

**VILLAGE OF ESSEX JUNCTION  
PLANNING COMMISSION  
MINUTES OF MEETING  
June 4, 2009**

**MEMBERS PRESENT:** Mark Thibeault (Chairman); Diane Clemens, Andrew Boutin, Dan Kerin, John Alden, Aaron Martin, Liza Kilcoyne.  
**ADMINISTRATION:** Robin Pierce, Development Director.

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**1. CALL TO ORDER and AUDIENCE FOR VISITORS**

Chairman Mark Thibeault called the meeting to order at 7 p.m. There were no comments from the public.

**2. ADDITIONS/AMENDMENTS TO AGENDA**

None.

**3. MINUTES**

*May 21, 2009*

**MOTION by John Alden, SECOND by Liza Kilcoyne, to approve the 5/21/09 minutes with the following corrections/clarifications:**

Page 1, bottom paragraph on page, 3<sup>rd</sup> sentence – insert “service” after the word “full” to read: “A full service restaurant...”;

Page 2, 3<sup>rd</sup> paragraph, sentence reading “There was brief discussion of having a pedestrian connection to the hotel...” – start new paragraph with the sentence and insert “and public entry” after “pedestrian connection”;

Page 3, Motion, Condition #2 – rewrite to read: “All surrounding properties affected by the proposed site plan shall be included on the site plan.”

**VOTING: unanimous (7-0); motion carried.**

**4. PUBLIC MEETING**

Individuals to give testimony on applications before the Planning Commission were sworn in.

Continued site plan for removal of existing 31.6’x 13.1’ addition, 12’x 20’ shed, reconstruction of containment structure for bio-diesel fuel tanks, underground drainage utilities, revised parking and landscaping at 33 Park Street in the R-2 District by Chad Whitehead, Dufresne & Associates, agent for D&C Transportation, owner  
Scott Oeschger appeared on behalf of the application.

**APPLICANT COMMENTS**

Mark Thibeault asked if there is a maintenance agreement for the right-of-way (the right-of-way is in need of grading). Scott Oeschger said he was not aware of such an agreement. There was general discussion of traffic in and around the site from the various uses (auto store, beverage mart, pizzeria, orthodontist, and right-of-way easement).

Andrew Boutin asked about frequency of inspection of the tanks. The applicant said the tanks were last cleaned and inspected on the inside three years ago. Inside inspection is done every 10 years. There is visual inspection above ground. The spill prevention and containment plan requires weekly and monthly inspections. EPA is the regulatory body and does spot inspections.

Liza Kilcoyne asked about future plans for the site. Mr. Oeschger stated there is no room for expansion. If the company left the site the large #2 fuel tank would remain. The plan is to continue doing business there. The only other terminal is on Pine Street. Losing the bio-diesel tank is not in the company's favor because there is no facility to pick up the fuel.

#### STAFF REPORT

The Planning Commission received a written staff report on the application, dated 6/4/09.

#### PUBLIC COMMENT

Mary Sorentino, Nicholas Court, asked the Planning Commission to respond to the questions in the letter from residents on Nicholas Court, dated 6/1/09. With regard to trucks idling, Mark Thibeault stated the applicant indicated when the remote pump is installed there will not be a need for trucks to idle in order to pump fuel. The Planning Commission may require that there be no idling and will likely address the dump trucks on the site as well. The applicant stated the company has discussed the matter. Regarding buffers, Mr. Thibeault said the Planning Commission will have further discussion, though possibly not about a sound barrier. There is a cedar hedge and trees will be planted. The trees that are to be removed have not yet been tagged. Regarding an alarm, the applicant indicated at this point there is an audible alarm on the site. There is no off site monitoring. Aaron Martin suggested auto-dial to a service to monitor the alarm. Scott Oeschger said the system would have to be revamped for off site monitoring. Any spill will be contained on the site. There is only #2 fuel oil and kerosene at the site, not gasoline, and there is a procedure to handle spills. Someone would have to respond to the alarm if it went off. Employees are on-call nights and weekends. Mark Thibeault read the notice of violations in 2007 by D&C Transportation. Scott Oeschger said he was not aware of the case.

Rich Hamilton, Nicholas Court, asked when the neighbors will know the off loading procedures have been updated and the trucks no longer need to idle. Mark Thibeault conceded simply approving a permit does not guarantee that the project will be done. The Planning Commission could specify a date when idling will no longer be allowed. Scott Oeschger said if a permit is granted the work will begin in July with a September 1<sup>st</sup> deadline to be on-line.

There were no further comments.

**MOTION by Dan Kerin, SECOND by Diane Clemens, to close the public portion of the site plan review for 33 Park Street. VOTING: unanimous (7-0); motion carried.**

## DELIBERATION/DECISION

Site Plan, Building Removal, Reconstruction of Containment Structure and associated work, 33 Park Street, D&C Transportation

There was discussion of the cedar hedgerow, the six foot high fence, and Colorado spruce trees to screen the trucks. The concrete containment wall most likely will not be visible due to the hedgerow. Trucks and noise outside the containment area are the issues. Once the pump is installed there will not be the need to idle the trucks. A concrete wing off the privacy fence could be built to possibly mitigate noise (the noise will not be deadened, but will bounce off the concrete). Mark Thibeault noted the applicant does not need a permit from the Zoning Board because the nonconforming use is existing and is not changed (the expansion is being removed). Chairman Thibeault suggested compliance to prior permits (water line, building removal, and bio-diesel tank removal) be required before issuance of the current permit. Aaron Martin stated there should be more than an audible/visual alarm on the site. There should be a mechanism to auto-page or a dial out/call out list.

**MOTION by Mark Thibeault, SECOND by Dan Kerin, to grant site plan approval to remove an existing 31.6'x 13.1' building addition, 12'x 20' shed, reconstruction of containment structure for bio-diesel fuel tanks, underground drainage utilities, revised parking and landscaping at 33 Park Street by D&C Transportation with the following conditions:**

**MOTION by Mark Thibeault, SECOND by Dan Kerin to approve site plan application, to grant site plan approval to remove an existing 31.6'x 13.1' building addition, 12'x 20' shed, reconstruction of containment structure for bio-diesel fuel tanks, underground drainage utilities, revised parking and landscaping at 33 Park Street by D&C Transportation with the following conditions:**

- 1. The existing, unapproved, building addition shall be demolished, debris removed from the site, and the old water service shall be disconnected from the main line prior to commencing any work that is part of this application to cure existing violations on the site, prior to commencing work that is the subject of this application.**
- 2. The parking spaces shall be striped in accordance with Section 703(K)(12) of the Land Development Code including but not limited to parking lot striping, paving of spaces, accessible space striping, and further, there shall be no parking within setbacks, or overnight parking.**
- 3. The maximum height at which the cedar hedge shall be maintained is at least 6' and no higher than 10'.**
- 4. All issues raised by the Village Engineer, Water Quality Superintendent, and Public Works Superintendent shall be addressed satisfactorily prior to approval including but not limited to any approval being contingent on receipt and written acceptance of the final, updated Spill Prevention, Containment, and Control Plan (SPCC) by the Village of Essex Junction.**
- 5. The illegal building addition and bio-diesel tank shall be removed and the area made good.**
- 6. A post indicator valve from the containment area shall be used to clearly indicate the valve's open/closed status which will allow authorized**

- personnel and a representative of the Village of Essex Junction to visibly make this determination.
7. The depth of water in the containment area shall not exceed five inches and if this does occur the applicant shall pump out and clean the oil/water separator before implementing any other procedure.
  8. Clean up of spills to the sewerage collection system or wastewater facility from the site shall be the responsibility of the applicant.
  9. The applicant shall be responsible for all connection fees, etc. per the Village Land Development Code.
  10. Approval shall be contingent on written acceptance of the updated SPCC Plan by the Village of Essex Junction and the Village shall receive a copy of the final updated plan.
  11. The updated SPCC plan shall include a requirement for notification of the Essex Junction Wastewater Facility in the event of a spill or release of product and the Village shall not issue an approval for sewer capacity allocation until the updated SPCC Plan is reviewed and deemed satisfactory by the Village.
  12. The Drainage Discharge Report forms contained within Appendix D of the current Spill Prevention Control and Countermeasure Plan shall be filed with the Village Water Quality Superintendent on a quarterly basis and maintenance activity related to inspection and replacement of oil absorbing devices shall be included in the quarterly submittal to the Village.
  13. The oil/water separator shall provide adequate protection to the system against residuals (this is acceptable in consideration of the use of oil absorbing devices in the catch basin and inside the “holding tank/pump station”).
  14. Oil absorbing devices shall be maintained in the wet section of the catch basin inside the containment area and inside the “holding tank/pump station” and shall be included in the updated SPCC Plan.
  15. All work shall be done to bring the property into compliance with previous permits prior to issuance of the current permit.
  16. As of October 1, 2009 no trucks shall be allowed to idle or leave on lights, and proper signage shall be posted to this effect (signs shall be approved by the Village Development Director).
  17. The site shall be secured by fencing around the entire perimeter and a lockable gate installed and signage shall be posted (signs shall be approved by the Village Development Director).
  18. The gate shall be closed and locked at all times and signage shall be posted (signs shall be approved by the Village Development Director).
  19. “No Trespassing” signs shall be installed on the entire perimeter of the property.
  20. There shall be no parking of cars/trucks overnight on the site. All required setbacks shall be maintained in grass.
  21. Three additional trees shall be planted behind the proposed Colorado spruce trees of a species acceptable to the Village Development Director.

**22. The alarm system shall be monitored by an off-site alarm company.  
VOTING: unanimous (7-0); motion carried.**

**5. OTHER PLANNING COMMISSION ITEMS**

Planning Commission Work Session

June 18, 2009 at 5:30 p.m.

**6. ADJOURNMENT**

**MOTION by Liza Kilcoyne, SECOND by Mark Thibeault, to adjourn the meeting.**

**VOTING: unanimous (7-0); motion carried.**

The meeting was adjourned at 8:05 p.m.

*RScty: M.E.Riordan*