

Borough of Kinnelon

Planning Board

October 1, 2020

The regular monthly meeting of the Kinnelon Planning Board was called to order by Chairperson Mrs. Roselius at 7:30 p.m., Thursday, October 1, 2020 in the Municipal Building.

It was reported that adequate notice of this meeting had been given in accordance with the Sunshine Law by posting a notice on the municipal bulletin board, by publication of a legal notice in the Suburban Trends on January 2020 and by sending the meeting date to the Daily Record and Herald News.

Present and answering roll call in addition to Mrs. Roselius was Mr. Savino, Mrs. Smialek, Mr. Diani, Mr. Schwartz, Mayor Freda, Councilman Yago and Mrs. Hankes. Mr. Boorady was absent from this meeting. Mr. Tombalakian was present for this meeting.

A motion to approve the February 6, 2020 was offered by Mr. Savino, second by Mrs. Smialek with the affirmative "yes" vote of all on roll call.

A motion to approve the following Resolution #837 Fuel 4 sign, 1155 Route 23 South was offered by Mr. Savino, second by Mrs. Smialek with the affirmative "yes" vote of all on roll call.

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**RESOLUTION  
BOROUGH OF KINNELON**

**PLANNING BOARD**

**IN THE MATTER OF 786 KINNELON ASSOCIATES LLC**

**APPLICATION FOR REPLACEMENT SIGNAGE**

**Approved: February 6, 2020**

**Memorialized: October 1, 2020**

**WHEREAS**, 786 Kinnelon Associates LLC (hereinafter “Applicant”) has filed an application with the Borough of Kinnelon Planning Board, (hereinafter “Planning Board” or “Board”), for sign approval for property known as Block 57501, Lot 125, on the Tax Map of the Borough of Kinnelon (hereinafter “Borough”), which premises are located at 1155 Route 23 South, Kinnelon, New Jersey, and located in the “C” Commercial Zone (hereinafter “ C Zone”); and

**WHEREAS**, the Applicant has applied to the Kinnelon Borough Planning Board for approval pursuant to the Code of the Borough of Kinnelon, Article VI, Signs, which authorizes the Planning Board to review and approve all sign applications within the Borough; and

**WHEREAS**, a public hearing was held on February 6, 2020, after the Planning Board determined it had jurisdiction; and

**WHEREAS**, the Applicant was not represented by legal counsel.

**NOW, THEREFORE**, the Planning Board makes the following findings of fact, based on evidence presented at its public hearing, at which time a record was made.

The within application is for premises known and designated as Block 57501, Lot 125, on the Tax Map of the Borough of Kinnelon and located at 1155 Route 23 South, Kinnelon, New Jersey. The subject site is located in the C Zone.

Testifying on behalf of the Applicant were Anthony D. Ligregni, the Applicant's real estate representative from Farmer- Ligregni, Inc., 11-15 River Road, Fair Lawn, New Jersey, and Billy Khan, the Applicant's manager. These witnesses testified collectively that this existing gas station was recently rebranded from Lukoil to the Applicant's own brand, Fuel 4. The property itself continues to be owned by a Lukoil related corporate entity, but it has been leased to the Applicant with Lukoil's authorization to sell unbranded gasoline. To satisfy the terms of the Applicants' lease, the Applicant needed to remove all Lukoil brand and trade marks from the property, including signage. The Applicant set about to replace in kind the prior red and white Lukoil brand signage with Fuel 4's own green colored signage, which is consistent with how this Applicant rebranded former Lukoil stations in both Wayne and Butler. In addition to replacing the actual signage, the Applicant further replaced the outdated incandescent canopy lighting with more modern LED lighting (consisting of ten (10) 150W/17K lumen fixtures). The Applicant's did point out that the Application materials, which consisted of shop drawings prepared by their sign constructor, included a small error. Rather than façade sign displaying "Mini Mart" as depicted on the submitted photo renderings, the actual installed sign reads "Kinnelon Food Mart," which the Board found preferable. The Applicants confirmed that the canopy lighting, as well as the goose neck lighting that illuminates the façade sign, operate on timers that are programmed to shut off such lighting at 10 pm, which is the scheduled closing time for this business.

The meeting was opened to the public and there were no members of the public present expressing an interest in this application.

**NOW, THEREFORE**, the Planning Board makes the following conclusions of law, based on the foregoing findings of fact.

786 Kinnelon Associates LLC is the Applicant for premises known and designated as Block 57501, Lot 125, on the Tax Map of the Borough of Kinnelon and located at 1155 Route 23 South, Kinnelon, New Jersey, which site is located in the C Zone District.

The nature of the application is to install new building-attached sign and fuel canopy and dispenser signage to an existing retail motor fuel dispensing business that has recently been rebranded from Lukoil to Fuel 4. The proposed signage are permitted, and the Applicant requires Planning Board review and approval to modify signage within Kinnelon's highway commercial district.

The Board concludes that the Application should be granted to permit the replacement of the existing signage, which cannot be maintained by the Applicant given the mandatory station rebranding. The Board finds that the replacement signage is appropriate and in keeping with the previously approved site signage, and the Applicant's election to use a green color is consistent with the signage color scheme that Kinnelon has sought along this highway commercial corridor. The Board also finds that the replacement store façade sign is an improvement over the prior sign, as it incorporates the Kinnelon name, and that the modern LED canopy lighting is far superior to the replaced incandescent lighting.

Upon consideration of the plans, testimony and application, the Board determines that the Applicant has provided sufficient information so as to enable the Board to render an informed decision with regard to the request for sign approval. The Board determines that it is appropriate to grant the application for a building-attached sign, canopy and fuel dispenser signage and replacement illumination as proposed by the Applicant.

**NOW, THEREFORE, BE IT RESOLVED**, by the Planning Board of the Borough of Kinnelon, that the application of 786 Kinnelon Associates LLC Service for premises commonly known as Block 57501, Lot 125, on the Tax Map of the Borough of Kinnelon and located at 1155 Route 23 South, Kinnelon, New Jersey, in the C Zone District and requesting sign approval, is approved.

**IT IS FURTHER RESOLVED** that this approval is granted subject to the following terms and conditions:

1. The Applicant shall submit corrected sign specifications for the as-installed building façade sign (“Kinnelon Food Mart” versus “Mini Mart”).
2. The Applicant shall submit a letter or some other form of written authorization from the title owner of the subject property confirming that owner’s authorization and consent to the Applicant’s filing of this application to allow for the replacement signage and illumination.
3. Other than pertaining to the building façade sign specifications, which are to be corrected and resubmitted for the Planning Board’s application file, the Applicant represents that all of its representations and stipulations made by it or on its behalf to the Borough of Kinnelon are true and accurate and acknowledges that the Planning Board specifically relied upon said stipulations in the Board’s granting of approval. If said representations and stipulations are false, this Approval is subject to revocation.
4. This approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of the public hearing on February 6, 2020.
5. The granting of this application is subject to and conditioned upon the building-attached sign not being internally illuminated, but maintaining the external goose neck lighting to illuminate the “Kinnelon Food Mart” sign.

6. All terms and conditions of the Board's prior resolutions, if any, regarding this property remain in full force and effect except as satisfied or amended by this approval and not in conflict with this approval.
7. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
8. Certificate that taxes are paid current to date of approval.
9. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Kinnelon, County of Morris, State of New Jersey or any other jurisdiction.

The undersigned Secretary certifies the within Resolution was adopted by this Planning Board on February 6, 2020, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on October 1, 2020.

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Jennifer Highers, Board Secretary

In favor: Mayor Freda, Councilman Yago, Steven Savino, Mrs. Hankes, Mrs. Smialek, Mr. Diani, Mr. Schwartz and Mrs. Roselius.

Against:

Abstained:

Board Members Eligible to Vote: Mayor Freda, Councilman Yago, Steven Savino, Mrs. Hankes, Mrs. Smialek, Mr. Diani, Mr. Schwartz and Mrs. Roselius.

Mrs. Barbara Heskins Davis, PP, AICP, Vice President Programs from The Land Conservancy and David Novak., PP, ACIP, Associate Planner from Burgis Associates gave the following presentation on the Critical Habitat Conservation and Management Plan.

**Conservation and Management Plan  
Planning Board Presentation – October 1, 2020 (7:30 pm)**

**The Land Conservancy: Barbara Heskins Davis, PP, AICP, Vice President Programs  
Burgis Associates: David Novak., PP, AICP, Associate Planner**

**Purpose:** Critical Habitat Conservation and Management Plan (CHCMP) is intended to be used by municipal planning officials and professionals, including the engineer and planner, to incorporate standards and criteria for the protection, conservation and management of Critical Habitat. The CHCMP is to be adopted as an Element of the municipal Master Plan.

**Background:** In order to build a community center, Kinnelon was required to apply for a Highlands Waiver. Highlands Council requires the CHCMP be an Element of Kinnelon Master Plan

**Critical Habitat:** Contains features essential to the conservation of endangered and/or threatened species and may require special management and protection. There are 28 state and federal endangered and threatened species in Kinnelon. Due to the extent of Critical Wildlife Habitat in the Borough, nearly all of Kinnelon is identified as having Critical Habitat.

**Highlands Conformance:** Completed Steps in Kinnelon: Petition for Plan Conformance approved by the Highlands Council in 2011, Borough Council adopted Planning Area Petition Ordinance (2016) and adopted Highlands ERI (2017). **In order to establish the Critical Habitat Resource Area, Borough may elect one of two processes.** Process 1 – Regulation via Referral Ordinance or Process 2 – Regulation via Municipal Ordinance

**Critical Habitat Resource Area: Applicant Guidelines:** Applicant must determine whether the proposed development site lies within a Critical Habitat Resource Area. Regulatory provisions apply if application meets review requirements. Application is subject to review for compliance with regulatory standards. If Kinnelon follows Process 1 and adopts the Highlands Referral Ordinance, such reviews will be conducted by Highlands Council staff as part of any required Highlands Consistency Determination.

**Next Steps and Project Review**

- The Borough of Kinnelon should adopt the CHCMP as an Element of the Borough’s Master Plan
- Once adopted by the Planning Board, the next step will be for the Borough Council to adopt the Highlands referral ordinance.

A motion to adopt the Critical Habitat Conservation and Management Plan, dated August 12, 2020 and prepared by The Land Conservancy of New Jersey as an element of the Borough Master Plan was offered by Mr. Savino, second by Mrs. Hanks.

Mr. Diani -No

Mrs. Smialek – yes

Councilman Yago – yes

Mayor Freda – No

Mr. Savino – yes

Mrs. Hanks – yes

Mr. Schwartz – Yes

Mrs. Roselius – Yes

Attached is the Flow Chart, When is Project Review for Critical Habitat Necessary.

Below is the next steps and Project Review.

- The Borough of Kinnelon should adopt the CHCMP as an Element of the Borough's Master Plan
- Once adopted by the Planning Board, the next step will be for the Borough Council to adopt the Highlands referral ordinance.
- When the Borough of Kinnelon adopts the Highlands referral ordinance, all projects that trigger review would be referred for review to the Highlands Council.
  - If the Highlands Council review is not triggered, then the Critical Habitat provisions are not triggered.
  - Minor development applications would be exempt in almost every case.
- Major Highlands Development applies to only the Preservation Area.
  - Major Highlands Developments fall under the jurisdiction of the NJDEP
  - if projects trigger the referral ordinance, subject to the policies in the RMP.
  - Planning Area properties subject to these polices if the development triggers referral.
- If the application does not meet the applicability of the referral ordinance, then the Highlands Council would not be involved, and Highlands polices, including the CHCMP, would not apply.
  - When there are exemptions, exclusions, or other situations where the referral ordinance does not apply, then the policies identified by the RMP also do not apply.
- Board of Adjustment applications are affected only if the development meets the applicability in the referral ordinance, similar to planning board applications.
  - Any application that does not meet the applicability guidelines would not require Critical Habitat review.
- As part of the Highlands Council review, and as a condition of their approval of an application, stewardship and monitoring of Critical Habitat will be required of the applicant.
- The Highlands Council will provide grant funding for the Borough to develop a habitat stewardship program, if requested and applicable.

Mrs. Roselius opened the meeting to the public and hearing no one closed the public portion.

A motion to adjourn was offered by Mr. Savino, second by Mrs. Smialek with the affirmative "yes" vote of all on roll call.

Respectfully submitted,

Jennifer Highers, Secretary

cc: Planning Board Members  
Planning Board Attorney  
Planning Board Engineer  
Borough Clerk  
Board of Health  
Fire Prevention Bureau  
Zoning Official  
Construction Official  
Environmental Commission  
Tax Collector  
Assessor  
Department of Public Works  
Police Department  
Morris County Planning Board