

March 2, 2016

The regular meeting of the Wheatfield Planning and Zoning Board was called to order at the Wheatfield Town Hall at 7:00 p.m. by Chairman Walt Garrow.

Present: Richard Muscatello, Donald Proefrock, Melissa Germann, Michael Polek and Walt Garrow.

Also Present: Town engineer Wendel; Supervisor Cliffe; Town Councilmen: Larry Helwig, Gilbert Doucet and Arthur Gerbec; Town Attorney Mathew Brooks; members of the public; members of the media.

Moved by D. Proefrock, Seconded by M. Germann to approve the minutes of February 17, 2016 as presented. Motion unanimously carried.

#### Summary of Agenda

**Niagara International Sports & Entertainment** – 6929 Williams Road (Summit Park Mall) – Site Plan Review. Public Informational Meeting (PIM) held for the project from approximately 7:00 pm – 7:30 pm. The applicant presented the project. Residents asked questions, voiced concerns about the project and voiced support for the project. The Planning Board received a letter from Sears Holdings, a store at the mall, stating that they have a COREA agreement with the mall owners, that they have not been contacted about the project and therefore object to the proposed development. Public comments are attached to the meeting minutes.

Site Plan Review – this was a new Site Plan from the meeting on February 3<sup>rd</sup>, 2016. Change from 1 – 138,000 ft<sup>2</sup>, 110' high dome structure to 2 – 96,000 ft<sup>2</sup>, 75' high dome structures. The change in design requires an updated Site Plan and new reviews/variances/approvals from the ZBA, Niagara County Planning Board, Fire Advisory Board and possibly the FAA. The Planning Board requested a photometric light study, fence line background noise measurements for future comparison, a construction schedule with proposed construction routes, and that the applicant hire a landscape engineer to preserve and enhance the culture of the surrounding neighborhood.

Board Actions – The PB initiated a coordinated SEQR review, acting as lead agency.

**Empire Pipeline – Wheatfield Dehydration Facility** – 2251 Liberty Drive – Sketch Plan Review. The applicant's lawyer presented the project, answered some public/town questions and recorded more involved questions for formal responses. The Town also provided written questions for formal response. Comments and questions are attached to the meeting minutes.

The applicant advised that under FERC regulations they have a federal pre-emption to our regulations, and that they are going through the Town application process to allow for input, while project changes can be more easily made. For instance, they are requesting Town comments on the landscaping design. The applicant also showed screened areas on their posters, explaining that the changes were made in response to comments received at the

previously held Public Information Meeting for the project. The planning board informed National Fuel that they will still conduct SEQR even though the project is pre-empted by FERCs NEPA review. The board also ensured that the applicant will be providing a photometric light study, storm water designs, details on the wetlands protection, and background noise levels and a noise study.

No action taken by the Planning Board.

**Driftwood Suites** – 2760 Niagara Falls Blvd. – Site Plan Changes. Applicant returned to the Planning Board upon referral from the building inspector, after inquiring about possible building design changes to his previously approved Site Plan. The footprint of the building is staying the same but the size of the apartments are smaller, which allows for an increased number of units. Also, a unit will now be an office and the property owner will live in a unit as a residence. Additionally the exterior design and landscaping changed. Upon updating the drawings and renderings, the applicant will return to the planning board, and the Site Plan approval will be confirmed prior to the issuance of the certificate of occupancy.

No action taken by the Planning Board.

Next meeting: March 16, 2016

Motion made by R. Muscatello, Seconded by D. Proefrock to adjourn the meeting. Motion unanimously carried.

Respectfully Submitted,

Michael Polek, Secretary

Niagara International Sports & Entertainment – PIM

**Commenter #1**

Q: Will the domes be separated? A: The domes will be separated, connected by a walkway.

Q: Where will the generators be located and how loud will they be? A: The generator location is not decided but may be enclosed. The generators will only generate 54 dBA.

Q: The height of the structure is too high and the Zoning Board never notified him about the meeting for the height variance. A: The height of the domes is less than the 8 story apartment building on the corner of Sawyer and Plaza drives.

**Commenter #2**

Q: What will be the traffic patterns and routes for construction? Entrance along the Sawyer Drive, Plaza Drive? A: Yes.

Q: Why park in the back of the mall, why not park in the front and keep traffic off our streets? A: The parking lots surrounding the mall were designed to support the mall. This will be no different from when the mall was operating fully. People will utilize the roads to the North and East even if parking is in the front.

Q: What about a buffer zone? A: Only touched if needed.

Q: How bright will the lights be at night? A: We don't know, the light guy is not here.

A: Walt Garrow interjected and stated that the project will be required to utilize dark sky friendly lighting.

**Commenter #3**

Q: Will entrance go through food court? A: Yes.

Q: What does Save-A-Lot think about that? A: The owner of Save-A-Lot spoke and stated that they support the project.

Q: What about Sears? A: Walt Garrow read a letter received by the Planning Board from Sears Holdings stating that they have not been notified about the project and they do not support it. That letter was added to the files.

**Commenter #4**

Q: What will the hours be? 24 hours? A: Probably something like Monday-Thursday 5pm-9pm, Friday – Sunday 9am-9pm.

**Commenter #5**

Have you done other noise studies on similar structures? A: We have a company and they will do an objective, full study if the Planning Board requires it. There are studies that show no adverse noise.

**Commenter #6**

I live here, behind the mall and I endorse this project. The mall is an eye soar and this project will help the local businesses. It is good for kids and family culture.

**Commenter #7**

I live in this neighborhood and I wish this project was build yesterday. Something like this will make families move in.

**Commenter #8**

Why not build this project on the other side of the mall? A: The location was chosen to connect to a certain portion of the mall. Also the load capacity of the lots was a factor.

**Commenter #9**

Walt Garrow requested that the applicant explain the planned development inside the mall related to the project. The applicant did so.

**Commenter #10**

Save a Lot owner spoke. Stated that he is looking at property on Military Road in case this project doesn't work out. Stated that this project could be the future of the mall and bring in taxes.

**Commenter #11**

Spicer Group, the general contractor for the project, spoke. All building codes will have to be followed including noise, access/egress, codes and safety.

**Commenter #12**

Q: Will green spaces be cleaned up or stay dumps? A: Those areas are wetlands and will stay the same.

A: Walt Garrow interjected and stated that the Planning Board will include landscaping requirements with the Site Plan review.

**Commenter #13**

Q: Will the bus stop remain and be used? A: Yes.

## Town Questions Provided to National Fuel

(formal responses to be provided)

1. Emissions – is there a procedure to monitor & evaluate?
2. When does “undetectable” become too much?
3. Empire has stated that they will not do “regular blow downs.”
  - How many are allowable, and when?
  - During maintenance – which they have said almost won’t happen?
4. What is going on with the other 39 acres on the site?
  - Get it in writing for future reference
5. Why was Grand Island not even evaluated for this dehydrator?
  - Put on record for future reference
6. Noise – how much is expected?
  - Monitor at start-up to set baseline dBa
  - What happens if it gets higher than baseline

## Other Public/Town Questions

1. Q: Will the parcel be owned by National Fuel? A: Yes.
2. Q: Will the facility be manned by people? A: No.
3. Q: What is the size of the parcel? A: 214’ x 200’ and it is fenced.
4. Q: Can the temperature on the thermal oxidizer be increased to increase the amount of VOCs that are burned off from the emissions? A: We will get you an answer.
5. Q: Is there an emergency response plan? Will it be reviewed with the local fire department? Will they have Safety Data Sheets (SDSs) for chemicals that may be present?  
A: As a courtesy the emergency response plan is reviewed with local emergency responders but they are not to respond to emergencies at the site. National Fuel has emergency responders.
6. Q: What is the response time for National Fuel emergency responders? How can you ensure that local emergency responders don’t access the site if they arrive and see an emergency or person in distress, either worker or trespasser? A: National Fuel will provide an Emergency Response/Action Plan.
7. Q: Your provided paperwork states that emissions are so low that emissions testing is not needed. Can we require emissions testing anyways? It seems like an issue of good will vs.

money. A: Thermal oxidizer removes 99% of emissions. We have a federal-preemption from your requirements but will take a look at it.

8. Q: Can the thermal oxidizer or something else break? How would you know if you are not testing? A: Comment noted by applicant.
9. Q: Can some kind of report be issued, possibly annually, of how many days the dehydrator was run? A: Comment noted by applicant.
10. Q: Can't the emissions be captured using different technology and disposed of appropriately? A: Comment noted by applicant.
11. Q: I would like to propose third party emissions monitoring in addition to National Fuel emissions monitoring. A: Comment noted by applicant.