

NEW HAVEN CITY PLAN COMMISSION SPECIAL PERMIT

RE: 120 FORBES AVENUE. Special Permit for the expansion of an existing used oil transfer station in an IH zone, consisting of the re-construction of an existing truck pad loading/filling area, the installation of a new tank farm, and the construction of a new rail spur and loading area. (Owner/Applicant: Safety-Kleen Systems, Inc.; Agent: Jesse A. Langer of Updike, Kelly & Spellacy, P.C.)

REPORT: 1562-05

ACTION: Approval with Conditions

Submission: SPECIAL PERMIT Application Packet including DATA and SPECIAL PERMIT forms. NARRATIVE attached. Application fee: \$250. Received September 19, 2019. Add documents submitted on October 7, 2019

Note: Companion CPC Report 1561-01 for the same site. SPR & CSPR Application Packet including DATA, WORKSHEET, SITE, SESC, and CSPR forms. Received July 18, 2019.

- Narrative from BL Companies concerning proposed project and zoning compliance dated July 18, 2019. Received July 18, 2018.
- Additional Pages for the Coastal Site Plan Application dated July 18, 2019. Received July 18, 2018.
- FIG-1: Safety Kleen Facility. Drawing date July 18, 2019. Received July 18, 2018.
- Project Narrative dated September 5, 2019. Received September 5, 2019.
- Traffic Chart. Received September 5, 2019.
- Tanker Truck, Railcar, and Barge Product Volume. Received September 5, 2019.
- National Flood Hazard Layer FIRMette. Received September 5, 2019.
- Easement Documents. Received September 5, 2019.
- Stormwater Management Report dated September 5, 2019. Received September 5, 2019. Revised September 12, 2019. Received September 13, 2019.
- Integrated Contingency Plan dated May 2011. Last revised March 2018. Received September 5, 2019.
- Application drawings. 11 sheets received July 18, 2019. Received July 18, 2018. Revisions and additional sheets received September 5, 2019 and September 13, 2019.
 - Title Sheet dated July 17, 2019. Received July 18, 2018.
 - EX-1: Property & Topographic Survey. Drawing date October 24, 2017. Received July 18, 2018.
 - EX-2: Property & Easement Survey. Drawing date October 24, 2017. Received September 5, 2019.
 - SP-1: Site Plan. Drawing date July 17, 2019. Received July 18, 2018.
 - SP-2: Site Layout Plan. Drawing date September 5, 2019. Received September 5, 2019.
 - GD-1: Grading & Drainage Plan. August 29, 2019. Received September 5, 2019.
 - GN-1: General Notes. Drawing date July 17, 2019. Received July 18, 2018.
 - DN-1: Details Sheet. Drawing date July 17, 2019. Received July 18, 2018.
 - DN-2: Details Sheet. Drawing date September 5, 2019. Received September 5, 2019.
 - Proposed Tankfarm Concrete Plan and Details. Drawing date April 25, 2019. Received July 18, 2018.
 - Concrete Truck Station Plan Sections & Details. Drawing date April 25, 2019. Received July 18, 2018.
 - Proposed Rail UMO & UAF Piping Plan. Drawing date May 4, 2019. Received July 18, 2018.
 - Typical Rail Car Containment Pan Installation Details. Drawing date June 10, 1998. Received July 18, 2018.
 - Type C Loading Rack. Drawing date September 5, 1996. Received July 18, 2018.
 - Sliding Gate Details. Drawing date November 11, 2005. Received July 18, 2018.
 - Existing Site Plan. Drawing date April 25, 2019. Received September 5, 2019.
 - Proposed Site Piping Plan. Drawing date May 27, 2019. Received September 5, 2019.
 - RH-1: Reflective Heat & Shading/Impact Plan. Drawing date September 3, 2019. Received September 5, 2019.
- Transmittal Letter from BL Companies summarizing changes, dated September 12, 2019. Received September 13, 2019.
- Stormwater Waiver request from BL Companies, dated September 12, 2019. Received September 13, 2019.

- Letter regarding Flood Damage Prevention Ordinance, dated September 12, 2019. Received September 13, 2019. Revised letter received September 17, 2019.

Previous CPC Actions: SPR & CSPR for demolition of existing and constriction of new fuel tanks and reconfiguration of loading racks (1445-04, 10/20/10); SPR for Relocation of Dual sanitary mains (1396-04, 11/15/06, GNHWPCA); CSPR & Variances for new Bulletin Sign (1364-19, 02/16/05, Denial); Special Permit for Sludge Facility (1289-02, 08/15/00, 1299-01, 05/16/01 withdrawn); SE & CSPR for Outside storage petroleum tank (1216-10, 12/11/96, Q River Terminal); CSPR to construct new fuel tank to replace 2 existing tanks (1109-04, 04/04/90, SOS Terminals); CSPR to add Fuel tanks to existing tank farm (966-06).

BACKGROUND

Per the City of New Haven zoning regulations Sections 46 and 64, David Paquette of Safety-Kleen Systems, Inc. has applied for a Special Permit (and Site Plan & Coastal Site Plan Review: CPC Report 1561-01) for the expansion of an existing used oil transfer station at 120 Forbes Avenue. The present use of the site is a used oil transfer station (and processing and marketing facility). Safety Kleen collects and recycles Used Motor Oil (UMO) and Used Antifreeze (UAF) through a closed loop system from garages and gas stations. The material is re-fined, blended, and packaged at its recycling facilities to be re-distributed to end users. The facility located at 120 Forbes Avenue functions as a collection terminal where UMO is collected, stored, and shipped to Safety-Kleen's Oil Re-Refineries and Recycle Centers.

Current site conditions: The project site encompasses an area of approximately 1.7 acres and is occupied by 10 above-ground storage tanks protected by a spill containment berm (at approximately 13.5 feet), a two-story 10,656 SF brick office building, distribution piping, a truck loading and off-loading facility, and a dock extending into the Quinnipiac River. The entire site is enclosed within 6-ft high security fencing topped by barbed wire. The site is bounded by the Quinnipiac River in the north, Magellan Midstream Partners LP tank farm in the east, Forbes Avenue and commercial/industrial uses in the southwest, and the I-95 bridge/underpass in the west.

Proposed Activity: The applicant proposes to construct eight (8) new storage tanks within the existing containment berm to store 2,773,740 gallons of used oil (current volume stored on site is 2,609,740 gallons). Additionally, under review by the Commission for Site Plan and Coastal Site Plan approval, the applicant proposes to replace the existing concrete truck loading dock with a new concrete truck loading dock and the extension of rail service onto the site via two new rail spurs from the existing rail line on the north side of Forbes Avenue. The applicant proposes to install 7-ft high security fencing topped by three stands of barbed wire, a new sliding access gate for truck access, and swing gates for railcar access.

PUBLIC HEARING

A public hearing was held on October 16, 2019. A transcript of the hearing, CPC meeting 1562, is available from the City Plan Department.

SPECIAL PERMIT: This Special Permit is required under (1) Section 46 and must meet the General Standards and the criteria for a special permit under that section, and (2) the standard criteria for special permits under Section 64(e).

1. Special Permit analysis under Section 46: Outdoor activities and storage, waste, dumping and quarries. The applicant states that the facility is a transfer station dealing with solid waste as governed by Section 46(h), which states:

Statement of purpose. In order to promote, protect and preserve the health, safety and general welfare of the people of the City of New Haven, it is hereby declared to be in the public interest that the accumulation, collection, transportation, processing, and disposal of solid waste be regulated. The City of

New Haven is authorized by General Statutes § 22a-208a to regulate, through zoning, land usage for solid waste disposal.

Solid waste facilities are disproportionately concentrated in New Haven, particularly in the IH district, adjacent to residential neighborhoods, public recreation areas, food establishments, and small businesses. Concentrations of waste facilities can attract and generate many problems for communities, including objectionable noise, odor, litter and traffic. Diesel fumes and dust can degrade air quality and aggravate allergies and other health problems existing in the affected communities. The problem is compounded by the increasingly-regional nature of these facilities, and the trend towards larger and larger facilities. Accordingly, it is the policy of the City that the burden of fulfilling the need for solid waste facilities shall not fall disproportionately on any community and that the construction of new solid waste facilities as defined in section 46(h)(2) a through i hereof shall not be permitted within the limits of the City of New Haven.

Relevant Definitions:

TRANSFER STATION. The term "*transfer station*" means any location or structure, whether located on land or water, where more than ten cubic yards of solid waste, generated elsewhere, may be stored for transfer or transferred from transportation units and placed in other transportation units for movement to another location, whether or not such waste is stored at the location prior to transfer.

SOLID WASTE. The term "*solid waste*" means unwanted or discarded solid, liquid, semisolid or contained gaseous material, including, but not limited to, demolition debris, tires, material burned or otherwise processed at a resources recovery facility or incinerator, material processed at a recycling facility, and sludges or other residue from a water pollution abatement facility, water supply treatment plant, or air pollution control facility.

General Standards: **SUBMISSION MEETS REQUIREMENTS**

A transfer station is required to submit the following with an application for Special Permit:

- A site-location map;
- A site plan complying with section 64(f) governing site plans and site plan review guidelines promulgated thereunder and adopted by the City Plan Commission;
- An operating plan indicating types of materials to be accepted at the facility and estimates of the volume and number of trips of incoming and outgoing materials daily and during peak periods;

According to the existing DEEP Permit, Safety-Kleen is permitted to engage in "the business of operating a (1) Used oil processing and marketing facility for used oil pursuant to RCSA Section 22a-449(c)-119; and (2) Processing oily wastewater and oily waste solids as CGS 22a-454 wastes. [Safety-Kleen may] store containers of oily waste solids for a period of up to 180 days in order to consolidate a load for transportation to a permitted facility for treatment and disposal. The permit does not authorize [Safety-Kleen] to bring to and place at the Facility wastes identified as hazardous under the RCRA, 42 U.S.C. 6901 et. seq."

The applicant puts forth that it currently makes 42 trips to and from the site each day. Should their site plan be approved (heard simultaneously with this Special Permit application), the trips per day would be reduced to 32 because of the addition of rail service to the site.

- A plan for preventing and controlling offensive noises, odors, and rodents and other disease vectors;
The applicant states that the process is completely contained, and materials are not processed on site.

- A plan for preventing and controlling fire and explosions occurring at the site;

The warehouse is equipped with fire-fighting equipment as well as spill containment and response resources. The fire-fighting equipment includes foam and water hoses, as well as a 1,000-gallon storage tank and distribution pump for the terminal's foam system. Spill response materials are stored in a series of cabinets at the back of this room. Response materials include:

shovels, rakes, spill pads, and absorbent material. Two gas-fired heaters are located within the warehouse to heat this location. (See ICP Section 1.2.2) A fire extinguisher and lifesaving equipment are located at a control structure, located at the offshore end of the vessel dock. (See ICP Section 1.2.3).

A spill could occur due to a natural disaster such as a hurricane or fire. Storm induced spills are protected against through the use of appropriate construction materials for tanks and secondary containment structures. Also, multiple releases are prevented during potential natural disasters through securing measures like closing valves between tanks. Fire protection equipment (fire extinguishers, foam system etc.) is in place to limit the spread of a fire that might contribute to a spill event during a natural disaster (See ICP Section 2.1.1).

Section 2.1.2 of the ICP presents spill scenarios for Small, Medium, and Worst Case and a plan for response to each.

- A plan for diverting unrestricted waste;

Under the existing, expired DEEP permit, Safety-Kleen is not permitted to allow a list of waste materials including, most importantly, Hazardous waste and waste antifreeze. To divert unrestricted types of waste, the applicant will reject any load of used waste and ensure that the rejected material is shipped off-site back to the generator or an alternate treatment/storage/disposal facility within 72 hours of arrival. The applicant must keep a record of all material that enters and leaves the site.

- A plan for managing dust and debris, and a stormwater runoff; and

ICP states, "This ICP has been developed to meet the requirements for EPA's Spill Prevention Control and Countermeasure Plan, EPA's Facility Response Plan, United States Coast Guard's General Response Plan, and Connecticut DEEP's Stormwater Pollution Prevention Plan. The ICP has also been prepared to be consistent with other plans and regulatory programs for the subject site."

Summary of Stormwater Runoff Plan:

Stormwater runoff plan includes non-structural controls such as good housekeeping and best management practices (e.g. visually inspecting stormwater within the tank prior to pumping, maintain catch basins and secondary containment, keep paved areas clean, etc.) and structural controls:

Drainage Area 001 – bermed tank farm area – stormwater is collected in a tank and infiltrates into the ground.

Drainage Area 002 – terminal yard – collection point for stormwater that is discharged offsite through the City of New Haven storm sewer. Any water around the tanks typically evaporates. Any standing water is inspected prior to discharge. Remaining water need the office sheet flows toward adjacent properties.

Drainage Area 003 – dock area – Stormwater runs off directly to the Quinnipiac River. Drip pans are typically covered to prevent rainwater from accumulating in the pans.

Stormwater Monitoring Program requires Visual Monitoring and Benchmark Monitoring. Visual monitoring is required once per quarter in January, April, July and October. Samples are inspected based on a series of water quality characteristics. Benchmark Monitoring requires samples be compared to discharge standards established by the DEEP. Benchmark sampling is required on a semi-annual basis with one event between October and March and the second between April and September (with the monitoring days at least 30 days apart). Samples must be submitted to a State of Connecticut certified laboratory and analyzed for the parameters set by the DEEP.

- A traffic study that indicates truck routes to and from the facility on streets, to the extent possible, that are major arterials and highways that do not abut residential neighborhoods along the way, with the objective of minimizing potential adverse impacts on adjacent neighborhoods.

The applicant states that ingress and egress is off of Forbes Avenue which is a Principal Arterial according to the CT DOT. Vehicles arriving from I-95 northbound would use Exit 50 to access Stiles Street or Waterfront Street. Vehicles arriving from I-95 Southbound can use Exist 47 to Hamilton Street, then proceed to East Street, then south to Water Street and Forbes Avenue. Safety-Kleen employees are instructed to avoid Fair Haven and other residential areas.

Section 64(h)(3)h Special Permit Criteria:

In evaluating an application for special permit under this section, the Commission shall take into consideration the health, safety and welfare of the public, in general, and the neighborhood, in particular. If the Commission concludes that the proposed use meets the threshold requirement of compatibility, the Commission may grant or renew a special permit with conditions attached thereto for the purpose of assuring compatibility with the neighborhood and protection of the health, safety, and welfare of the public in general. In so determining, the commission shall consider the following site suitability criteria:

Special Permit Criteria	Comments
1. Traffic and access to the site;	<i>Safety-Kleen is consolidating its operations from Bridgeport and North Haven at this New Haven Terminal. Volume throughout will increase. However, the site plan anticipates use of rail which will decrease the number of truck trips from 42 to 32 trips per day.</i>
2. Potential air and water quality impact;	<i>The existing operations and proposed project consist of delivery, temporary storage and transportation of Used Motor Oil and eventually Used Antifreeze. Fluids are contained at all times and handled within an existing containment area (earthen berm) approved by DEEP.</i>
3. Potential for creating a nuisance;	<i>The applicant states that the location minimizes nuisance because it is located in the IH zone between Interstate 95 and Magellan Midstream Partners, L.P.</i>
4. Facility size and existing capacity of other solid waste facilities in the region;	<i>There are no other nearby facilities that perform the same function.</i>
5. Proximity to sensitive receptors including but not limited to schools, community gardens, parks, playgrounds, day care facilities, health care facilities, nursing homes, and residences;	<i>This site is located in the IH District. It is close to the Annex neighborhood and directly on the waterfront.</i>
6. Presence of other potential nuisance sources and evaluation of the cumulative impacts on public health and safety; and	<i>None presented.</i>
7. Criteria set forth in section 64(e), as appropriate.	<i>See below.</i>

2. Special Permit analysis under Section 64(e):

Special permits—Statement of purpose. The development and execution of a comprehensive zoning ordinance is based upon the division of the city into districts, within which the *use* of land and *structures* and the bulk and location of *structures* in relation to the land are substantially uniform. It is recognized, however, that there are certain *uses* and features which, because of their unique characteristics, cannot be distinctly classified or regulated in a particular district or districts, without

consideration, in each case, of the impact of such *uses* and features upon neighboring *uses* and the surrounding area, compared with the public need for them at particular locations. Such *uses* and features are therefore treated as special permits.

Section 64(e)(2) *Findings required*. Special permits shall be granted only where the City Plan Commission finds that the proposed use or feature or the proposed extension or substantial alteration of an existing use or feature is in accord with the public convenience and welfare after taking into account, where appropriate:

Special Permit Criteria	Comments
<p>a. <i>Burden of proof</i>. A special permit shall not be considered an entitlement, and shall be granted by the Commission only after the applicant has demonstrated to the satisfaction of the Commission that all ordinance requirements are met.</p>	<p><i>None.</i></p>
<p>b. <i>Ordinance compliance</i>. The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use as set forth in this ordinance. Any accessory use to a special permit must receive express authorization from the commission.</p>	<p><i>The proposed use is consistent with the uses in the IH (Heavy Industrial) zone.</i></p>
<p>c. <i>Comprehensive Plan of Conservation and Development</i>. The Commission shall determine if the proposed special permit's use and improvements comply with the City's development plans.</p>	<p><i>The Comprehensive Plan calls for both connectivity and multimodality at the Port and prioritizing the protection of coastal land, including aggressive enforcement of coastal district regulations and reduction of non-point source pollution:</i></p> <p><i>Port Authority. "The Port of New Haven is an unparalleled transportation asset. Intermodal connectivity, including freight railroad connections, is essential to growing the port in a manner that protects surrounding neighborhoods and eases demand on the Interstates." POCD, ch. V, p. 11.</i></p> <p><i>Multimodal transportation. "Encourage full access between freight railroads and the port district, in particular by extending rail service along Waterfront Street and to the North Yard." POCD, ch. V, p. 18.</i></p> <p><i>Environmentally Sensitive Areas. "Continue to protect salt marshes, tidal wetlands, inland wetlands, and other riparian assets from inappropriate development through the aggressive enforcement of wetlands, soil erosion and sediment control, and coastal district regulations.... Reduce non-point source pollution of New Haven's rivers." POCD, ch. III, p. 11.</i></p> <p><i>Planning Considerations. "These assets are compromised by adverse environmental impacts including air and water pollution and inappropriate use of coastal area land, as well as the spatial constraints largely derived from</i></p>

	<i>railroad and highway rights-of-way.... To mitigate the range of adverse impacts associated with the highway, the City must be proactive with regard to environmental protection, contextual design, construction operations, and land preservation.” POCD, ch. 7, pg. 17.</i>
d. <i>Natural features.</i> Special permits must preserve trees and other natural site features to the greatest extent possible so as to minimize their impact upon surrounding properties and the district, and must not have an adverse impact on significant scenic vistas or on significant wildlife or vegetation habitat.	<i>The site has Intertidal Flats, Estuarine Embayments, Coastal Flood Hazard Areas, Shorelands, Developed Shorelands, and Navigable Waters as part of the Coastal application. This application does not propose any changes to the water-dependent use of multimodal shipping (e.g. barges) and does not include any work below the Coastal Jurisdiction Line. Staff notes that Safety-Kleen’s actual use, for which this special permit is required, is not a water dependent use. Further, there are no other natural resources impacted by this project. Safety-Kleen is proposing additional landscaping for aesthetic enhancement and rain gardens for water quality. This site does, however, have a beautiful scenic view of the river and East Rock.</i>
e. <i>Hazard protection.</i> The proposed use shall not have a detrimental impact upon the use or peaceable enjoyment of abutting or nearby properties as a result of vibrations, fumes, odor, dust, erosion, sedimentation, flooding, fire, noise, glare, hazardous material use, storage, transportation or disposal, or similar conditions.	<i>The new tanks will be floodproofed in conformance with the flood plain regulations. The existing earthen berm creates additional flood protection for a portion of the site. Used oil will continue to be stored on site in a greater quantity than current operations. No processing takes place at the site. The only operations are temporary storage, dewatering of oil material, and transportation of material. Safety-Kleen is prohibited from handling hazardous material as defined by RCRA.</i>
f. <i>Historic preservation.</i>	<i>N/A No historic structures on site.</i>
g. <i>Design and architectural compatibility.</i> The operational and physical characteristics of the special permit shall be compatible with the surrounding area and the neighborhood in which it is proposed. Site design and architectural features which contribute to compatibility include, but are not limited to, landscaping, drainage, access, and circulation, building style and height, bulk scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors.	<i>N/A The surrounding area is industrial.</i>
h. <i>Property values.</i> The use and site design shall not have a detrimental effect on the property values in the surrounding area.	<i>The site is in an established commercial/industrial area and the use of the site as a used oil transfer station (and processing and marketing facility) is not changing. The increase in storage capacity and adding Used Antifreeze (UAF) will not likely impact property values, nor perceived property values (as the material is not hazardous, noxious, odorous, etc.).</i>

<p>i. <i>Traffic impact.</i> The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation on, adjacent or nearby the site. The Commission may require a traffic impact study be submitted to it by the applicant for any special permit use of land. The study shall consider traffic patterns and adequacy of proposed off-street parking and loading resulting from the proposed development.</p>	<p><i>The site plan anticipates use of rail which will decrease the number of trips from 42 to 32 trips per day. There is nearby access to I-95 both northbound and southbound. Employees are instructed to avoid Fairhaven and other nearby residential areas en route.</i></p>
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CONDITIONS OF APPROVAL:

The conditions of approval of the Special Permit under §46 and §64 of the New Haven Zoning Ordinance for the expansion of an existing used oil transfer station in an IH zone are as follows:

1. Special Permit must be filed on the land records of the City of New Haven before issuance of building permits. A digital copy of the recorded site plan shall be provided to staff (.pdf).
2. An operator certified by DEEP shall be present at the facility at all times during operating hours. *New Haven Zoning Ord. §46(H)(5)(a).*
3. A sign shall be posted at the entrance of the site stating, at minimum, the name of the permitted and the hours of operation, the authorized users, and the required safety precautions. *New Haven Zoning Ord. §46(H)(5)(b).*
4. The terminal operations must be permitted in accordance with DEEP permit on file. *New Haven Zoning Ord. §46(H)(5)(e).* Upon renewing, modifying or otherwise updating the expired DEEP permit, the applicant must submit the new permit documentation to the City Plan Department. If City Plan Staff determine, in their sole discretion, that the new DEEP Permit alters the terminal operations in a significant way, the applicant will return to the City Plan Commission for a revised Special Permit.
5. All storage of waste or recycled materials shall be in sturdy containers or enclosures that are fully covered, secured, and maintained in good condition. Storage containers for waste or recycled flammable materials are or shall be approved by the Fire Department. *New Haven Zoning Ord. §46(H)(5)(f).*
6. Equipment shall be maintained on site by the operator to control fires and explosions and arrangements made with the City Fire Department to immediately acquire services when needed. *New Haven Zoning Ord. §46(H)(5)(g).*
7. If for any reason the facility is rendered inoperable, an alternative method approved by DEEP shall be available for processing or transfer and disposal of solid waste. *New Haven Zoning Ord., § 46(h)(5)(h).*

ADOPTED: October 16, 2019
Edward Mattison
Chair

ATTEST: 
Aicha Woods
Executive Director, City Plan Department