

PLANNING BOARD
March 15, 2016

PRESENT: Morris Wingard
Rodney Conrad
Marie Bindeman
Robert Langdon
Thomas Grzebinski
Tyler Ray, Appointed Alternate
Richard Forsey, Chairman

ABSENT: Adam Tyson

ALSO PRESENT: Brian Belson, Senior Building Inspector
Drew Reilly, Town Planner
Jane Trombley, Secretary
Michael Norris, Town Attorney

The March 15, 2016 Planning Board meeting was called to order at 7:00 pm by Chairman Forsey, who then led the Pledge of Allegiance.

Chairman Forsey appointed Alternate Ray a full voting member due to the absence of Member Tyson.

CASE #1 6233 Transit Road – SBL#138.00-1-18.1 – NOCO Properties, Owner.
Proposing new convenience store and car wash. Approvals needed are Final Engineering, Special Use Permit, Site Plan, Architectural Review. Niagara County Planning Board approved this project November 16, 2015. Public Hearing was held November 17, 2015 at 7:00 pm. Attorney Shawn Hopkins presenting. Three area variances are required for this project and the Zoning Board granted said variances on November 24, 2015. Mr. Hopkins stated the Board had agreed to limited outdoor storage in the fall and now it appears in a location away from the main road. The two electric car chargers have been moved to a different spot. Mr. Hopkins brought samples of the materials being used for the project with green being for the roof. There is hardy board for the trim and a brick element for the building, similar to what they have on their other sites. Mr. Hopkins stated he checked on the hours of operation for the car wash and it is automated, so it will be open 24 hours.

Final site plan was submitted to Wendel Engineering last week. Mr. Hopkins stated that behind the fueling area there is dense shrubbery that will be cleared, and additional shrubbery could be added for screening. They are hoping for a CCOD waiver for parking closer to Transit Road.

Member Conrad questioned if the trees in the back are 2 ½ caliber that will grow

to 10' and Town Planner Reilly stated yes, but that is not enough to meet the code so there will have to be something to fill in, maybe just a fence. Mr. Hopkins stated it would not be a chain link fence like what is there, but along the eastern portion will be a stockade fence that will also help with the noise.

Member Grzebinski stated the 24/7 car wash appears very close to the homes on the east. Mr. Hopkins stated the edge of the car wash to the property line is about 40'.

Member Wingard asked if the existing fence there is chain link and Senior Building Inspector Belson stated no 3 ½' board on board fence that is on the mobile home property. Town Planner Reilly noted that a portion of the mobile home park is zoned Business, not Residential. Member Grzebinski asked if the northeast side fence will be wooden. Mr. Hopkins stated yes, 6' stockade.

Member Bindeman asked if the bushes in front will be low so the signs are visible. Town Planner Reilly stated yes, so there is full access. Member Grzebinski asked if historically something low was put in to mark the entrance and exit. Senior Building Inspector Belson stated yes.

Town Planner Reilly stated he has reviewed the SEQRA and all items are small or no impact and a mapper summary was also done.

Attorney Norris reviewed the SEQRA part II with the Board and recommended the answers be all small or no impact. Member Wingard asked if #12 on the EAF was required and Attorney Norris stated no.

MOTION made by Member Grzebinski, seconded by Member Wingard to approve the following SEQRA resolution:

SEQR Resolution

Whereas, NOCO Energy Corp through its attorney, Sean Hopkins and DiDonato Engineering & Architectural Professionals have submitted complete applications for a Special Use Permit and Site Plan approval for the construction of new NOCO convenience store, fueling facility, car wash and outdoor display/sales area (NOCO Redevelopment project) at 6227, 6233 and 6241 S. Transit Road, and

Whereas, the Lockport Planning Board, in accordance with the State Environmental Quality Review Act (SEQRA) has determined that the proposed NOCO Redevelopment project, an unlisted action, will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public

and is consistent with social and economic considerations, based on information provided by the applicant, and completion of Parts 1, 2 and 3 of the EAF.

Now, Therefore, Be It Resolved, that the Lockport Planning Board hereby determines that the proposed NOCO Redevelopment project is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued and the Planning Board chairman is authorized to sign the EAF.

7 Ayes, 0 Nays, Carried.

MOTION made by Member Wingard, seconded by Member Conrad to approve the following Architectural and Design Resolution and issue a Certificate of Approval:

NOW THEREFORE BE IT RESOLVED, that based upon the Planning Board review of the proposed project's site plan, the input received from the Planning Consultant and taking into consideration those criteria set forth in Town Code § 53-8, the Board finds:

- 1) That the overall architectural design including architectural colors, styles, signage, and landscaping in relation to architectural design and character of the surrounding area and the buildings contained therein are all compatible with and contribute to the overall areas of the Town of Lockport.

ACCORDINGLY, the Planning Board hereby approves the design as submitted and directs the issuance of a Certificate of Approval by the Chairman.

7 Ayes, 0 Nays, Carried.

It was noted that NOCCO tried to get cross access to the neighboring mobile park, but the park doesn't want it.

MOTION made by Member Grzebinski, seconded by Member Ray to approve the following Special Use Resolution:

Whereas, NOCO Express Properties LLC and NOCO Properties LLC has submitted complete applications for a Special Use Permit (required for gasoline sales, the car wash and outdoor display/sales area) and Site Plan approval for the NOCO redevelopment project located at 6227, 6233 and 6241 S. Transit Road, and

Whereas, based on the Planning Board, the Code Enforcement Officer, and the Town's consultant's review, the Town has determined that the gasoline sales, car wash and

outdoor seasonal display/sales area components of the project meet the requirements of Article XIX of the Lockport Town Code, Special Use permit, and

Whereas the Town Planning Board conducted a public hearing on the Special Use permit on November 17, 2015 and received no adverse comments.

Now, Therefore Be It Resolved, that the Planning Board issues the attached Findings, and issues a Special Use Permit for the operation of gasoline sales, a car wash and outdoor seasonal display/sales area for the NOCO redevelopment project located at 6227, 6233 and 6241 S. Transit Road, with the following condition:

- 1) The existing billboard shall be removed and the existing billboard shall not be replaced or any additional billboard be permitted on said premises.
- 2) The outdoor display/sales area shall only be located where indicated on the submitted site plan.

FINDINGS

Pursuant to Article XIX, Special Use Permits, §200-137, Findings required in the Town of Lockport Zoning Law, the Town of Lockport Planning Board has issued the following findings in regards to the special use permit for the below referenced project.

Date of Approval: 3/15/16

Name of Action: NOCO REDEVELOPMENT PROJECT

Description of Action: The project is the redevelopment of the existing NOCO site at 6233 S. Lockport Road (includes adjoining parcels also) to include a car wash and convenience store and drive thru. The project requires a Special Use Permit for the gasoline pumps, the car wash and the seasonal outdoor display/sales area.

Location: 6227, 6233 and 6241 S. Transit Road, Lockport, NY

Agency Jurisdiction:

The Planning Board has jurisdiction over the special use permit and site plan approvals for the project.

Applicability:

The following represents the findings required for the issuance of a special use permit in accordance with §200-137 of Chapter 200, "Zoning and Land Use Law" of the Town of Lockport. These Findings are based on the information submitted by the applicant (including draft findings), input from the Town staff and consultant, and a thorough review by the Planning Board:

- A. **Will comply with all provisions and requirements of this and other local laws and regulations, and will be in harmony with the purposes of the land use district in which it is located and with the general intent and purposes of this Local Law.**

Findings:

The proposed fueling facility will comply with the provisions and requirements contained in the Zoning Code as well as other applicable local, state and federal regulations and laws including the standards for underground fuel storage tanks and fueling facilities of both the U.S. Environmental Protection Agency and the New York State Department of Environmental Conservation ("NYSDEC"). The fueling facility is a part of the overall redevelopment of the Project Site that includes a convenience store, a car wash and other related site improvements. This parcel is currently being utilized for the sale of fuel by NOCO so the granting of the special use permit will not result in the establishment of a use requiring a special use permit that is different from the existing use of the largest of three parcels comprising the Project Site. The proposed fueling facility will be located within a commercial corridor on Transit Road and will be consistent with the intent of the B-2 zoning district as set forth in Section 200-68 of the Zoning Code, which states, "It is the intent of the General Business (B-2) Use District to provide for the commercial development of the Town of Lockport, and to establish areas encouraging local and regional retail and wholesale sales of services and merchandise, to encourage the general welfare of the Town through vibrant commercial development, while at the same time establishing regulations to enhance the aesthetic appeal of the district and to provide compatibility with other areas of the Town."

- B. **Will not be detrimental to adjacent uses.**

Findings:

The proposed fueling facility will not be detrimental to adjacent use and the fueling facility. The canopy, pumps and car wash will be located along the Transit Road frontage of the Project Site. The property located to the east of the Project Site

consists of a large mobile home community and the layout for the redevelopment project as depicted on the attached full size Concept Plan provides greenspace and landscaping for buffering and screening purposes.

- C. Will not cause undue traffic congestion, unduly impair pedestrian safety, or overload existing roads considering their current width, surfacing, and condition and will have appropriate parking and be accessible to fire, police, and other emergency vehicles.**

Findings:

The proposed fueling facility will not result in undue traffic congestion. The layout of the redevelopment project as depicted on the attached full size Concept Site Plan reflects a deliberate effort to provide adequate space for safe internal traffic circulation including ample space in front of the convenience store and multiple fuel pumps to avoid stacking problems. The project layout will not overload Transit Road, which is a high volume highway subject to the jurisdiction of the New York State Department of Transportation ("NYSDOT"). The redevelopment project will reduce the number of curb cuts onto Transit Road from the four existing to the three depicted on the full size Concept Site Plan and the curb cut locations will not be in conflict with curb cuts on the western side of Transit Road since there are not any curb cuts on the western side of Transit Road opposite the Project Site. The proposed redevelopment project will have twenty more parking spaces than required by the Zoning Code so appropriate parking will be provided. The parking and overall redevelopment project will be accessible to fire, police and other emergency vehicles. The car wash and drive thru component of the project provide the necessary stacking to avoid back-ups onto Transit Road.

- D. Will not overload any public water, drainage, sewer system, or any other municipal facility, or degrade any natural resource or ecosystem.**

Findings:

The proposed fueling facility has gone through the site plan approval process. As part of the site plan review process, the Town's consulting engineering firm has reviewed and

conditionally approved the fully engineered plans for the redevelopment project. The redevelopment project will not overload public water, drainage, the sewer system or any other municipal facility. The redevelopment project will include an integrated stormwater management system complying with the stormwater quantity and quality standards of the NYSDEC and the Town of Lockport.

- E. Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and if appropriate, its ability to be buffered or screened from neighboring properties and public roads, and its existing and proposed use.**

Findings:

The Project Site is suitable for the proposed fueling facility and the car wash in terms of size, location, topography, vegetation, soils, natural habitat and hydrology. There are not any environmentally sensitive features on the Project Site. The location of the Project Site on a commercial section of Transit Road that already includes a fueling facility confirms the site is suitable for a fueling facility. Landscaping will be provided as part of the redevelopment project including the required number of shade trees based on the square footage of the on-site parking spaces.

- F. Will not result in excessive noise, dust, odors, solid waste, or glare, or create any other nuisances, and will satisfy the general land use performance standards of this Law.**

Findings:

The proposed fueling facility will not result in excessive noise, dust, odors, solid waste, glare or create other nuisances. The new fueling facility will have lighting under the canopy which will not result in excessive glare. The Project Site is properly zoned for the proposed use and the redevelopment project will be an improvement compared to the existing conditions on the Project Site.

- G. Will not adversely affect the aesthetics of the premises and adjacent properties and the neighborhoods.**

Findings:

The redevelopment project will improve the aesthetics of the Project Site and a portion of the Project Site currently consists of an outdated fueling facility. The redevelopment project will not have adverse aesthetic impacts on adjacent properties since the aesthetics of the Project Site will be improved as a result of the redevelopment project.

- H. Will not cause the site to be unduly congested, dangerous, unattractive to visitors, or unfriendly to pedestrians.**

Findings:

The fueling facility will not result in the Project Site becoming unduly congested, dangerous, unattractive to visitors, or unfriendly to pedestrians. Instead, the redevelopment project has been designed to accommodate safe internal vehicular access. The redevelopment project will be attractive to NOCO's customers. The redevelopment project will not be unfriendly to pedestrians and NOCO has expressed a willingness to consider a pedestrian connection to the large mobile home community on the property contiguous to the Project Site, but adjoining property owners have not agreed to this as of yet.

7 Ayes, 0 Nays, Carried.

MOTION made by Member Langdon, seconded by Member Conrad to grant the following resolution:

**RESOLUTION & FINDINGS FOR WAIVERS FROM COMMERCIAL CORRIDOR
OVERLAY DISTRICT STANDARDS**

WHEREAS, NOCO Energy Corp. ("Applicant") has submitted a Special Use Permit and Site Plan Application to the Town of Lockport Planning Board in connection with its development of 6227, 6233 & 6231 Transit Road ("Project Site") as a new NOCO convenience store with retail space, a fueling facility, a car wash facility and all other related site improvements as depicted on the plans submitted to the Planning Board ("Project");

WHEREAS, the Project Site consists of approximately 3.74 acres that is zoned General Business – B-2 (“B-2”) pursuant to the Town of Lockport Zoning Map.

WHEREAS, the Project Site is located in the Commercial Corridor Overlay District (“CCO”) since it has frontage on Transit Road;

WHEREAS, Article XV of the Town of Lockport Zoning Code (“Zoning Code”) sets forth “Design Guidelines” and “Site Development Standards” (collectively “CCO Criteria” that apply to projects located in the CCO);

WHEREAS, pursuant to Section 200-93C of the Town of Lockport Zoning Code (“Zoning Code”), the CCO Criteria are not mandatory on the Planning Board and it may grant waivers of the CCO Criteria if evidence of extreme difficulties is presented which prohibits strict conformance to the Site Development Standards.

THE PLANNING BOARD has thoroughly reviewed the plans for the Project and has decided that is appropriate to issue the following waivers of the CCO Criteria based on the existence of extreme difficulties preventing strict compliance with the certain of the CCO Criteria which has been mitigated by placement of the outdoor display/sales area closer to the back and not on the front road frontage and additional landscaping and screening as requested by the Planning Board:

1. **Section 200-94F(1)** - The fueling facility canopy has a front yard setback of 64.03 ft., which is less than the 75 ft. required by Section 200-94F(1) of the Zoning Code. The Zoning Board of Appeals (“ZBA”) granted an area variance to allow the front yard setback of the fueling facility canopy to be 64.03 ft. during its meeting on November 24, 2015.
2. **Section 200-94F(4)** – The primary building consists of the convenience store has a front yard setback of slightly more than 165 ft., which is greater than the requirement in Section 200-94F(4) of the Zoning Code that one primary building on every site shall have a setback of between 75 and 100 ft. It would not be feasible for the convenience store to have a setback between 75 and 100 ft. given that it needs to be located behind the fueling facility canopy.
3. **Section 200-94H(1)** – A six foot fence is not being provided along the southern property line that abuts property in a residential district. The ZBA granted a variance on November 25, 2015 to allow the screening along the relevant portion of the Project Site to consist of landscaping and there is an existing fence located on the northern portion of the contiguous property.
4. **Section 200-94I(1)** – The front yard setback of the parking along Transit Road is 12.5 ft., which is less than the 30 ft. required by Section 200-94I(1) of the Zoning Code. The setback of the parking spaces along the Transit Road Project Site is greater than 25 ft. from the edge of the paved portion of Transit Road.

5. **Section 200-94I(2)** – The side yard setback of the parking from the northern property line is 17.2 ft. and the side yard setback of the parking from the southern property as measured from the abutting property zoned MPH is 14.5 ft. and from the property zoned B-2 is 10 ft. Section 200-94I(2) requires a side yard parking setback of 25 ft. from property not in a residential district and 50 ft. for property in a residential district.
6. **Section 200-94L** – The Project does not include cross access to adjacent properties and cross access is not being provided to adjacent properties given the nature of the use of the Project Site, which involves multiple uses and the need to avoid additional on-site traffic that would interfere with safe internal traffic circulation.
7. **Section 200-94N(2)(b)** – There is not five feet of landscaping provided around the perimeter of the convenience store building. However, extensive landscaping is being provided in accordance with the Landscape Plan including 36 new trees.
8. **Section 200-94Q(2)** – There is not an internal pedestrian walkway being provided between the convenience store building and the car wash building as required by strict compliance with Section 200-94Q(2) of the Zoning Code.

7 Ayes, 0 Nays, Carried.

MOTION made by Member Langdon, seconded by Member Grzebinski to approve the following site plan resolution with conditions:

SITE PLAN REVIEW RESOLUTION

Whereas, the Planning Board and its consultant have reviewed the NOCO Redevelopment project against the Town's Site Plan requirements found in Article XVIII, and found the project in accordance with these requirements, and based on this review have not noted any potential public health and safety issues, and

Whereas, in accordance with the State Environmental Quality Review Act, the Planning Board has issued a Negative Declaration, and

Whereas, the Town of Lockport Zoning Board of Appeals granted three variances: 1) a front yard setback of 105.54 feet for the proposed car wash building where a 75-100 foot setback is required; 2) a front setback of 64.03 feet for the proposed fueling station where a 75-100 foot setback is required; and 3) of the screening requirements contained in Section 200-73(A)(3) whenever a side or rear abuts a Residential District ; and

Whereas, the Planning Board has reviewed the Commercial Corridor Overlay District requirements for the project pursuant to Article XV of the Town Code and find that all

requirements are met except for certain conditions in which the Planning Board has granted said waivers; now therefore it be

Resolved, that the Town of Lockport Planning Board approves the Site Plan, in accordance with Article XVIII of the Code of the Town of Lockport, for the NOCO Redevelopment project at the proposed location with the following conditions:

1. The Final Site Plans (with final Landscaping layout) must be approved by the Town Engineer.
2. The existing billboard shall be removed and the existing billboard shall not be replaced or any additional billboard be permitted on said premises.
3. Six foot wood fence shall be placed along eastern property line of 6233 S. Transit Road (connecting to proposed new fence on the site plan).
4. Low level shrubbery to be placed along front of premises (approximately 3').
5. Three foot planted shrubbery shall be planted at the back of 6233 S. Transit lot and around the drive thru lane (also south and north sides wrap around).

7 Ayes, 0 Nays, Carried.

MOTION made by Member Wingard, seconded by Member Langdon to adjourn. 7 Ayes, 0 Nays, Carried.