of 539-541 East Street, opposed the application due to lack of parking and concerns about child safety. He believes that the restaurant is not appropriate in a residential area.

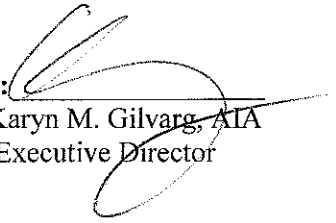
Ms. Easter Howard, 55 Walnut Street, said no one knew about a neighborhood meeting concerning the matter, she noted the restaurant patrons are often noisy when arriving and leaving the restaurant. Off street parking is a major problem, as well as trash and littering.

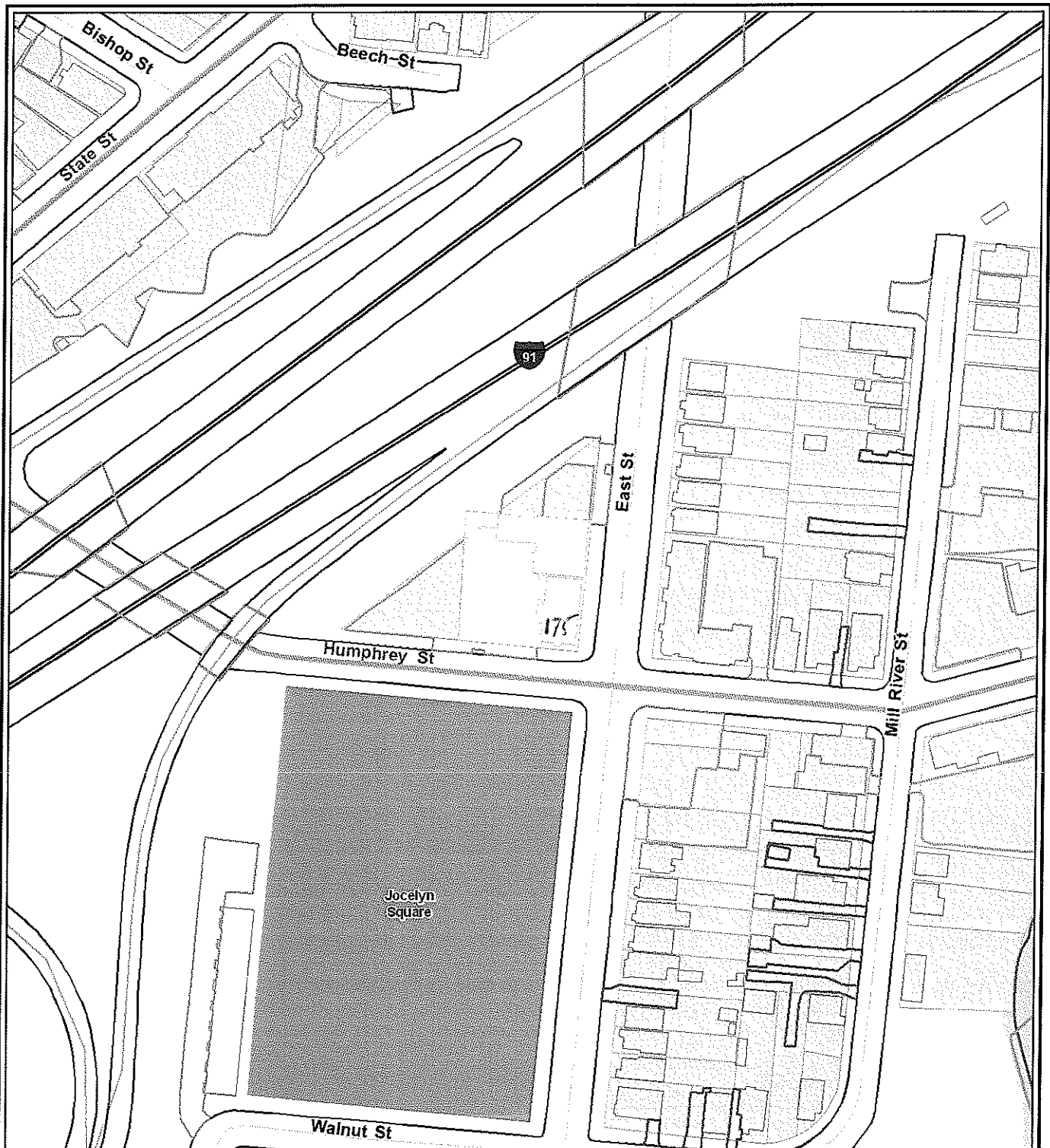
FINDING & ADVICE

Based on evidence provided to the Board demonstrating the reduced impact on the surrounding area of the building addition in comparison to the open patio and upon evidence that there will be no increase in traffic impact the City Plan Commission recommends approval of both Special Exceptions with the following condition:

1. Revised site plan shall be submitted to the City Plan Department.

ADOPTED: December 15, 2010
Edward Mattison
Chair

ATTEST: 
Karyn M. Gilvarg, AIA
Executive Director



City of New Haven, Connecticut
John DeStefano Jr., Mayor



175 Humphrey St

Produced by the
Office of Information Technology
Geographic Data Viewer

Waterway
 — Lake - Pond
 — River
 — Shoreline
 — Stream
 — Wetland
 □ Parcel
 — City Boundary Line
Schools
 — Administration
 □ Food Service
 — Private School
 — Public School
 — Fire Station
Police Station
 — PD Headquarters
 — Substation
 — Health Centers
 — Hospital
 — Library

Railroad
 — Railroad Track
 — Abandoned Railroad Track
 — Airport Runway
 — Parcel Line_2005
Parks
 □ Park
 □ Triangle
 □ Golf Course
 □ Land Trust Preserves
 □ Airport boundary
 — Shoreline

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Scale: 1" = 134 ft

Created: December 17, 2010

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