



TOWN OF YORKTOWN
363 Underhill Avenue, P.O. Box 703
Yorktown Heights, NY 10598

This is a resolution adopted by the Town Board of the Town of Yorktown at its regular meeting held on Tuesday, October 20, 2020.

Whereas, NY Fuel Distributors, LLC. (“NY Fuel” or the “Applicant”) filed an application to the Town Board of the Town of Yorktown proposing to redevelop the instant parcel known as the Getty Gasoline Filling Station #6712 (“Getty Station”), which is located on certain real property, located south of Route 6 at 3700 Barger Street and owned by Power Test Realty Company, Jericho, New York, also known on the Town Tax Map as Section 16.07, Block 1, and Lot 43 (the “Property”), which is situated within a C-4 zoning district; and

Whereas, NY Fuel, in order to facilitate the re-development of the existing Getty Station submitted an application to the Town Board of the Town of Yorktown for a Special Use Permit for a Gasoline Filling Station pursuant to Town Code Section §300-46, dated August 23, 2019; and

Whereas, on January 3, 2017, the Town Board adopted a resolution approving the application of Global Mintello Group Corp. (“GLOBAL”) for a project on the instant parcel which proposed three new gas pumps, a new canopy, and a renovation of the existing building on the site, and

Whereas, in support of the GLOBAL project the existing gasoline storage tanks were removed and replaced, and in accordance with all applicable code and regulations extant at the time; and

Whereas, excepting the storage tank replacement, the GLOBAL project was not executed and subsequently abandoned; and

Whereas, NY Fuel proposes a complete redevelopment of the site which consists of demolition and removal of the existing Getty Station building and pumps, four (4) new fuel pumps, with a total of eight (8) fueling stations, all covered by a new 2,310 square foot canopy providing cover for customers and a state-of-the-art fire suppression system, on the westerly portion of the property, and a new building housing a convenience store, all of which would be operated by an agent or lessee of NY Fuel; and

Whereas, a gasoline filling station is a main use permitted by special permit in the C-4 zoning district; and

Whereas, in accordance with the New York State Environmental Quality Review Act (“SEQRA”), a Short Environmental Assessment Form prepared by the applicant, on August 23, 2019, was submitted together with site plan documents as follows:

1. A drawing, sheet EX-1 entitled “Existing Conditions,” prepared by Insite Engineering, dated October 8, 2019 and last revised September 3, 2020; and

2. A drawing, sheet SP-1 entitled "Layout and Landscape Plan," prepared by Insite Engineering, dated October 8, 2019 and last revised September 3, 2020; and
3. A drawing, sheet SP-2 entitled "Grading and Utilities Plan," prepared by Insite Engineering, dated October 8, 2019 and last revised September 3, 2020; and
4. A drawing, sheet SP-3 entitled "Erosion Control Plan," prepared by Insite Engineering, dated October 8, 2019 and last revised September 3, 2020; and
5. A drawing, sheet LP-1 entitled "Lighting Plan," prepared by Insite Engineering, dated October 8, 2019 and last revised September 3, 2020; and
6. A drawing, sheet D-1 entitled "Details," prepared by Insite Engineering, dated October 8, 2019 and last revised September 3, 2020; and
7. A drawing, sheet D-2 entitled "Details," prepared by Insite Engineering, dated October 8, 2019 and last revised September 3, 2020; and
8. A drawing, sheet D-3 entitled "Details," prepared by Insite Engineering, dated October 8, 2019 and last revised September 3, 2020; and
9. A Document, entitled "Stormwater Pollution Prevention Plan for NY Fuel Distributors," prepared by Insite Engineering, dated September 3, 2020; and
10. A Document, entitled "Technical Memorandum Report," prepared by Provident Design Engineering, dated September 3, 2020 and last revised September 2, 2020; and

Whereas, on November 4, 2019 and December 16, 2019, the Yorktown Planning Board reviewed the application and issued a memorandum, which set forth various recommendations regarding the proposed Gas Station, including providing landscaping in the existing perimeter islands, and that a Wetland Permit will be required for the construction, among others; and

Whereas, the Town Board has concluded that the EAF and supplemental materials submitted in connection with the Action "has identified, analyzed, and shown mitigation for all possible significant impacts," and

Whereas, the notice and hearing requirements for this Application as provided for in the Code of the Town of Yorktown and New York State law have been satisfied; and

Whereas, the Application was presented to the Town Board at a duly noticed Public Hearing held on said application commencing on December 17, 2019 at the Town Hall, 363 Underhill Avenue in Yorktown Heights, New York and continuing and closing on October 6, 2020 at which the meeting was conducted via video conference; and

Whereas, following the close of the Public Hearing on October 6, 2020, and upon review of the EAF and accompanying empirical studies, expert reports, plans and other related materials submitted by Petitioners, as well as all comments, memoranda and correspondence from its professional consultants and staff, the Planning Board, the public and neighbors residing in the vicinity of the Site, and in accordance with SEQRA, the Town Board as Lead Agency adopted a Negative Declaration dated October 20, 2020; and

Whereas, the Town Board has fully considered the Application, including the general "standards applicable to all special uses," set forth in Section §300-36 of the Town Zoning Code, and adopts the following findings of fact:

1. The location and size of the proposed Gas Station, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it is in harmony

with the appropriate and orderly development of the C-4 zoning district in which it is located; and

2. The location, nature and height of buildings and other associated structures and the extent of the landscaping on the site is such that the proposed Gas Station will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof; and
3. The operations in connection with the proposed Gas Station will not be more objectionable to nearby properties by reason of noise, vibration, excessive light, smoke, gas, fumes, odor or other atmospheric pollutants than would be the operations of any permitted uses; and
4. The associated parking areas are of adequate size for the proposed Gas Station, and are properly located and suitably screened from adjoining residential uses, and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances; and

Whereas, the Town Board has also considered the specific special use permit standards applicable to “gasoline filling stations,” set forth in Section §300-46 of the Town Zoning Code, and adopts the following additional findings of fact:

1. The use of the proposed Gas Station is limited to the retail sale of motor fuels and related merchandise and merchandise normally sold from within the convenience store. No sales or rental of new or used motor vehicles is proposed or permitted. No automobile repair or maintenance is proposed or permitted. No other retail sales are proposed or permitted on Lot 43 in connection with the proposed Gas Station; and
2. The proposed Gas Station is located at least 300 feet from any building or place of public assembly; and
3. Approval of the proposed Gas Station would not result in more than two (2) gasoline filling stations within 1,000 feet (the southeast corner of the existing Shell gas station property is ±50 feet from the Proposed BP Gas Station and no other gas station is within 1,000 feet); and
4. Lot 43 upon which the proposed Gas Station will be located exceeds the minimum lot size of 20,000 square feet; and
5. The lot frontage and depth of Lot 43 exceeds the required minimum 100 feet; and
6. The proposed Gas Station complies with the maximum driveway requirement; and
7. The maximum coverage of all buildings and structures, including the canopy, complies with the underlying C-4 zoning district; and
8. All buildings and structures are set back at least 30 feet from the street right-of-way, 10 feet from each sideline. The building is setback 20 feet from the rear lot lines where 30 feet is required therefore requires a waiver from the Town Board in accordance with Section §300-46(Q) of the Zoning Code. The roof edge of the proposed canopy is set back at least 13 feet from the street right-of-way where 20 feet is required, 20 feet from the rear lot lines and 10 feet from each side line, and therefore requires a waiver from the Town Board in accordance with Section §300-46(Q) of the Zoning Code; and

9. The front yard setbacks are required to be landscaped to a depth of 5 feet; the proposed islands do not comply with this requirement; and
10. Two fuel pumps are set back 23 feet from the street right-of-way, where 25 feet is required, and at least 15 feet from any buildings, and the two sets of pumps are 21 feet apart, where 25 feet is required, and therefore both require a waiver from the Town Board in accordance with Section §300-46(Q) of the Zoning Code; and
11. No more than two (2) fuel pumps per 3,000 square feet of lot area are proposed. The underground storage tanks fully comply with all applicable laws, codes and regulations; and
12. The height of the canopy is undetermined and not shown on the plans. The maximum height allowed is 18 feet and can be no greater than 3 feet from its underside to its highest point and must provide a minimum of 15 feet of clearance; and
13. The proposed Gas Station provides sufficient parking; and

Whereas, the Town Board has determined that the proposed Gas Station does not strictly comply with the following specific special permit criteria, for which variances and/or waivers from the Town Board pursuant to Section §300-46[Q] of the Zoning Code (which authorizes the Town Board, for good cause shown, to vary any of the specific special permit criteria set forth in Section §300-46) are required (the "Requested Waivers"):

1. The Application proposes a canopy, which is 13 feet from the Barger Street Right-of-Way where 20 feet is required. Two fuel pumps are setback 23 feet from the Barger Street Right-of-Way, where 25 feet is required, and the two sets of pumps are 21 feet apart, where 25 feet is required; and
2. The Application proposes a rear yard setback of 20 feet where 30 feet is required; and

Now, Therefore Be It Resolved by the Town Board that, except for the Requested Waivers, the proposed Gas Station complies with both the general and specific special permit criteria; and be it further

Resolved, that NY Fuel having shown good cause for the grant of the Requested Waivers, the Requested Waivers as listed herein are hereby granted; and be it further

Resolved, in light of the location of the proposed Gas Station, the Town Board finds that the monument signage proposed allows for the most effective and logical visibility of the station; and

Resolved, that the application for the Proposed Special Permit, storm water pollution prevention plan and wetland permit is granted, subject to the following conditions:

1. There shall be no new or used car sales, automobile repair, or maintenance on the Property; and
2. The Site plan, Building Permit, and Final Certificate of Occupancy shall state there is a watercourse located on the property (Barger Brook) and no further disturbance or encroachment shall be permitted; and

3. The Storm Water Pollution and Prevention plan must be reviewed by and modified, if required, to the Town Engineer's satisfaction. Any proposed modifications must be forwarded in writing to the Town Board for review and acceptance by the Town Board; and
5. The Applicant must submit a signage plan for all signs to the Town Board for Approval; and
6. The applicant must submit a full set of architectural plans including the canopy to the Town Board for approval; and
7. The applicant must submit revised landscape plans proposing sufficient landscaping in the front yard setbacks for approval by the Town Board; and
8. The Applicant must submit a plan detailing the site alterations that may be necessary in the event an alternative access is required at the southern side of the Property; and
9. The Applicant shall provide a final site plan set for signature by the Town Supervisor; and be it further

Resolved, that unless a building permit is obtained within one (1) year of this adoption of this resolution, this approval shall become null and void.



Diana L. Quast, Town Clerk
Town of Yorktown
Certified Municipal Clerk

Date: October 21, 2020

To: Danny Porco, NY Fuel Distributors
Adam Thyberg, Insite Engineering

cc: Matthew J. Slater, Town Supervisor
Patricia Caporale, Town Comptroller
John Landi, Building Inspector
Michael Quinn, Town Engineer
Adam Rodriguez, Town Attorney
John Tegeder, Director of Planning
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