

NEW HAVEN CITY PLAN COMMISSION SPECIAL PERMIT

RE: **120 FORBES AVENUE.** Special Permit for the construction of two new storage tanks, storing approximately 3,470,000 gallons of used oil within the existing containment berm, at an existing used oil transfer station in an IH zone. (Owner/Applicant: Safety-Kleen Systems, Inc. c/o David Paquette; Agent: Sara A. Sharp of Hurwitz, Sagarin, Slossberg & Knuff, LLC)

REPORT: **1582-05**

ACTION: **Approval with Conditions**

Submission: SPECIAL PERMIT Application Packet including DATA and SPECIAL PERMIT forms. NARRATIVE attached. Application fee: \$250. Received February 18, 2021.

Note: Companion CPC Report 1582-05 for the same site. SPR Application Packet including DATA, WORKSHEET, SITE, SESC, and CSPR forms. Application fee: \$360. Received February 18, 2021.

- Project Narrative received February 18, 2021. Revised March 11, 2021. Received March 11, 2021.
- Additional Pages for the Coastal Site Plan Application dated July 18, 2019. Received February 18, 2021.
- FIG-1: Safety Kleen Facility. Drawing date July 18, 2019. Received February 18, 2021.
- Easement Documents. Received February 18, 2021.
- National Flood Hazard Layer FIRMette. Received February 18, 2021.
- Letter regarding Flood Damage Prevention Ordinance dated February 18, 2021. Received February 18, 2021.
- Integrated Contingency Plan dated May 2011. Last revised March 2018. Received February 18, 2021.
- Stormwater Management Report dated February 18, 2021. Received February 18, 2021. Revised March 3, 2021. Received March 4, 2021. Revised March 10, 2021. Received March 11, 2021.
- Proposed Site Piping Plan. Drawing date September 6, 2020. Received February 18, 2021.
- Application drawings. 8 sheets received February 18, 2021. Revisions and additional sheets received March 4, 2021.
 - Title Sheet dated February 18, 2021. Received February 18, 2021.
 - EX-1: Property & Topographic Survey. Drawing date October 24, 2017. Received February 18, 2021.
 - SP-1: Site Plan. Drawing date July 17, 2019. Received February 18, 2021. Revisions received March 4, 2021.
 - GD-1: Grading & Drainage Plan. Drawing date February 18, 2021. Received February 18, 2021.
 - EC-1: Sediment Erosion Control Plan. Not dated. Received February 18, 2021.
 - EC-1: Sediment Erosion Control Notes. Not dated. Received February 18, 2021.
 - GN-1: General Notes. Drawing date July 17, 2019. Received February 18, 2021.
 - DN-1: Details Sheet. Drawing date July 17, 2019. Received February 18, 2021.
 - RH-1: Reflective Heat and Shading/Impact Plan. Drawing date September 3, 2012. Received March 4, 2021.
- Permitting & Construction Chronology. Received March 4, 2021.
- CT DOT Docket No. 2002-1-RR Approval and Bond to establish a new private railroad/highway at-grade crossing at 120 Forbes Avenue, New Haven, CT.
- City Plan Commission Site Plan & Coastal Site Plan Approval, Standard Conditions of Approval dated March 1, 2021. Received March 4, 2021.
- City Plan Commission Special Permit Approval, Standard Conditions of Approval dated March 1, 2021.
- Supplemental Narrative received March 4, 2021.
- Stormwater Waiver Request dated March 10, 2021. Received March 11, 2021.

Previous CPC Actions: SPR, CSPR & Special Permit for the re-construction of an existing truck pad/filling area, installation of a new tank farm, and the construction of a new rail spur and loading area (1561-01 & 1562-05, 10/16/2019); SPR & CSPR for demolition of existing and construction 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, Safety-Kleen Systems, Inc. c/o David Paquette has applied for a Special Permit (and Site Plan & Coastal Site Plan Review: CPC Report 1582-05) 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 site encompasses an area of approximately 6.9 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 facility is currently used to store and distribute used motor oil and antifreeze products. 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.

The applicant received City Plan Commission Site Plan Review and Special Permit approval in 2019 (1561-01 & 1562-05) to construct eight (8) new storage tanks within the existing containment berm to store 2,773,740 gallons of used oil on site. The approved project also included the replacement of 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 also received approval 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.

Proposed Activity: The applicant proposes to construct two (2) new 72-ft diameter above-ground storage tanks, along with associated piping, within the existing containment. The new tanks will store an additional 3,645,000 gallons of used oil on site.

PUBLIC HEARING

A public hearing was held on March 17, 2021. A recording of the hearing, CPC meeting 1582, 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;
- A plan for preventing and controlling offensive noises, odors, and rodents and other disease vectors;
- A plan for preventing and controlling fire and explosions occurring at the site;
- A plan for diverting unrestricted waste;
- A plan for managing dust and debris, and a stormwater runoff; and
- 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.

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 previously approved site plan anticipated use of rail which will decrease the number of truck trips to and from the site.</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. The facility does not directly abut residential use.</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
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.	<i>None.</i>

<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 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></p>
<p>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.</p>	<p><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</i></p>


	<p><i>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></p>
<p>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.</p>	<p><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></p>
<p>f. <i>Historic preservation.</i></p>	<p><i>N/A No historic structures on site.</i></p>
<p>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.</p>	<p><i>N/A The surrounding area is industrial.</i></p>
<p>h. <i>Property values.</i> The use and site design shall not have a detrimental effect on the property values in the surrounding area.</p>	<p><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>
<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 previously approved site plan anticipated use of rail which will decrease the number of truck trips to and from the site. There is nearby access to I-95 both northbound and southbound. Employees are instructed to avoid Fair Haven and other nearby residential areas en route.</i></p>

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: March 17, 2021
Leslie Radcliffe
Chair

ATTEST: 
Aicha Woods
Executive Director, City Plan Department