



## PLANNING BOARD

P.O. Box 1305  
Littleton, Massachusetts 01460

June 21, 2023

### Consolidated Decision

#### Major Commercial or Industrial Use Special Permit

#### Water Resource District Special Permit

#### Stormwater Permit

#### Site Plan Review

**254, 256 and 260 Ayer Road**

**APPLICATION:**

**SPECIAL PERMITS** pursuant to MGL Chapter 40A and the Code of the Town of Littleton Zoning. The application is for a Major Commercial or Industrial Use Special Permit, Water Resource District Special Permit, Stormwater Permit and Site Plan Review for the re-development of a Retail Motor Fueling Facility.

**PROPERTY LOCATION:**

Approximately 2.79 acres of land zoned Business District 254, 256 and 260 Ayer Road.

Assessors Map U45, Lots 7, 7-B, 8-A, and 11.<sup>1</sup>

**DESCRIPTION:**

The Project at 254, 256 and 260 Ayer Road includes the demolition of a 1,974-sf, 1-story tire recycling building and Gulf retail motor fuel outlet - including a 1,983-sf convenience store building. Following demolition, a new retail motor fuel outlet within the parcels on the south side of Ayer Road will be constructed, including improvements to the stormwater quality, a new 6,000-sf conveniences store - including a coffee shop and a pizza shop - and retail fuel and commercial diesel dispensing areas.

The new retail motor fuel outlet will include up to 41 parking spaces, 5 retail fuel islands and 3 commercial diesel fuel islands, new underground fuel storage tanks, landscaping and stormwater improvements and overflow parking and picnic tables on the northern parcels.

**OWNER:**

**Parcel U45-7-B:**

**Paul Routhier Trustee of 256 Ayer Road Trust  
254 Ayer Road  
Littleton, MA 01460**

**Parcel U45-7-0:**

**Paul Routhier Trustee of Ayer House Trust  
256 Ayer Road  
Littleton, MA 01460**

**Parcel U45-8-A:**

**JPR Trust, Paul Routhier Trustee**

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<sup>1</sup> The Project also includes Town of Ayer Parcel 30-16, adjacent to Littleton Parcel U45, Lot 11 on the northern side of Ayer Road.

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**256 Ayer Road  
Littleton, MA 01460  
Parcel U45-11-0 (Littleton) & Parcel 30-16 (Ayer):  
Paul Routhier Trustee of 256 Ayer Road Trust  
256 Ayer Road  
Littleton, MA 01460**

**APPLICANT:** Energy North Group  
2 International Way  
Lawrence, MA 01843

**DATES OF LEGAL NOTICE:** Published February 23, 2023; and March 2, 2023

**DATES OF HEARINGS:** March 9, 2023; April 6, 2023; May 18, 2023, and June 8, 2023

**MEMBERS PRESENT:** Mark Montanari, Anna Hueston, Bartlett Harvey; Delisa Laterzo, and Jeff Yates

### **PUBLIC HEARINGS:**

The Littleton Planning Board held a duly noticed public hearing on March 9, 2023, which was continued to April 6, 2023, May 18, 2023, and June 8, 2023. The Public Hearing was closed on June 8, 2023 on the motion of Yates, seconded by Laterzo, and the Board voted 5 to 0 to close the Public Hearing.

At the hearings, the Applicant's engineer Chris Tymula of Greenman-Pedersen, Inc. presented the Project, and Heather Monticup discussed the traffic impacts and MassDOT permitting. Topics covered included engineering and design, and an overall presentation of the project. The Applicant's representatives responded to questions posed by members of the Planning Board and Town Staff. Abutters and other members of the public in attendance asked a number of questions, all of which were taken under advisement.

The Board deliberated on June 8, 2023 to consider the application.

### **BACKGROUND:**

The property is comprised of three parcels on the southern side of Ayers Road and two parcels on the northern side of Ayer Road located within the Business District and within the Water Resource District:

- (1) Parcel 7-0, on the south side of Ayer Road, is occupied by FBS Tire Recycling which includes a 1,974-sf, 1-story building, paved parking area and shared driveway accessed through Parcel 7-B.
- (2) Parcel 7-B, on the south side of Ayer Road, is occupied by a Gulf retail motor fuel outlet including a 1,983-sf convenience store building, retail fuel canopy with four (4) fuel islands (8 fueling positions), a separate diesel fueling island, paved parking lot and two full access curb cuts along Ayer Road.
- (3) Parcel 8-A, on the south side of Ayer Road, is primarily a vacant parcel consisting of wooded land and brush areas.
- (4) On the north side of Ayer Road, the existing development consists of two parcels of land split between the Town of Littleton and the Town of Ayer and identified as Parcel U45-11-0

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and Parcel 30-16, respectively. This tract of land is primarily paved and used as overflow truck parking for the southern development parcels with a large open driveway curb cut along Ayer Road.

The Applicant submitted to the Planning Board the materials listed below (collectively, the “Plans”), which, together with the testimony provided at the referenced public hearings and the review and analysis of these materials provide the information required by Sections 38, 173-88, 173-62, 173-17 and 173-18 and are the basis of the Board’s determinations and decision:

1. Site Plan Review & Application for Special Permits for Article XIV Aquifer and Water Resource District; Article XVIII Major Commercial or Industrial Use; and Stormwater Permit Application, filed February 8, 2023, “Application Booklet”.
2. Proposed Retail Motor Fuel Outlet Site Re-Development Plans to Accompany Permit Documents prepared by Greenman-Pedersen, Inc.; Red Leonard Associates; and Harrison French & Associates, LTD as follows:

| SHEET NAME                        | SHEET NO. | PREPARED OR ISSUED | LAST REVISED   |
|-----------------------------------|-----------|--------------------|----------------|
| TITLE SHEET                       | 1 of 14   | February 8, 2023   | May 25, 2023   |
| EXISTING CONDITIONS PLAN          | 2 of 14   | February 8, 2023   |                |
| DEMOLITION PLAN                   | 3 of 14   | February 8, 2023   | May 25, 2023   |
| SITE PLAN                         | 4 of 14   | February 8, 2023   | May 25, 2023   |
| GRADING AND DRAINAGE PLAN         | 5 of 14   | February 8, 2023   | May 25, 2023   |
| UTILITY PLAN                      | 6 of 14   | February 8, 2023   | May 25, 2023   |
| EROSION AND SEDIMENT CONTROL PLAN | 7 of 14   | February 8, 2023   | May 25, 2023   |
| LANDSCAPE PLAN                    | 8 of 14   | February 8, 2023   | May 25, 2023   |
| DETAIL SHEET                      | 9 of 14   | February 8, 2023   | May 25, 2023   |
| DETAIL SHEET                      | 10 of 14  | February 8, 2023   | April 20, 2023 |
| DETAIL SHEET                      | 11 of 14  | February 8, 2023   | April 20, 2023 |
| DETAIL SHEET                      | 12 of 14  | February 8, 2023   | April 20, 2023 |

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|                                     |                     |                  |                |
|-------------------------------------|---------------------|------------------|----------------|
| DETAIL SHEET                        | 13 of 14            | February 8, 2023 | April 20, 2023 |
| DETAIL SHEET                        | 14 of 14            | February 8, 2023 | April 20, 2023 |
| TRUCK TURN PLAN                     | 1 of 1              | February 8, 2023 | April 20, 2023 |
| LIGHTING PLAN                       | RL-8621-S1 (1 of 2) | February 6, 2023 |                |
| LIGHTING SPECIFICATIONS             | RL-8621-S1 (2 of 2) | February 6, 2023 |                |
| ELEVATIONS                          | A-200               | February 6, 2023 |                |
| ELEVATIONS                          | A-201               | February 6, 2023 |                |
| RETAIL FUEL CANOPY ELEVATIONS       | 1 of 2              | February 8, 2023 |                |
| COMMERCIAL DIESEL CANOPY ELEVATIONS | 2 of 2              | February 8, 2023 |                |
| SINAGE SITE PLAN                    | A-000               | February 6, 2023 |                |
| ROADWAY CONCEPT #1                  | 1 of 2              | November 2, 2022 | April 20, 2023 |
| ROADWAY CONCEPT #2                  | 2 of 2              | November 2, 2022 | April 20, 2023 |

3. Cover Letter dated February 8, 2023 prepared by Greenman-Pedersen, Inc.
4. Traffic Report: Traffic Impact and Access Study by GPI dated February 2023
5. Stormwater Management Report dated Feb. 8, 2023, last revised April 20, 2023

Please note that documents and plans may be further revised in response to the completed peer review process and to conditions outlined in this decision. The application and plans underwent a significant peer review process, results of which are included in the "254-260 Ayer Road Peer Review" worksheet document prepared by Green International Affiliates, Inc. dated 5/31/2023.

**DETERMINATIONS:** Following the Public Hearing, the Planning Board made the following determinations:

**DETERMINATIONS RELATIVE the Major Industrial Use Special Permit Section 173-87A:**

1. The Board determines that, pursuant to Section 173-87A, and Section 173-61, the proposed uses could be permitted with a Special Permit if not categorized as "major".
2. The Board determines that the requirements for the issuance of a Major Commercial or Industrial Use Special Permit have been satisfied for the proposed tenant, specifically:

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- a) Roads, water and drainage facilities, as existing or as committed by the Applicant to be improved, will serve this proposal adequately and safely without material deterioration in service to other locations;
- b) There is a high assurance that no planned or unplanned contingency will result in undue hazard or contamination of air, land, or water resources;
- c) The proposal is visually compatible with the vicinity, including consideration of site arrangement, consistency in architectural scale, retention of existing site features, especially trees, and architectural character;
- d) There is a minimal degree of threat to environmental resources, including loss of valuable trees and other vegetation, disturbance of habitats, and soil loss through erosion;
- e) Buffering and screening from any nearby uses of different character is adequate.

### DETERMINATIONS RELATIVE to the Water Resource District Special Permit Section 173-62

3. As required by Section 173-62, the Board determines that the requirements for the issuance of a Water Resource District Special Permit have been met for the proposed redevelopment, specifically:

- a) The Planning Board has determined that at the boundaries of the premises the groundwater quality resulting from on-site waste disposal, other on-site operations, natural recharge and background water quality will not fall below the standards established by the Department of Environmental Protection in Drinking Water Standards of Massachusetts, as most recently revised, or, for parameters where no Department of Environmental Protection standard exists, below current Environmental Protection Agency criteria as published in the Federal Register or, where no such criteria exists, below standards established by the Board of Health in consultation with the Board of Water Commissioners. There has been no determination that existing groundwater quality is already below those standards.
- b) No proposed uses are prohibited in the Water Resource District and the Project will meet the requirements of the Zoning Bylaw.
- c) The Project includes 74,244-sf of impervious surfaces, which the Board may allow by special permit in the Water Resource District (a special permit is required where a development proposes rendering impervious more than 20% of lot area or 2,500 square feet of any lot or parcel but less than 50% in the Water Resource District). The Project plans call for recharge of stormwater runoff from impervious surfaces without degradation to groundwater. Such recharge includes infiltration through methods as outlined in the Town of Littleton Low Impact Design/Best Practices Manual (latest edition). Oil, grease, and sediment traps are specified where required. The Project does not include loading areas for toxic or hazardous materials. The proposed redevelopment Project improves the current stormwater management system and includes significant improvements over existing conditions, including new, double wall fiberglass fuel storage tanks, double wall fuel product piping, dispensers, nozzles, and positive limiting barriers around the fuel islands to limit any potential contamination of groundwater, and together coupled with the improved stormwater management system. For the foregoing reasons, the proposed impervious surface, approximately 61% of the Project, including a parking area with a capacity of 41 spaces, is hereby allowed.

### DETERMINATIONS RELATIVE to the Site Plan

4. The Board determines that the Project meets the requirements for approval of the site plan, including provision of adequate access, egress and internal circulation, screening of parking and

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lighting from adjacent uses, the minimization of major topographic changes or removal of existing trees, the provision of adequate access to each structure for fire and service equipment, and adequate stormwater, utilities and drainage. The Board further determines that the Project provides adequate and safe access to Ayer Road.

5. The Board notes that detailed signage plans were included in the Site Plan; the Planning Board has not reviewed, nor approved the signage – that review and approval is expressly reserved for the Building (signage) permit application process.

### DETERMINATIONS RELATIVE to all Special Permits

6. As required by Section 173-7(C), the Board determines that, as conditioned below, no significant nuisance, hazard or congestion will be created and there will be no substantial harm to the neighborhood or derogation from the intent of this chapter.

### DETERMINATIONS RELATIVE TO Stormwater Review

7. As required by Section 38-15, the Board determines that the Project will protect water resources and meet the objectives and requirements of the Stormwater Bylaw.

### CONDITIONS:

Based on the foregoing, Yates made a motion, seconded by Harvey, that the Planning Board **grant** the Major Commercial or Industrial Use special permits under Article XVIII Major Commercial or Industrial Use; **grant** the Water Resource Overlay District special permit; **grant** the Stormwater Permit; and **approve** the Site Plan under the Code of the Town of Littleton Zoning, subject to the following conditions. The following conditions shall be binding upon the Applicant, as the owner of the Project, and its successors and assigns. A final determination of the Building Inspector that the Applicant has failed to adhere to these conditions, following notice to the Applicant and a public hearing and other applicable requirements of the law, shall render this special permit null and void, without force and effect, and shall constitute grounds for the revocation of this special permit, and of any building permit issued hereunder. The Town of Littleton may elect to enforce compliance with this Special Permit using any and all powers available to it under the law.

### CONDITIONS in perpetuity:

1. Site Plan and Stormwater Plan: The Property shall be improved and operated in accordance with the approved Site Plan and Stormwater Management Plan, submitted to the Planning Board and titled “Proposed Retail Motor Fuel Outlet Site Re-Development Plans”, as referenced above.
2. Operational Considerations – Aquifer District: The Applicant shall:
  - a. Conduct semi-annual groundwater monitoring to help assess land use impacts from the site on local groundwater resources. The owner shall be responsible for all associated costs incurred including: the installation of new groundwater monitoring wells (to be located with the approval of the Littleton Water Department); maintenance and upkeep of existing groundwater wells; and sampling, analysis, and review performed by the Littleton Water Department. The sampling, location, testing frequency, and analytical requirements shall be drafted and modified by the Littleton Water Department and approved by the Littleton Planning Board contingent upon existing and future environmental site conditions.

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- b. This Special Permit does not contemplate the use, storage, generation, or disposal of toxic or hazardous materials in quantities that would require a Water Resource District Special Permit. Any use that would include these materials would require a separate Water Resource District Special Permit application to the Planning Board.
3. **Stormwater Management O & M Manual:** The Applicant shall monitor and report as outlined in the Stormwater Management O & M Manual.
4. **Special Permit:** This Special Permit will lapse 24 months following the grant thereof (except such time required to pursue or await the determination of an appeal referred to in M.G.L. c. 40A, Section 17) if a substantial use or construction has not sooner commenced, except for good cause. Commencement of construction of improvements to the building or substantial site work in support of the construction approved hereby will constitute substantial use of this Special Permit.

### **CONDITIONS Prior to commencement of construction activities:**

5. The Stormwater O & M Manual shall be signed by the owner/operator.
6. The Applicant shall provide the Planning Board a Detailed Construction Management Plan, including who to contact regarding noise, traffic and any other issues raised by abutters or neighbors during construction.
7. All utility connections shall be coordinated closely with LELWD.
8. The validity of this permit is dependent on the Applicant recording this decision at the Middlesex Registry of Deeds. No building permit shall issue until the Applicant has filed with the Building Inspector and Planning Board a copy of this decision setting forth the recording information of the decision.

### **CONDITIONS Prior to issuance of building permit:**

9. The property owner/applicant shall obtain approval from the Nashoba Board of Health for the septic design; inverts shall be part of this design.
10. The property owner/applicant shall obtain any necessary and outstanding State permits, including a MassDOT driveway permit. The MassDOT permit process includes a detailed review of stormwater control.

### **CONDITIONS Prior to issuance of occupancy permit:**

11. The property owner/applicant shall submit an ANR to the Planning Board to reconfigure the lot lines generally as outlined in the draft ANR included with the Site and Special Permit Plans prior to issuance of an occupancy permit for the new building.
12. Comments from Green International Affiliates, Inc. in the Peer Review Comment form dated 3-30-2023, revised 5-31-2023, and as updated by Applicant last on 6-1-2023 must be addressed to the satisfaction of the Planning Board prior to issuance of a building permit/occupancy permit, with particular attention to the following:
  - a. **Comment 22:** Confirmatory test pits must be performed for the stormwater infiltration basin and satisfactory results submitted to the Planning Board prior to issuance of any building permit.
  - b. **Comment 40:** Additional screening, if deemed necessary by the Planning Board, shall be installed to the reasonable satisfaction of the Planning Board.

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**VOTE:**

The Board members voted as follows:

|                 |     |
|-----------------|-----|
| Mark Montanari  | AYE |
| Jeff Yates      | AYE |
| Bartlett Harvey | AYE |
| Delisa Laterzo  | AYE |
| Anna Hueston    | AYE |

**Appeals, if any, shall be made pursuant to Section 17 of Chapter 40A, Massachusetts G.L., and shall be filed within 20 days after the date this decision is filed with Town Clerk.**

Signed:

Date Filed with Town Clerk:



**Bartlett Harvey**  
Planning Board Clerk



**Diane Crory**  
Town Clerk



**TOWN CLERK CERTIFICATION:**

To Whom It May Concern:

I, Diane Crory, Clerk of the Town of Littleton hereby certify that twenty days have elapsed since the filing of this decision by the Planning Board to grant this Special Permit and that no appeal concerning said decision has been filed, or that any appeal that has been filed has been dismissed or denied.

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Town Clerk Diane Crory  
Littleton, Mass.

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Date