

MEMORANDUM**ORIGINAL**

To: Bruce M. Flower, Chairman, and the Town of Wappinger Planning Board

Date: July 26, 2021

Subject: **Gas Land Petroleum Rt. 9D – Subdivision, Site Plan and Special Permit Review**
Tax Lots 6157-01-048643, 057642, 057654, 059643, & 040637

As requested, we have amended the attached **Resolution of Preliminary and Final Subdivision Plat Approvals** and the attached **Resolution of Site Development Plan and Special Permit Approvals** for your review and consideration.

We look forward to discussing this resolution with you at the Planning Board meeting.

David H. Stolman
Practice Lead - Planning

Malcolm Simpson
Planner

RECEIVED

Attachments

JUL 28 2021

cc: Thomas Wood, Esq.
Barbara Roberti
Peter D. Setaro, PE
Michael Sheehan
Nicholas Ward-Willis, Attorney of the Applicant (nward-willis@kblaw.com)

**TOWN OF WAPPINGER
TOWN CLERK**



ORIGINAL

**RESOLUTION
TOWN OF WAPPINGER PLANNING BOARD**

RE: GAS LAND PETROLEUM RT. 9D – RESOLUTION OF SITE DEVELOPMENT PLAN AND SPECIAL PERMIT APPROVALS

At a regular meeting of the Planning Board of the Town of Wappinger, Dutchess County, New York, held at Town Hall, 20 Middlebush Road, Wappingers Falls, New York on the 19th day of July, 2021 at 7:00 P.M.

The meeting was called to order by the Chairman Bruce M. Flower and the Planning Board member attendance was as follows:

Bruce M. Flower	<u>PRESENT</u>
Robert Ceru	<u>ABSENT</u>
Paul Freno	<u>PRESENT</u>
Ralph Marinaccio	<u>PRESENT</u>
Nicholas Maselli	<u>PRESENT</u>
Markos Peratikos	<u>PRESENT</u>
Lynne Versaci	<u>ABSENT</u>

The following resolution was moved by Nicholas Maselli and seconded by Markos Peratikos.

WHEREAS, the Town of Wappinger Planning Board received an application from Gas Land Petroleum, Inc. (the "Applicant") for Site Development Plan and Special Permit Approvals for the development of the 1.79-acre site with a gasoline filling station with four (4) pumps and eight (8) fueling stations and a 3,630 square foot convenience store, with three (3) one-bedroom apartments located above on the second floor in a single 7,260 square foot mixed use building and 32 parking spaces ("Project" or "Proposed Action"); and

WHEREAS, the proposed Project involves two (2) Special Permit Uses a gasoline filling station pursuant to Town Code § 240-52 and a mixed use development pursuant to Town Code § 240-81.7; and

WHEREAS, the Proposed Action also consists of the consolidation of five (5) lots in connection with the Project; and

WHEREAS, the subject properties are located at 2361 Route 9D and are designated as tax lots 6157-01-048643, 057642, 057654, 059643, and 040637 on the Town of Wappinger tax maps and are located within the HM Hamlet Mixed Use Zoning District (the "Subject Property" or "Site"); and

WHEREAS, the Applicant originally submitted an application to the Town for Site Development Plan, Special Permit and Subdivision Approvals to consolidate four tax parcels and install a gasoline fueling station with four (4) pumps and eight (8) fueling stations and construct a 2,700 square foot convenience store, with two (2) one-bedroom apartments located above on the second floor and 21 parking spaces on 1.24 acres; and

WHEREAS, the Applicant has submitted an Application for Preliminary Subdivision Approval dated 1/9/20, updated 3/23/21; an Application for Site Plan Approval dated 1/9/20, updated 3/23/21; an Application for Special Use Permit dated 1/9/20, updated 3/23/21; a Full Environmental Assessment Form (FEAF) dated 1/9/20 most recently revised 7/16/21; Concept Elevations prepared by Liscum, McCormack & Vanvoorhis last revised 7/15/21; a Stormwater Pollution Prevention Plan prepared by Chazen Companies dated August 2020 last revised July 2021; and the following plans generally entitled "Site Plan Prepared For Gasland Petroleum, Inc. For A Gas Station, Convenience Store, & Residential Apartments" prepared by Chazen Companies dated 1/9/20 last revised 7/14/21:

1. Sheet G001, "Title Sheet;" last revised 7/14/21
2. Sheet G002, "Notes and Legend;" last revised 7/12/21
3. Sheet C101, "Existing Conditions;" last revised 7/8/21
4. Sheet V101, "Subdivision Plan (Lot Consolidation) Prepared for Gas Land Petroleum, inc.;" last revised 7/8/21
5. Sheet C120, "Demolition Plan;" last revised 7/12/21
6. Sheet C130, "Site Plan;" last revised 7/14/21
7. Sheet C131, "Vehicle Maneuvering Plan;" last revised 7/14/21
8. Sheet C140, "Grading Plan;" last revised 7/14/21
9. Sheet C150, "Erosion & Sediment Control Plan;" last revised 7/14/21
10. Sheet C160, "Utility Plan;" last revised 7/14/21
11. Sheet C180, "Landscape Plan;" last revised 7/14/21
12. Sheet C190, "Photometric Plan;" last revised 7/14/21
13. Sheet C530, "Site Details;" last revised 7/12/21
14. Sheet C540, "Storm Sewer Details;" 7/12/21
15. Sheet C541, "Storm Sewer Details;" 7/12/21
16. Sheet C550, "Erosion & Sediment Control Details and Notes;" last revised 7/12/21
17. Sheet C560, "Water Details;" last revised 7/12/21
18. Sheet C570, "Subsurface Disposal System Details;" last revised 7/12/21
19. Sheet C580, "Landscape and Site Details and Notes;" last revised 7/12/21; and

WHEREAS, the Planning Board determined that the Proposed Action is an Unlisted Action with respect to the New York State Environmental Quality Review Act (SEQRA) and declared its intent to serve as Lead Agency on February 3, 2020; and

WHEREAS, in December 2020, the Applicant purchased tax parcel 6157-01-040637 and submitted revised applications to the Town in March 2021 for Site Development Plan, Special Permit and Subdivision Approvals to consolidate five (5) tax parcels and install a gasoline fueling station

with four (4) fuel pumps and eight (8) fueling stations and construct a 2,400 square foot convenience store and 1,500 square foot liquor store, with four (4) one-bedroom apartments located above in a single 7,860 square foot building, and construct 32 parking spaces on 1.79 acres; and

WHEREAS, on March 15, 2021, the Planning Board adopted a motion to amend the lead agency documents and circulated an updated Declaration of Intent to Serve as Lead Agency on March 26, 2021; and

WHEREAS, thereafter the Applicant amended its project to eliminate the proposed liquor store and reduce the number of proposed bedrooms from four (4) to three (3) one-bedroom apartments; and

WHEREAS, the Planning Board, as Lead Agency for environmental review, and after taking a "hard look" at all the potential environmental impacts that might result from the proposed action, has adopted a Negative Declaration regarding the Proposed Action in accordance with the New York State Environmental Quality Review Act (SEQRA); and

WHEREAS, in accordance with Sections 239-l and m of the New York State General Municipal Law, the Planning Board referred the subject application to the Dutchess County Department of Planning and Development (DCDPD); and

WHEREAS, the DCDPD responded to the above-mentioned referral in its letters of February 10, 2020, November 24, 2020 and April 21, 2021 which concludes that the Planning Board should condition any potential approval of the special permit on the Applicant's ability to conclusively demonstrate the Site's ability to handle ingress and egress for the described amount of traffic without blocking the driveway and/or causing ques that risk reaching the road; and

WHEREAS, the changes made to the plan after March 22, 2021 do not substantially differ from the amended proposal submitted on March 22, 2021; and

WHEREAS, a duly advertised public hearing on the Site Plan and Special Permits was held on October 5, 2020; November 2, 2020; December 7, 2020; February 1, 2021; March 15, 2021; and May 3, 2021 at which times all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, the public hearing on the Site Plan and Special Permits was closed on May 3, 2021 and written comments were accepted for an additional 30 days; and

WHEREAS, the Proposed Action has been altered through the course of the application to feature changes included but not limited to the addition of a fifth parcel in the lot line consolidation; a reduction in the size of the proposed building square footage; alterations in the number of proposed residential apartments; revised access and parking; changes to the hours of operation,

reconfiguring the location of the residential decks, and the reconfiguring of the site plan to locate the proposed building along the street frontage; and

WHEREAS, the Proposed Action complies with the applicable special permit standards set forth in Town Code §240-44; and

WHEREAS, the Proposed Action complies with the supplemental special permit requirements set forth in Town Code §240-52 for gasoline filling stations; and

WHEREAS, the Proposed Action complies with all supplemental special permit requirements set forth in Town Code §240-81.7 for mixed uses; and

WHEREAS, the Planning Board is familiar with the Site and all aspects of the Project and is satisfied that the Project will comply with the Zoning Law including the provisions relating to Special Permits, Site Development Plan, and Parking and Performance Standards of Articles VII through XI of the Zoning Law as well as other applicable laws and regulations subject to the conditions below.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

1. The Planning Board hereby adopts and incorporates as findings and determinations the recitations and statements set forth above as if fully set forth and resolved herein.
2. The Planning Board hereby adopts this Resolution of Site Development Plan and Special Permit Approvals for the development of a 1.79-acre site with a gasoline filling station with four (4) pumps and eight (8) fueling stations and a 3,630 square foot convenience store, and with three (3) one-bedroom apartments located above on the second floor in a single 7,260 square foot mixed use building and 32 parking spaces, and other site improvements including the parking area, and a new septic system, an expansion of the Town water infrastructure via a water distributor tenant agreement, a realignment of the intersection of New Hamburg Road and Old Hopewell Road and a sidewalk along the Route 9D and New Hamburg Road frontages of the Site as described above and as shown on the above listed drawings, in accordance with the provisions of Articles VII through XI of the Zoning Law subject to the following conditions:
 - a. The Planning Board Chairman shall endorse a copy of this resolution certifying its correctness. After it has been initially endorsed by the Chairman, the Owner and Applicant shall also sign a copy of this resolution acknowledging receipt of the resolution, and shall submit the signed copy to the Zoning Administrator for filing.
 - b. The Owner of the Subject Property shall submit a copy of the current deed(s) to prove its ownership of said property.
 - c. The Applicant shall submit a statement signed by the Town's Tax Collector that all taxes due on the Subject Property have been paid in full.

- d. The Applicant shall obtain all necessary "outside" agency approvals for the Project, including Dutchess County Department of Behavioral and Community Health approval for the proposed sewer disposal system and the New York State Department of Environmental Conservation (NYSDEC) as well as the New York State Department of Transportation and the Dutchess County Department of Public Works.
- e. The following restrictions shall apply to all deck areas located on the property in connection with the residential units. All conditions and restrictions concerning deck space shall be set forth in all Lease Agreements with residential tenants.
 - (1) No barbeque grill of any type, including but not limited to, charcoal, electric, or gas, shall be used or stored on any deck.
 - (2) No tenant shall use the deck for the purpose of drying laundry.
 - (3) No animal shelter, crate or cage shall be permitted to be stored on the deck. It shall be unlawful for any tenant or other person to permit or allow a dog to engage in habitual and loud howling, barking, crying or whining while on the deck area.
 - (4) Children play structures, climbing structures, slides or any other outdoor climbing toy shall be prohibited on the deck area.
 - (5) No umbrellas may be installed on the deck.
 - (6) Only patio furniture shall be permitted on the deck area. Indoor furniture shall not be prohibited on the outdoor decks.
 - (7) All decks shall remain open and unenclosed. Tenants shall not be permitted to install any screening or other structure or material around the deck area.
 - (8) Tiki torches, fire pits or other heat or fire sources shall be prohibited on the deck area.
 - (9) Rope lights shall be prohibited on any area of the deck or deck railing.
 - (10) No item may be exhibited, displayed or connected to the deck railing, including signs of any type, advertisements, notices, banners, flags, lights, clothing or other laundry item, or decoration.
 - (11) Nothing shall be permitted to project past the deck railing.
 - (12) Use of the deck area as storage shall be prohibited.
- f. The hours of operation shall be from 5AM to 11PM.
- g. No audio or visual advertisements shall be placed at the pump.
- h. The Applicant shall maintain the sidewalks adjacent to its Property.
- i. The Applicant shall comply with the following items subject to the review and approval of the Town Engineer and the Town Planner:

- i. Final Review of plans and Stormwater Pollution Prevention Plan (SWPPP) by the Town Consulting Engineer (CPL) and the by the Town Consulting Planner (H&H) to ensure compliance with prior review letters and review of updated plans that respond to all regulatory agency comments.
- ii. CPL shall coordinate with the applicants engineer and possibly the DCDBCH to develop a well testing protocol, baseline monitoring to be offered to adjacent residences served by wells. The Planning Board Attorney shall review and approve any legal agreements pertaining to the well monitoring including a reasonable time period (30 days) for property owners to agree (or not) to the well monitoring.

When all of the items set forth in Condition 2 above have been satisfied, nine (9) copies of the above referenced plans, revised as necessary, shall be submitted for endorsement by the Planning Board Chairman, certifying that the plans comply with the terms of this resolution, at which time, the Chairman shall also endorse this resolution in the space provided below, certifying that the Applicant has complied with said conditions of approval and that the issuance of a Building Permit is authorized for the improvements set forth in this Project. A PDF and a paper copy of the final signed plans shall be submitted to the Planning Board as part of the record. This submission shall include all supporting documentation verifying the sub-conditions set forth in Condition 2 have been met and this submission should include a narrative detailing what elements are included in this submission and in what way these elements address the sub-conditions set forth in Condition 2. This submission, including the narrative and all supporting documentation shall be submitted together at once.

3. In accordance with the Town's Schedule of Fees, the Applicant shall be responsible for the payment of all application review fees incurred by the Planning Board in the review of this Project which are in excess of the application review fees paid by the Applicant to-date. Such fees shall be paid within thirty (30) days of the notification to the Applicant that such fees are due. If such fees are not paid within this thirty (30) day period and an extension therefore has not been granted by the Planning Board, this Resolution shall be rendered null and void. Refunds of any remaining funds within the escrow account for the applications will only made in accordance with the provisions of Chapter 240 Attachment 6:1, Planning and Zoning Departments Fees and Escrow Funds.
4. In accordance with Article IX of the Zoning Law, unless otherwise extended by the Planning Board for good cause shown, this Site Development Plan Approval shall expire and become void one (1) year from the date of the adoption of this Resolution if an application for a Building Permit has not been made, or three (3) years from the date of the adoption of this Resolution if construction in conformance with the approved Site Development Plan has not been completed, if the construction is not prosecuted with reasonable diligence, or if the premises has been substantially vacant or inactive for more than three (3) years.

5. In accordance with Article VII of the Zoning Law, unless otherwise extended by the Planning Board for good cause shown, the Special Use Permit Approvals shall expire and become void if the approved use of the Site shall cease for more than one (1) year for any reason, if Site Development Plan Approval expires, or if all required improvements are not maintained and all conditions and standards complied with throughout the duration of the approved use.

An application for extension of Site Development Plan Approval shall be made by the Applicant to the Planning Board prior to the expiration of the specific time period sought to be extended. The Planning Board may extend all time limits for good cause shown, if the Board deems such extension warranted.

6. If required by the Town Building Department, the Applicant shall provide an as-built survey of the subject property prior to the issuance of a Certificate of Occupancy or Certificate of Compliance, as applicable.
7. No Building Permit or Certificate of Compliance shall be issued for the Project except in accordance with the approved Site Development Plan. No further modifications to the Site shall be made without prior approval of the Planning Board. The Applicant must return for approval from the Planning Board if any changes to the endorsed plans and/or this resolution of approval are desired.
8. The continued validity of any Building Permit or Certificate of Occupancy issued in accordance with this Resolution of Site Development Plan Approval shall be subject to continued conformance with such Site Development Plan Approval.
9. The Planning Board hereby finds that a proper case exists for requiring that additional parklands be suitably located for playground and other recreational purposes within the Town of Wappinger since, in accordance with Article III Recreation Fees of the Town of Wappinger Code, three (3) new dwelling units will be created within the Town of Wappinger as a result of the Project, and further, that lands appropriate for reservation for recreational purposes do not exist on Site. Therefore, the Applicant shall submit to the Town a fee in lieu of the reservation of land for recreational purposes in an amount based on the fee in existence at the time the Planning Board Chairman signs the approved Site Development Plan.
10. The Applicant shall fund a post-approval escrow account in accordance with Section 122-16 of the Town Code.

The question of adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

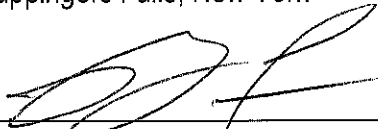
Bruce M. Flower

AYE

Robert Ceru	<u>N/A</u>
Paul Freno	<u>AYE</u>
Ralph Marinaccio	<u>AYE</u>
Nicholas Maselli	<u>AYE</u>
Markos Peratikos	<u>AYE</u>
Lynne Versaci	<u>N/A</u>

The resolution is hereby duly declared adopted.

Dated: July 19, 2021
Wappingers Falls, New York



Bruce M. Flower, Chairman
Town of Wappinger Planning Board

7/27/2021

Date

Gas Land Petroleum, Inc.
Applicant and Owner

Date

The following endorsement hereby confirms that the Applicant has fulfilled all of the items in Condition 2 of this resolution and that the above mentioned drawings may be endorsed by the Planning Board Chairman.

Bruce M. Flower, Chairman
Town of Wappinger Planning Board

Date