



TOWN OF SOUTHPORT

1139 Pennsylvania Avenue • Elmira New York 14904

PLANNING BOARD

Meeting Minutes

Monday, May 6, 2024

7:00 pm

Board Members Present: Jackie French
John Hastings
Chris Parsons
Trish Peterson, Chairwoman
Rick Petzke
Tracy Warner, Vice Chairwoman

Board Member Absent: None

Others Present: Peter Rocchi, Code Enforcement Officer
Michelle Murray, Secretary
Megan Dorritie, Town Attorney
Dan Hurley, Town Council Member
Dan Williams, Town Council Member

Chairwoman Peterson called the meeting to order on or about 7:00 pm. She asked if the Board Members had any comments, questions, concerns, or corrections about the April 1, 2024 meeting minutes. Hearing no comments, Board Member Petzke made a motion to accept the minutes of April 1, 2024 as presented; Vice Chairwoman Warner seconded the motion. All were in favor. The Board accepted the minutes as presented.

Chairwoman Peterson explained the rules for the public hearings. Each person would be limited to three minutes.

Public Hearing - Site Plan of Mike Reese to operate a youth wrestling fitness facility located at 1495 Cedar Street, Elmira, New York, tax map #109.11-2-13, zoned Commercial Regional

Mr. Reese explained he would operate a youth wrestling facility in the existing building and that he has run the wrestling club for several years. There would be 15-20 wrestlers at a time with parents in attendance. The automobile sales are also operating at that location.

It was noted that the publication was in order, then the public hearing was opened for comment at 7:02 pm.

No one wished to be heard, the public portion of the meeting was closed at 7:04 pm and was turned back over to the Planning Board.

Hearing no comments from the Board, Board Member French made a motion to accept the Site Plan as presented; Board Member Parsons seconded the motion. There was no discussion on the motion. The project is classified as a Type II Action under the State Environmental Quality Review Act (SEQRA) thus no further action is required pursuant to SEQRA.

Resolution No. 004-2024 PB

SITE PLAN GRANTED TO MIKE REESE TO OPERATE A YOUTH WRESTLING FITNESS FACILITY IN AN EXISTING BUILDING LOCATED AT 1495 CEDAR STREET, TOWN OF SOUTHPORT, COUNTY OF CHEMUNG, STATE OF NEW YORK, TAX MAP #109.11-2-13 ZONED COMMERCIAL REGIONAL

Resolution by: French
Seconded by: Parsons

WHEREAS, on or about March 20, 2024, Mike Reese submitted an application to the Code Enforcement Officer for Site Plan approval from the Town of Southport Planning Board to operate a youth wrestling fitness facility in an existing building located at 1495 Cedar Street, Town of Southport, tax map #109.11-2-13 zoned Commercial Regional; and

WHEREAS, the application was submitted to the Town Planning Board and defined as a Fitness center/health club per the Town Code Chapter 525 Zoning Use Regulation Table; and

WHEREAS, the Town Planning Board held a duly noticed meeting on April 1, 2024 at which the Applicant presented information about the project; and

WHEREAS, the Town Planning Board conducted a public hearing on May 6, 2024 at 7:00 p.m., and after due posting and publication of the same was made, was in compliance with the Town of Southport Municipal Code; and

WHEREAS, at that public hearing, any and all individuals wishing to be heard were then and there given the opportunity to do so; and

WHEREAS, it was determined that this was a Type II action under SEQRA 6NYCRR617.5.18 reuse of commercial structure for permitted use; and after due deliberation, investigation, and consideration it is

RESOLVED, that the Town Planning Board hereby grants approval for the Site Plan of Mike Reese to operate a youth wrestling fitness facility in an existing building located at 1495 Cedar Street. Failure to make significant progress on

the project within one (1) year from granting approval of this site plan will render the site plan null and void. Conditions shall be completed within one year unless otherwise stated.

AYES: French, Hastings, Parsons, Peterson, Petzke, Warner

ABSENT: None

NOES: None

MOTION CARRIED.

Public Hearing - Site Plan of Sonbyrne Sales Inc. to construct and operate a Convenience Food Mart located at 1151 Broadway, Elmira, New York, tax map #109.10-2-21, zoned Commercial Regional

Christian Brunelle, Senior Executive Vice President with Byrne Dairy, gave an overview of the project. He presented updates to the Site Plan. They have had discussions with Chemung County Department of Public Works (CCDPW). The traffic study is complete and was sent to CCDPW. They will work with Chemung County Stormwater Coalition.

Mr. Brunelle addressed most of the comments from the LaBella Engineer review letter:

Total acreage of disturbance

Lighting chart updated

Sight distance line to Kentucky Fried Chicken (KFC) has been added

Tax map corrected

Note added stating Zoning Board of Appeals approval area variance for lot coverage. They received 16% relief.

Street trees

SEQR modified

Dumpster Enclosure discussed with the Board.

It was noted that the publication was in order, then the public hearing was opened for comment at 7:16 pm.

Andy Patros of 1127 Pennsylvania Avenue stated:

"My wife and I have lived there for nearly 33 years. I'm here this evening to give my public comments for the two public hearings on the agenda, one related to the Byrne Dairy application for a 24/7 operation at the old pizza hut and the other, for the Aces & Eights application for 24/7 operation change at their store.

Over the last 5-7 years, the amount of speeding vehicle traffic and noise has increased dramatically!

Vehicle traffic and noise blasts out of Bulkhead St, at 5am, when Dunkin opens, and like clockwork wakes us daily.

And I am on the record with the town board, over the last 3 years, attending town board meetings and emailing the town board members, about increased speeding vehicle

traffic and vehicle noise: Incidentally, looking through old emails today, I started my complaints with the town board on this issue in September of 2021.

Many years ago, when the Clemens Parkway arterial was opened, my joy was that much traffic would be diverted to the roadway, and it did for a while, but now it's like that change has made no difference.

In the 33 years we've lived at 1127 Pennsylvania, Pizza Hut had been operating for many years, but never as a 24/7 operation.

In listening to the Byrne Dairy applicant speaking at last Monday's Southport Board of Appeals meeting, he mentioned that placing a Byrne Dairy at the present Pizza Hut location, will not change nor affect the neighborhood, since it was a previous commercial.

That is not completely correct, as the Pizza Hut never operated as a 24/7 business.

As town code stands today, it states, "No twenty-four-hour operation use shall be permitted within 250 feet of an existing residential use and/or residential district boundary."

Allowing Bryne Dairy to get it's variance change request to operate as a 24/7 operation, will do a few things:

- 1. Aces and Eights wants equal treatment, and will likely get a variance change to a 24/7 business.*
- 2. Operating as 24/7 businesses, means that vehicles and deliveries will be able to come to both businesses, any and all house of the day.*
- 3. Also, I have to believe that having a 24/7 business near my home will only serve to devalue it.*

I know that Byrne and Aces is seeking a variance/re-interpretation to the town code I stated above and I think it would be not only a mistake but also reneging to residents that live nearby.

Bottom line, more hours, will mean more vehicle traffic and noise.

As it stands today, the quietest time for us is between 10pm and 5am.

And a final question for this board to ponder, would you be ok with a 24/7 operation located within 250 feet of your home?"

Mr. Patros asked that his public comments be entered into the record tonight in their entirety.

Jason French of 778 Spruce Street was present on behalf of the CCDPW at the request of the County Executive. CCDPW is reviewing the traffic submissions. He stated that CCDPW has not received the Stormwater submission yet.

John Knapp of Thompson Street is opposed to the Byrne Dairy project. He stated there is already a Byrne Dairy less than a mile away on Pennsylvania Avenue. He asked if we want two convenience stores on this historical point and is it the visual of the future. He is opposed to 24/7 operation and stated that nothing good happens after midnight.

Liv Lovejoy of 968 Pauline Avenue talked about the entry point into Southport and does not want to see it covered in concrete. She is not against the Byrne Dairy coming in but wants the Board to request further green space and reduce the number of parking spaces.

Mike Stephens of 64 Orchard Park Road asked when the Board received the packet and if they had time to review it. He does not want the Board to make a decision tonight because they do not have all the answers. He was curious about fuel spills and the setbacks from the boundary lines. The traffic study with Aces & Eights had a concern with the 7:00 am to 8:00 am school traffic and by adding another business with high volume what does that study look like. He hopes the CCDPW takes into account those peak hours.

Dave Cleary of 59 Crestview Drive West stated that he was a 25 year resident and a local business owner. He stated that the Town set the precedence when he opened Aces & Eights and asked why hasn't Byrne Dairy been asked to do the same. He feels that the Town's actions have discriminated against him and potentially other businesses who are looking to sell fuel. He has four issues with the traffic study. He had submitted a Freedom of Information Request (FOIL) on April 24 but has not received any information. He stated by allowing the applicant not to follow the precedent that the town set with us, Aces & Eights, is denying the residents opportunity to speak out against 24/7 operation. He was required to put up an eight-foot privacy fence, setback, and they had to redesign their store. He stated that they had written response to all comments at their public hearing as requested by the Planning Board and asks the Planning Board to do the same. He asked if we want two fuel price signs at the gateway into our town. Local businesses contributed money to help beautify the gateway. He used all local companies when they built their store. Construction of the fuel canopy needs to be addressed. He asks that the Board not make a decision on this application and that Byrne Dairy should be made to re-file under the same precedence that he was.

Steve Campanelli of 605 Holecek Avenue, stated that he is proud to say he lives in Southport. He is opposed to the 24/7 operation. He doesn't understand the benefit to Southport and thinks it will divide two stores. Why have two in the same spot.

Michael Sincock of Pine City, has lived here for 30 years. He owns a local business Bouille Electric and is opposed to the project. He agreed with comments about the traffic issues, congestion, and safety. The local business hired all local contractors to build Aces & Eights. He does not think it adds value to the community and would like a different type of business at that location.

Bill Cook of 988 Sebring Avenue stated that he is opposed to the Byrne Dairy coming to town. He is unhappy with the situation at Aces & Eights because of the noises. He expressed a lot of concerns about what was going to happen at

Aces and it has all come true over the past three years. The concerns they raised in 2019 were noise, light, traffic, hours of operation, fence, and turning lanes. He asked what Byrnes proposals are. He asks what are the plans for a 24/7 delivery operation. The 24/7 operations do not meet the 250 feet setback requirements next to residential housing. He stated that there should be no noise in the town after 11:00 pm until 8:00 am and no deliveries of any kind. They need to address noise, lighting, and traffic. Table the project for more specifics.

Kathy Oplinger of 986 Sebring Avenue stated she is annoyed that they are going through this again. The business is not local. Aces have kept it neat and clean. The Town never responded to her concerns about the lighting at Aces & Eights. She is opposed to the 24/7 hours of operation. She stated that the traffic, lighting and competing with something we already have is ridiculous and she is not happy.

Doris Farmer of 976 Sebring Avenue stated she has lived there her entire life. She is opposed to Byrne Dairy coming in since we already have Aces & Eights. She understands competition but has a quaint neighborhood. She thinks it will destroy the way of life. She is concerned about the traffic, the 24/7 hours and noise after 11:00 pm. She agrees with Mr. Cook about the lighting, traffic, and noise.

Gary Allington of 972 Sebring Avenue stated his issues are the tractor trailers. It is not only at Aces & Eights but it is also at the Dollar Store. Trucks drive through people's yards and the backup beeping noise.

Phil Rafferty of 14 Dalrymple Avenue stated he has lived in the town 70+ years. He is opposed to 24/7 operation in the Town because of the noise and lights all times of the night.

Sue Johnston of 904 Sebring Avenue stated she agrees with what everything that has been said. She is opposed to 24/7 operation and asked the Board to please not allow it.

Mike McLaughlin of 22 Woodland Park stated that he was born and raised in this area and is 57 years old. He remembers what it used to be. Byrne already has a facility 1.3 miles away. The Cleary family went through great strides to build what they have and what they do for the community. He stated that fuel tanks at Aces are a risk of fuel spill which could dump into Seeley Creek which leads all the way down into Maryland. Now add another facility with tanks. He stated that no sensible traffic study shows the impact on the quality of life. He is against the Byrne Dairy project. He suggested that the presentation face the public in attendance.

No one online wished to be heard.

Jamie Gensel of 1246 Pennsylvania Avenue stated his issue is the Board being consistent during the interpretation. He stated that the Planning Board already had a project that they reviewed not too long ago and reviewed it one way and now they are reviewing a new application a different way. The applicant has submitted half of what is required. A FOIL request asking for full documentation such as a grading plan, utility plan, stormwater plan, a CCDPW letter to review. He spoke to CCDPW about connecting stormwater and the major concerns for CCDPW. He stated that the SEQR is an uncoordinated review, Aces was a coordinated review. NYSDOT has not been included, but was for Aces. Has the Elmira Water Board or Sewer District been notified? Where is all of stormwater going? The application is treated as just a convenience store, where Aces was convenience store, gas station, and a restaurant. Special Use Permit is required for a restaurant. He stated that the Board has one more use to look at. Mr. Gensel stated “Don’t create problems for yourselves by not being consistent in your review.” He stated that 24/7 hours was a big concern for Aces and you do not want to change the character of our neighborhood. He talked about the appearance to building with elevation plans and that Byrne is a pole barn with metal roof. He stated If you are going to hold Clearys to a standard you need a complete application.

Mr. Gensel asked that his comments be entered into the record.

The Board will accept written comments until May 24, 2024 at 4:00 pm.

No one else wished to be heard, the public meeting will be continued on June 3, 2024. It was turned over to the Planning Board at 7:53 pm.

Wes Pettee with LaBella spoke about their Site Plan Review for the Town Planning Board for the Byrne Dairy project. This proposed use is a permitted use within the zone they are located. They are not subject to a Special Use Permit under the use of a Convenience Food Mart.

LaBella reviewed the material that was submitted to their office against the Town of Southport Zoning Law. The comments made are reflective of what is in our zoning law and what is required pursuant to SEQR. The Board has a copy of the letter. Additional information was requested from the applicant.

Mr. Pettee explained that the application is incomplete at this time. Applicant needs to modify the SEQR form. The SHPO letter update has been submitted. Still needed are:

1. Plan sheets: existing conditions and demolition plan, stormwater, and sediment erosion control plan, grading plan, utility plan and a landscaping plan.
2. The lighting plan refinement to address lighting in part of the parking lot.
3. The signs are code compliant. It is a focal point so possibly a different type of sign with landscaping.

4. The fuel pump detail – will there be audio or video messages and what they would look like.
5. Roof drainage on building and canopy.
6. Stormwater connection in CCDPW right-of-way approval.
7. Truck frequency onto site and loading berth. Size of trucks.
8. Dumpster enclosure use a different type of material that would complement the architecture.

Accessory structure 525-87b3a Accessory structure requirements.

3.No accessory structures shall be located between the principal building line and the street, unless said accessory structure is located more than 200 feet from the public right-of-way or meets the following exceptions:

(a) Certain accessory structures located on a lot in accordance with an approved site plan, such as a detached garage or carport as part of a building group

9. Architecture elevations to consider for review for all sides of the building.
10. Traffic impact assessment. Revised numbers, conclude same thing it does not appear to be a significant adverse effect regarding traffic.

Mr. Pettee also suggests to leave the public hearing open for more submissions from the applicant.

Mr. Brunelle explained that the building elevation was in the submission he handed the Board and that they addressed most of LaBella's comments in that package. The detail plans will be submitted by the deadline. They have stormwater plans submitted to the Stormwater Coalition. The dumpster enclosure will be masonry block with wooden gates. They will install permeable landscape pavers to connect to the paved area.

Mr. Patros asked to speak; Attorney Dorritie explained that the hearing was turned over to the Board for discussion. She explained to the Board that the Open Meeting law has not been violated, the materials have to be available, but they do not have to be online. She also explained that a FOIL request needs to be responded to within the timeframe FOIL has and only to the extent that we have the information. The reason documents were not handed over was because the Town does not have it.

Chairwoman Peterson made a motion to keep the public hearing open for written comment until May 24, 2024 at 4:00 pm.; Vice Chairwoman Warner seconded the motion. No discussion on the motion.

AYES: French, Hastings, Parsons, Peterson, Petzke, Warner

ABSENT: None

NOES: None

MOTION CARRIED.

Public Hearing - Site Plan Amendment of Aces & Eights, David Cleary, to designate existing store as a Convenience Food Mart located

at 1156 Broadway, Elmira, New York, tax map #109.10-1-25,
zoned Commercial Regional.

David Cleary stated that he wanted his public hearing tabled until a determination is made on Byrne Dairy.

Attorney Dorritie asked Mr. Cleary what it was about the Byrne Dairy application that should determine Aces & Eights application and asked if he wanted his application to go forward. Mr. Cleary stated he wanted his public hearing tabled until a decision was made on the Byrne Dairy application. The Attorney advised that the Board may table it at the applicant's request. The Planning Board should review them as two different applications. They should not be contemplating the other one.

Board Member Parsons suggested opening the public hearing for comment and keep it open for additional comments until next month. Mr. Cleary agreed.

It was noted that the publication was in order, then the public hearing was opened for comment.

Mr. Cleary explained that if Byrne Dairy is allowed to be open 24/7 then he would like his store to be open 24/7.

William Cook of 988 Sebring Avenue stated he has lived in his home for 75 years. He was present on May 6, 2019 and was in favor of the Aces & Eights project with the stipulation that they follow all the rules and regulations in the town at that time. Today they are not compliant with 8-9 items. The noise is an issue. Town Code says 55 decibels from 10:00 pm to 8:00 am. Aces has deliveries at 2:00 am, 3:00 am, and 5:00 am and are beyond the town's decibel limits. Some are 80-90 decibels. He has contacted Mr. Cleary about the issues but it never gets taken care of. The lighting is non-compliant. Jamie Gensel stood in front of the Board and said they would be night sky compliant. They have a pole light that is not dark sky compliant. The width of the driveway. Another rule that no trucks or engines could idle for more than 5 minutes on delivery. That is non-compliant every day. He is asking that the 24/7 hours of operation is out of the question for both locations. The Board approved Cleary's in 2019 and they are non-compliant now and nobody does anything about it.

Melissa Molter of 983 Sebring Avenue stated that her property is next door to Aces & Eights surrounded by the fence. She explained that the light on the Aces property lights up her entire house. She would like something done about that. The noise is excessive. There was a gas delivery at 1:15 am. The radios from the cars pumping gas and through the drive-thru lane is a nuisance. She has not been in her back yard in two years and has not opened her pool. She is opposed to 24/7 operation and wants seven hours of peace and quiet.

Mike Reese stated that the public needed to address the Board and not the applicant.

No one else wished to be heard, the public meeting will be continued on June 3, 2024. It was turned over to the Planning Board at 8:36 pm.

Chairwoman Peterson made a motion to keep the public hearing open for written comment until May 24, 2024 at 4:00 pm.; Vice Chairwoman Warner seconded the motion. No discussion on the motion.

AYES: French, Hastings, Parsons, Peterson, Petzke, Warner

ABSENT: None

NOES: None

MOTION CARRIED.

Next on the agenda was to continue the review of the Site Plan of Arbor Housing and Development to develop 60 units of senior apartments located at 1205 Plymouth Avenue, Elmira, New York, tax map #109.08-2-51, zoned Commercial Regional.

Jamie Gensel with Fagan Engineers presented a revised Site Plan to the Board. The building would be a two-story building instead of a three-story building because of the burden on the Southport Volunteer Fire Department (SVFD). A variance would not be required for the height of the building now.

Mr. Gensel stated that an actual preliminary submission will be submitted by May 15, 2024. It may not be a full preliminary plan.

The Board discussed lot coverage, drainage, stormwater, utility plan, traffic, sidewalks. The project will remain on the agenda for next month.

Next on the agenda was to review the Site Plan of Carrie Young to construct an addition to existing boarding kennel located at 819 Pennsylvania Avenue, Elmira, New York, tax map #99.19-2-69, zoned Commercial Regional.

Ms. Young explained they will remove a portion of the kennel and construct a new addition indoor/outdoor space with drainage and chain link fence. She would like to do the project in stages.

The Board discussed the sewer connection for the drainage. The height and location of a fence shall be approved in a site plan. The Board explained that the application should have the entire project presented in detail. If significant and substantial progress is made then the project can move forward without amending the site plan. All documents should be submitted by May 15, 2024 to be on the June 3, 2024 agenda.

Attorney Dorritie explained that the project should be drawn to scale and very detailed with measurements. A more formal proposal should be submitted.

Next on the agenda was Site Plan of Bryan Gilbert to operate an office in an existing building located at 1141 Broadway, Elmira, New York, tax map 109.10-2-24, zoned Commercial Regional.

Dan Williams, owner of 1141 Broadway Plaza, presented the application on behalf of Bryan Gilbert. He explained that it is a change in tenant. There will be no changes to parking or hours of operation. Signs will be installed per Town Code.

The project is classified as a Type II Action under the State Environmental Quality Review Act (SEQRA) 6NYCRR617.5C1.

There were no other comments from the Board. Chairwoman Peterson set a public hearing for Monday, June 3, 2024 at 7:00 p.m. or as soon thereafter as it can be heard.

Board Member French made a motion to go into executive session to discuss personnel matters; Board Member Petzke seconded the motion. No discussion on the motion.

AYES: French, Hastings, Parsons, Peterson, Petzke, Warner
ABSENT: None
NOES: None
MOTION CARRIED.

The Board went into executive session at 9:07 pm.
The Board returned from executive session at 9:25 pm.

Board Member Parsons made a motion to recommend to the Town Board to appoint Penny Page as a Planning Board Member filing the unexpired term of Jen McGonigal whose term was to expire April 1, 2027 and to appoint Liv Lovejoy as the Alternate Planning Board Member to serve a three-year term to expire May 2027; Chairwoman Peterson seconded the motion. No discussion on the motion.

AYES: French, Hastings, Parsons, Peterson, Petzke, Warner
ABSENT: None
NOES: None
MOTION CARRIED.

No other business to come before the Board. Chairwoman Peterson made a motion to adjourn the meeting; Board Member Petzke seconded the motion. All were in favor. The meeting was adjourned at 9:26 pm.

Respectfully submitted,

Michelle Murray
Planning Board Secretary
Original on file with Town Clerk

cc: Planning Board
Town Board
Town Clerk
Town Attorney

May 6, 2024

Ms. Trish Peterson, Chair
Planning Board
Town of Southport
1139 Pennsylvania Avenue
Elmira, NY 14904

RE: Proposed Convenience Store & Vehicle Filling Station
Concept Site Plan Review
FE Project #2024-013

Dear Chair Peterson:

It is my understanding that the Planning Board has not received a review of the Site Plan for the proposed Byrne Dairy Convenience Store, Filling Station and Restaurant. I have downloaded the following documents from the County Planning Board Site:

- Southport Information Packet dated 2/12/2024,
- PB Application dated 2/20/2024,
- Short EAF dated 2/18/2024, and
- Site Preliminary Site Plan dated 3/28/2024.

I understand that this was not deemed a complete Preliminary Site Plan submission at the last meeting and may be revised, however many of the comments will be relevant to subsequent submissions. I offer the following comments:

PB Application

- Application is not signed by the Property Owner.
- Additional Involved Agencies Include:
 - NYSDOT
 - Chemung County Sewer District
 - Elmira Water Board (RPZ Permit)

Town of Southport Zoning Ordinance

§525 – Attachment 1

The Convenience Food Mart is a *commercial retail use that combines two principal uses on a single parcel: the sale of motor vehicle fuel (§ 525-110) and accessory substances, as well as the sale of groceries*. Both uses require Site Plan Approval in accordance with the requirements associated with each individual use. It is my understanding that the typical new Byrne Dairy sites also incorporate a Fast Food Restaurant as well, therefore a Special Use Permit is necessary. It should be noted that the Aces & Eights Convenience Store was required to meet the standards for Vehicle Filling Station, Restaurant and Drive-Through Use. It should also be noted that the definition of Convenience Food Mart does not include Restaurant. A separate Special Use Permit is required for a restaurant in a CN or CR zone.

As the Applicant has mentioned at the March 20th ZBA meeting, the Town PB and ZBA has set precedent with the Aces & Eights approval. This included meeting the Motor Vehicle Filling Station requirements (§ 525-110) for a Convenience Food Mart. I agree with the Applicant that precedent should be a guide in the approval process.

§525 – Attachment 2

This site is zoned Commercial Regional (CR) which requires the following:

- Minimum Lot Area: 10,000 SF (or the larger of what may be defined elsewhere, which is 1 acre according to § 525-110-A-1-a)
- Building Setbacks: Per Site Plan Review
- Lot Coverage Rate: 70%

The proposed green space for the site is currently 14%, which is less than half of the 30% requirement. The required green space for the project on a conforming 1-acre lot is equal to 13,000 square feet. The project is proposing only 5,000 square feet or 11.5% compared to the required 30%. This significant deviation is currently under review as an Area Variance from the Zoning Board of Appeals.

§525-54 Concept Plan Contents

The following is a list of the missing requirements under this Section:

- An Area Map depicting all of the following within 1,000 feet:
 - Existing and proposed lots and their ownership;
 - Existing and proposed uses;
 - Existing and proposed zoning districts;
 - Existing and proposed roads;
 - Existing and proposed subdivisions;
 - Existing and proposed easements;
 - Existing and proposed structures;
 - All existing major natural features, such as water bodies, watercourses, wetlands, wooded areas, special flood hazard areas (Zone B) and individual large trees;
 - District boundaries, including zoning, fire, school, sewer and water; and
 - All soil classifications.

§525-57 Preliminary Site Plan

The following is a list of the missing requirements:

- Location of all existing or proposed stormwater management system. A collection system is depicted that has a direct discharge to the County storm sewer. It should be noted that during the development of the Weis gas station project, the County DPW would not allow direct connections to County storm sewers. It is recommended that an approval letter for this storm sewer system is provided before final site plan approval.
- Preliminary design of sewage disposal and water supply systems and location of such systems including connection points.
- Location of any proposed buffer, barrier and landscaping (§525-80 and 111).
- Grading plan and erosion control plan, including the description and location of control measures.

§525-57-A-5 Stormwater

A stormwater management analysis and plan consistent with the requirements of Erosion and Sediment Control, Chapter 452 of this Code, including all design data and computations used as a basis for the design capacities and the performance of the stormwater management system and the erosion control plan. The design shall be informed by the NYSDEC classification of the fuel dispensing use is defined as a "Hot Spot". The County DPW has consistently prohibited stormwater runoff from gas stations from entering its system (see the Aces & Eights as well as Weis projects). It should also be noted that a SPDES permit and

associated SWPPP are necessary for projects that disturb one acre or more. Depending on the final design, there may be some off-site improvements that approach the 1-acre limit. During the County PB review, it was noted that there may be some road improvements required that could trigger the threshold. The PB should coordinate with the County Stormwater Coalition Engineer since Town tax dollars pay for that service currently.

§525-57-A-6 Additional Studies

The Planning Board may require additional information that appears necessary for a complete assessment of the development under this chapter and the State Environmental Quality Review Act (SEQRA). As required by the Planning Board for the Aces & Eights project, I recommend a similar traffic review with the following minimum scope:

- Truck Delivery Ingress/Egress Study from all directions into the site. This is critical since the fuel storage tanks are located in a difficult to reach spot. Currently, the Applicant is proposing only deliveries from Broadway travelling south past the school. It appears the Applicant does not intend any deliveries from Clemens Center Parkway.
- Intersection Analysis of CR 69/79 for AM/PM Weekday Peak Hours. Did the Applicant review the impacts during the afternoon peak hour that coincides with the school bus traffic (2:30-3:30pm).
- Stop/Sight Distance Evaluation. The sight distance evaluation only examined one direction from one drive. The stop/sight distance of the vehicles exiting leftbound the existing KFC/Taco Bell southern driveway should be reviewed with the new obstructions from the loading zone and dumpster enclosure. The Applicant's Traffic Engineer states that a minimum sight distance of 445 feet is required. The loading zone appears to be a visual obstruction.
- Was the traffic information provided to NYSDOT similar as required for the Aces & Eights project?

§525-57-B Preliminary Site Plan Review

The Planning Board needs to review the adequacy of the items listed under this Section, including, but not limited to: vehicular/delivery truck access, circulation and stormwater management. It does not appear that there are sufficient loading berths for the fuel storage and convenience store deliveries.

§525-58-A-2 Final Site Plan Review

All necessary permits from a governmental authority relating to the development pursuant to the site plan or a written assurance from such governmental authority that it is willing to issue such permit upon the performance by the developer of an action that is or will be required of the developer.

§525-65 Professional Assistance

The Planning Board has the authority to request the Applicant to deposit a sufficient amount to pay the reasonable and necessary fees to hire an engineering consultant to review the traffic and stormwater studies.

§525-80 Landscaping

For all off-road parking areas greater than 15 parking spaces, a minimum of 10% of the area devoted to off-road parking shall be landscaped islands or other landscaping areas with lawn, trees, shrubs or other plant materials. These landscaped islands or other landscaping areas shall be constructed at or below grade to allow for the inflow of surface runoff from the parking areas. To the extent practicable, green infrastructure practices, such as bioretention areas, landscaped islands and rain gardens, should be incorporated into the landscaping requirements.

§525-83 to 86 Required (Loading) Berths

The proposed uses require one (1) dedicated loading berth with a dimension of 55' long by 12' wide. Loading berths are to be located in such a way that vehicles occupying berths do not interfere with the movement of people and vehicles on public ways and within on-site parking areas. Areas around loading berths shall be provided with buffer as required in §525-111. The current "loading zone" does not provide the required buffer.

§525-87 Accessory Structures

The dumpster enclosure accessory structure is located within a couple feet of the front property line on Broadway. This will obstruct the line of sight for the adjacent KFC/Taco Bell driveway that is very congested as it is. No accessory structures shall be located between the principal building line and the street. Please note that §525-87-B-3 demonstrates that even a fence enclosure is considered an accessory structure.

§525-92 General Sign Requirements

- The proposed Sign #1 may be located within the Clear Vision Zone ([§525-99](#)) for the intersection of Broadway/Pennsylvania Ave. This sign shall be 35 feet from the centerline of the right-of-way. This is what prohibited a similar sign for the Aces & Eights project. No sign shall be located at or near an intersection in violation of [§525-99](#), clear vision zone requirements, or in any manner which may cause a traffic hazard at the intersection. Will this sign create a visual barrier to the vehicles heading southbound on Pennsylvania Avenue that are making a right turn?
- No sign shall be placed on a roof or on a cupola or similar roof-mounted structure or on top of a parapet or similar architectural element of a building. Sign #2 is prohibited according to [§525-92-A-3](#). The former Pizza Hut sign required variances.
- Sign #1 needs to provide a minimum of 10' of clearance above finished grade in accordance with [§525-92-B-1](#). Sign #1 needs to provide a minimum of 10' of clearance above finished grade in accordance with [§525-92-B-1](#).

§525-99 Clear Vision Zones

The current layout needs to be revised to comply with this Section as mentioned before, including relocating Sign #1 and the dumpster enclosure. In any nonresidential use, the minimum clear vision distance shall be 35 feet from the center line of the road.

§525-101 Stormwater Management and Erosion Control

The current Concept Plan does not provide details at this time. The design shall comply with Chapter [452](#) of the Code of the Town of Southport.

§525-110 Vehicle Filling Stations

The Applicant has not incorporated the requirements under this Section, including:

- Minimum lot size for a vehicle filling station shall be the greater of either one acre or otherwise prescribed.
- The minimum lot width shall be the greater of 200 feet or the minimum lot width prescribed elsewhere.
- Fuel-dispensing devices shall be located at least 25 feet from any front lot line and 50 feet from any side or rear lot line. This distance shall be measured from the outermost edge of the fuel island structure.
- No vehicle shall be parked, stored or left standing within 15 feet of a road right-of-way. This would prohibit the seven (7) parking spaces along Pennsylvania Ave, the air station, the garbage truck drive to the dumpster area and the fuel storage area. This was a key element in the review of the Aces & Eights project since this is considered the gateway to the Town.
- All outdoor lighting shall conform with §525-125.
- No twenty-four-hour operation use shall be permitted within 250 feet of an existing residential use and/or residential district boundary. There are at least two residences located within 250 feet of the project. The Town PB has set the maximum business hours for the Aces & Eights site from 5am to 11pm, which should be used as a precedent.

§525-110 Buffers and Landscaping

The loading berth needs to be landscaped/buffered in accordance with this Section. Currently there are no provisions provided.

Short EAF and Town PB Application

It should be noted that the Town Planning Board required the Full Environmental Assessment Form for the 2019 Aces & Eights project. I recommend that the Applicant do the same when they submit the Preliminary Application for consistency. Also for consistency, the Town PB classified the Aces & Eights project as an Unlisted Action and performed a Coordinated Review.

- EAF-8a and 8b should be checked yes.
- EAF-12b has been checked yes. A letter of No Impact from NYS Office of Parks, Recreation and Historic Preservation.
- EAF-17 states that the stormwater will be directed to the County DPW system. Please provide correspondence indicating approval of that approach.
- EAF-20 should be checked yes. As per the Phase I/II investigations for the adjacent properties, there was a former service station in the vicinity but the exact location was not found on either of those properties. The Applicant should identify their findings for the subject property.
- The Owner of the land needs to be added to the application. Also, permission to present the project to the Planning Board from the Owner is necessary. A copy of the purchase agreement is sufficient.
- Project would need a Use Variance to allow for 24/7 operating hours due to the proximity of existing residential uses.
- The application states that street trees will be utilized. Provide landscaping plan.
- The application requires multiple Area Variance and a potential Use Variance to allow use outside of the typical allowable operating hours. That should be indicated in "Other Permits Needed". The EWB and CCSD permits are also required. NYSDOT should also be notified as required in the Aces & Eights submission.

- The Application needs to be signed by the Property Owner before the Application can be considered complete.

Zoning Board of Appeals

The Applicant only addresses one area variance for lot coverage. The following current Site Plan elements would require an Area Variance unless compliance changes are made:

- §525-110-A-1-a: Lot Size Reduction from 1 acre to 0.77 acres.
- §525 Attachment 1: Lot Coverage Rate from 70% to 86%.
- §525-80-A: Landscaping in Parking Areas 10% to 0%.
- §525-83 through 86: Loading Berth 12'x55' is not provided with proper screening.
- §525-87-B-3: Accessory Structure in Front Yard / Clear Vision Zone.
- §525-92-B-1: Sign #1 Minimum 10' of Clearance Above Finished grade (45" provided)
- §525-92-A-3: Sign #2 No Roof Mounted Structure (or cupola or similar architectural element).
- §525-110-A-1-e: Minimum Lot Width 200 feet versus 196 feet (minimal).
- §525-110-A-1-f: Minimum 25' Setback for Fuel Canopy from Broadway to 20'.
- §525-110-A-1-f: Minimum 25' Setback for Fuel Canopy from Pennsylvania Avenue to 20'
- §525-110-B-3-a: Minimum 15' Setback for Parking, Storage or Standing which impacts the Parking Area, Garbage Truck Drive and Air Station parking.

Also, if 24-hour operation is requested (§525-110-B-3-c-8), a Use Variance would be required since the site is within 250 feet of at least two existing residences on Pennsylvania Avenue. I would be happy to answer any questions that you may have. Thank you for your time and consideration.

Sincerely,



James B. Gensel, P.E.
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