



Memorandum

To: Village of New Hempstead Board of Trustees

From: Jonathan T. Lockman, AICP
Brennan Duarte, Planning Analyst

Re: Denton Acres Zoning Petition
SBL# 42.15-1-1

Date: May 15, 2024

cc: Allison Weinraub, Village Clerk
Amanda Bettello, Deputy Village Clerk
Bruce Minsky, Esq., Planning Board Attorney
Glenn McCreedy, PE, Planning Board Engineer

Received and reviewed for this memorandum:

- Transmittal Letter, from Brooker Engineering to Village of New Hempstead, re: Denton Acres, dated 4/18/2024.
- Zone Change Petition Checklist and Affidavit, signed by Favish Langsam, dated April 17, 2024.
- Petition to the Board of Trustees, In the Matter of the Petition of Favish Langsam, Petitioner, for a change in zoning designation of tax lot 42.13-12-1 from 1R-35 to NCD, signed by Favish Langsam, dated April 17, 2024.
- Full Environmental Assessment Form Part 1, with Environmental Mapper Summary, signed by Joseph A. Nyitray, Jr., PE, Brooker Engineering, dated April 12, 2024.
- Site Plan Cover Letter, from Brooker Engineering, to Allison Weinraub, from Joseph A Nyitray, Jr., P.E., dated March 15, 2024.

Project Summary

The subject application is for a rezoning petition. The current zoning is 1R-35, which allows for single-family dwellings on lots with a minimum area of 35,000 sf. The Applicant is petitioning to change the zoning to the Neighborhood Commercial District (NCD) which allows business and professional office use. The Applicant intends to build a 2-story, 13,500 sf office building. The parcel is located between Old Schoolhouse Road and North Main Street (NYS Rt. 45). The northern portion of the site contains a State-Regulated Freshwater Wetlands, #NH-17.

Petition Comments

1. In the Zone Change Petition Affidavit, the list of owners within 500 feet is blank. Please complete the list of nearby owners and submit.
2. Item 2 of the petition states that the premises are currently zoned 1R-50. The zoning map currently in effect shows the area as zoned 1R-35. Please correct.
3. Item 5 of the petition states that the total gross lot area of the lot is 9.07 acres, and that it contains 6.03 acres of wetlands. By subtracting the wetlands from the gross lot area, this should result in the remaining uplands being 3.05 acres. The Table of Dimensional Requirements, Chapter 290 Attachment 2, states in footnote 1 that
 “Only 25% of any land ... defined as a wetland by Chapter 159, Freshwater Wetlands, of the Code of the Village of New Hempstead ... shall be counted toward the minimum lot area.”
Twenty-five percent of 6.03 equals 1.5 acres. Therefore, for zoning purposes, there should be 4.55 acres of net lot area for this parcel (3.05 acres + 1.5 acres). In item 5, the net lot area of the parcel is stated as 3.95 acres, rather than 4.55 acres. Please reconcile these figures.
4. We are not in possession of the referenced site plan in the March 15, 2024, letter from Mr. Nyitray. The concept site plan should be attached to the submission. The edge of the wetland should be delineated, and its buffer as required by NYSDEC and the Village Freshwater Wetlands Code §159-5 should be indicated.
5. NCD is a “floating zone,” which may be “landed” at a site. Applicant should indicate how all the standards of §290-36.1 shall be met, particularly all the standards found in subpart C, which are required for the landing of this floating zone at this desired location.
 - a. A concept site plan indicating compliance with items C(1) through (4), and C(6) through (10) should be submitted at this time, rather than simply stating “your petitioner will work with the Planning Board.”
 - b. **Regarding petition item 8, subpart C(5) the applicant acknowledges that the site cannot take access from NYS 45, a major road. Access from a major or collector road is required by this standard. Access is proposed from Old Schoolhouse Road which does not meet the standard as it is NOT a major or collector road. For this reason alone, this site is not a viable candidate site for landing an NCD floating zone. The petition states that the applicant will seek a variance, admitting that proper access to a major or collector road is not possible. It is improper to seek a variance when petitioning for a rezoning, which is a legislative action by the Trustees.**
 - c. Parking should be shown on the plan meeting the standards of §290-62.B.
6. The entirety of the petitioner’s premises (lot 42.15-1-1) is requested for rezoning. If this petition is considered, the Trustees may wish to consider only designating the NCD District on just the three acres outside of the wetland and its associated state-required buffer, rather than rezoning the whole premises including the wetland itself which is unbuildable, and the adjacent 100 foot buffer of the wetland, which is highly regulated by the New York State DEC and Village Code Chapter 159, Freshwater Wetlands. (See figure on page 4.)
7. See the figures on the following pages that illustrate the site context:



Location of subject lot between NYS 45 on the west side, and Old Schoolhouse Road on the east side. The site would take access from Old Schoolhouse Road, across the street from Village Hall, because of the large state regulated wetland and buffer on the northwest side.



The Trustees may wish to consider limiting the proposed NCD zone to the portion of the site outside of the State-regulated wetland and its regulatory buffer zone. See comment 6.

SEQRA/GML Comments

8. The site is adjacent to NYS Road 45 and within 500 feet of County Road 80. This zoning petition application and associated site plan will require GML 239 review by the Rockland County Department of Planning.
9. The site is adjacent to the boundary with the Town of Ramapo, and they will be required to be notified per GML 239-nn.
10. Consideration of a zoning petition affecting less than 25 acres should be classified as an “unlisted” action. The Board of Trustees should notify its intent to be lead agency to the ZBA and to outside agencies, before declaring itself as lead agency for this unlisted action.
11. The Trustees should review the part 1 form once it declares lead agency. Once this occurs, I can prepare a part II form for the Trustees’ consideration. The applicant will be required at that point to prepare a SEQRA part III submittal addressing the identified impacts of the rezoning to NCD as noted in the part II form. The major impacts that will need to be addressed in the applicant’s part III submittal are anticipated to be impacts to the DEC wetland and to traffic. Question D.2.b.v of the FEAF part 1 describes that there will be no disturbance in the delineated wetland, but only the buffer will be affected. We will be able to see how much area within 100 feet of the wetland will be disturbed or encroached once a site plan is submitted.
12. The part III submittal by the applicant will need to address the impacts on the nearby intersections on New Hempstead Road, particularly the eastbound left turn movement onto Old Schoolhouse Road. A Traffic Impact Study (TIS) will presumably be provided.
13. Question D.2.j.i in the FEAF part 1 states there will be increased traffic on the weekends. The applicant will need to identify unit counts, lease areas, and proposed uses to project anticipated traffic generated by the proposed building.
14. Because the NCD rezoning petition is based on a particular plan, the SEQRA review by the Village Board of Trustees should not be split into two SEQRA reviews (one for the zoning change and one for the office building plan). This would be considered an improper segmentation of the SEQRA review. The Village Trustees, as lead agency, must consider the rezoning simultaneously with the plan for the office building presented, as one combined action to be reviewed under SEQRA.

Please let me know if you have any questions or comments regarding this review.