

CITY OF NIAGARA FALLS
PLANNING BOARD
ZONING AMENDMENT RECOMMENDATION PACKAGE

FOR

APPLICATION RELATIVE TO THE CREATION OF A 'HIGH ENERGY OVERLAY ZONE'
FOR THE PARCEL AT 5380 FRONTIER AVENUE ON BEHALF OF APPLICANT,
NORTH EAST DATA, LLC.

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CITY OF NIAGARA FALLS PLANNING BOARD
RECOMMENDATION



City of Niagara Falls, New York

P.O. Box 69, Niagara Falls, NY 14302-0069

NIAGARA FALLS PLANNING BOARD RECOMMENDATION

√	Approval
	Approval with Conditions
	Denial

Pursuant to action taken by the Niagara Falls Planning Board on the 25th day of April 2023, the outcome is as follows:

Application relative to the addition of a 'High Energy Overlay' zone to the parcel at 5380 Frontier Avenue on behalf of applicant North East Data, LLC.

DATE: April 25, 2023



Tony M. Palmer, Chairman
Niagara Falls Planning Board

2023 APR 26 AM 11:28

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PLANNING BOARD FINDINGS

1. The Planning Board has determined that the application of North East Data LLC., DBA Block Fusion USA, Inc., dated November 2, 2022, to add a High Energy Overlay Zone on the I2 “Industrial” zoned parcel at 5380 Frontier Avenue, S.B.L. #160.14-1-1.2,” conforms to the Comprehensive Plan of the City of Niagara Falls and meets the intent and objectives as expressed therein:

General Citywide Policies

§7.1 Policy Area 1: Land Use

General Policy Statement: it is the City's policy to ensure that the City's vision for development is supported by appropriate land-use policies and regulations, and that the City pursue a fine-grained, mixed-use approach to land-use that respects the existing character of healthy, stable neighborhoods, while allowing the City to grow and revitalize.

- ❖ Policy 7.1.8: Encourage and support alternative or interim land uses and creative site plan solutions in vacant and/or underutilized industrial areas that support the City's overall renewal vision and strategy.

§7.4 Policy Area 4: Environmental and Open Space Resources

General Policy Statement: It is the City's policy to preserve, conserve, and recognize the environmental and natural resources of the City in a manner that contributes to the City's overall quality of life, enhances public health, and fosters appropriate development.

- ❖ Policy 7.4.1: Limit the potential for cumulative and secondary impact of development and other activities on water, air, and land quality and quantity.

§7.6 Policy Area 6: Economic Development and Tourism

General Policy Statement: It is the City's policy to ensure that the City's economy is comprised of and supported by a diverse mixture of businesses and that the City's land use, zoning and development policies are supportive of economic growth, including the development and expansion of the tourism industry, cultural resources and the health care sector.

- ❖ Policy 7.6.1: Work actively to retain existing businesses and jobs and to promote and strengthen a mixed economy.

- ❖ Policy 7.6.3: Coordinate the City’s land use and zoning policies with the City’s economic development vision.

2. On April 12, 2023, the Planning Board held a Public Hearing on the proposed rezoning pursuant to New York State Law and in accordance with the City of Niagara Falls Zoning Ordinance. The Planning Board makes the following findings based on the public hearing:

No citizens spoke with regard to the application.

3. The Planning Board recommends no amendments to the proposal

4. The Planning Board recognizes the following findings:

- a. On September 7, 2022, the Niagara Falls City Council passed Resolution 2022-52 that amended the City of Niagara Falls Zoning Code to create a High Energy Usage Overlay District.
- b. The proposal and all other relevant information have been submitted and the application is considered complete.
- c. A referral to the Niagara County Planning Board was not required.
- d. A Public Hearing was held in regard to the proposed amendment on April 12, 2023. No comments were received.
- e. The property at 5380 Frontier Avenue, S.B.L. #160.14-1-1.2, is currently zoned I2 in conformance with the requirements established under Section 1319.5 of the City of Niagara Falls Zoning Ordinance.
- f. The Planning Board determined that the proposed amendment is in conformance with and supports the purposes of the City of Niagara Falls Zoning Ordinance as stated in Chapter 1301.1

APPENDIX

EXHIBIT A
WRITTEN COMMENTS

No written comments were provided to the Planning Board to be included on the official record.

EXHIBIT B
PUBLIC HEARING MINUTES

**Official Minutes
City of Niagara Falls Planning Board
April 12, 2023**

A regular meeting of the City of Niagara Falls Planning Board was held on Wednesday, April 12, 2023 @ 6:00PM in Council Chambers, City Hall, 745 Main Street, Niagara Falls, N.Y.

CALL TO ORDER & ROLL CALL

BOARD MEMBERS PRESENT:

Tony Palmer
John Spanbauer
Beverly Callen
Charles MacDougall
Joyce Williams
Shurron Cowart
Ryan Dallavia

STAFF PRESENT:

Kevin Forma, Director of Planning
Vickie Hall, Clerk

BOARD MEMBERS EXCUSED:

Ken Nossavage
Timothy Polka

ATTENDEES PRESENT:

Aron Faegre
D. Pilon
Lauren Adornetto
William Rossi
G. Babcock
Kelly Kinderman
Brett Gawronski

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA – FOR THIS MEETING

A motion to approve the agenda was made by Ms. Cowart and seconded by Ms. Williams.

MOTION: MAJORITY APPROVED

PUBLIC PARTICIPATION

There was no public participation

APPROVAL OF MINUTES FROM

A motion to approve the meeting minutes from March 29, 2023 was made by Mr. Spanbauer and seconded by Mr. Dallavia.

MOTION: MAJORITY APPROVED

ACTION ITEMS:

1. Level 2 Site Plan Approval: SWBR, on behalf of Community Services for Every1, seeks approval to construct a six-story, 78-unit affordable housing complex at 333 1st Street, S.B.L.# 159.09-1.2.11. The site will include community space, a playground, green space, and an enclosed parking lot.

Ms. Kelly Kinderman stated her name and provided a brief description of the organization Community Services for Every 1 and the project. Ms. Kelly Kinderman explained the need for Community Services for Every1 hub here in the city. She stated that the staff was coming from the city of Buffalo to Niagara Falls then going back and forth between some of the Buffalo hubs. Having a hub here in Niagara Falls will better support the families. She turned it over to Brett Gawronski to go over some of the same plan.

Brett Gawronski introduced himself as a project manager from SVP architects. He stated that he was working with Community Services for Every 1 and their Engineers on development of this project. The site is located on the corner of Wendel Way and 1st Street. It is currently where Smokey Joe's Cultural Centers stands now. The plans are to demolish that building currently on the site and replace it with ours. No variances are requested for this project. The building are within the height limitations. The building is designed to go up the right of way with zero setback. Parking on site is very limited. There are 78 units all over one and two bedrooms on five floors. The first floor will contain commercial space or office space for the use of Community Services for Every1. There are spaces for the residents including the community room, fitness center, some offices, and administration areas. Exterior finishes are a mix of brick linear on the first couple floors and terra cotta on floors from three up to above five. Some areas will be accented metal panel on the top sixth floor. The first floor is very transparent and will be a lot of the storefront. They took into account the need to design this to the urban fabric of the city. The development company really wanted a kind of a throwback to real urbanism organic growth of our city core and part of that is to provide

open spaces for use for the community whether it be stores, retail, or community services.

Mr. Gawronski referenced drawings and pointed out the exact location of the building, playground property, parking lot, line utilities, separate water, separate sanitary and storm sewer coming from the building. The area of the site is less than one acre. Storm water retention is not a requirement on this project. Utility as far as water, and electrical are all there. This building is working design through the Passive House program, which is a net zero program where the building systems are all electrified, there'll be no use of fossil fuels with natural gas except for a generator on site. National Grid has verified that there is power to support an all electrical building. The Passive House program will also provide incentive funding for this project. This could be a very green building. There will be talks to the city to utilize some of the existing parking across the street for residents and employees.

Ms. Callen stated that questions seven and eight on the Level 2 site plan application were unanswered regarding the water supply and the sewage treatment.

Mr. Gawronski replied that storm water from the parking on the roof drains will go to the storm system and sanitary water will be separate systems and will be directed appropriately.

Mr. Spanbauer asked if the apartments were subsidized housing.

Ms. Kinderman explained that some apartments would be set aside for survivors of domestic violence and would receive a conditional award from a state organization. With that program, the organization are able to support those tenants by providing them some rental subsidy to help with the rent. In essence, we're also we have staffing on site every day as well to provide some additional supportive services as people need it. Some people would come with their own subsidy but 90% would be market value.

Mr. MacDougall asked what the market rates were.

Ms. Kinderman replied that the rents would range from \$822 per unit for a studio to \$1050 for a one bedroom apartment. A two bedroom would run around \$1400.

Mr. Spanbauer asked if other locations were considered.

Ms. Kinderman replied that from her standpoint, they had not looked at other sites.

Mr. Spanbauer asked what is the financial impact to disposable income in the area.

Ms. Kinderman responded by saying that they were not in the position necessarily offer a business that's going to bring people in to spend money but in the future like to work with service organizations that support businesses.

Mr. Spanbauer asked how much of the 4700 square feet of space would be set aside for storefronts (transparent space) and/or office space.

Ms. Kinderman confirmed that 4700 square of commercial space will be used for storefront. Funding will be a factor. There was no dedicated space for retail.

Mr. Spanbauer asked if the playground would go behind the building. The board was provided with a brochure that outline the layout. The playground will be behind the building.

MR. Dallavia asked what percent you know are going to be market rate. The second question was what the market rate will be.

Ms. Kinderman stated that the organization was working with USA Niagara and Empire State to see if there's a number to help them further identifying market rate and how many. If for some reason, they can't get additional funding, 90% units are pretty close to market rate and then will allow them to get tax credits.

Mr. Palmer asked for additional questions. No questions were asked. The applicants were given the conditions. After agreeing with the conditions, Mr. Palmer called for a motion to approve.

Ms. Williams asked if this discussion was considered a public hearing. Mr. Palmer explained that it was not a public hearing.

Mr. Palmer called for a motion for approval.

Motion was made by Ms. Cowart and seconded by Ms. Williams.

Vote:

Mr. Parmer	Yes
Mr. Spanbauer	Yes
Ms. Callen	Yes
Mr. MacDougal	No
Ms. Cowart	Yes
Ms. Williams	Abstain
Mr. Dallavia	Yes
Ken Nossavage	Excused
Timothy Polka	Excused

MOTION: Passed by majority vote

2. Level 2 Site Plan Approval: Giusiana Architects, on behalf of Denise Karski, seeks approval to cover the existing front porch at 9130 Rivershore Drive, S.B.L.# 174.06-2-47, with a wood structured roof supported by two columns.

Mr. David Giusiana, architect for Denise and Todd Karski stated that the foundation was there foundation and slab were already there and ready to go. Pictures were provided.

Mr. Palmer asked for questions or comments and called to entertain a motion to approve.

Motion was made by John Spanbauer and seconded by Mr. Dallavia.

Vote:

Mr. Parmer	Yes
Mr. Spanbauer	Yes
Ms. Callen	Yes
Mr. MacDougal	Yes
Ms. Cowart	Yes
Ms. Williams	Yes
Mr. Dallavia	Yes
Ken Nossavage	Excused
Timothy Polka–	Excused

MOTION: Passed unanimously

3. Planning Board Recommendation: for the purpose of amending the City of Niagara Falls' Zoning Ordinance to include Chapter 1329 Regulations related to the use, cultivation, production, and sale of Recreational Cannabis within the City.

Mr. Palmer reminded the board that the process is controlled by a Cannabis Board and the State.

Mr. Palmer called for a motion.

Motion made by Mr. Spanbauer and seconded by Mr. MacDougal.

Vote

Mr. Spanbauer	Yes
Ms. Callen	Yes
Mr. MacDougal	Yes
Ms. Cowart	Yes
Ms. Williams	Yes
Mr. Dallavia	Yes
Ken Nossavage	Excused
Timothy Polka	Excused

MOTION: Passed unanimously

PUBLIC HEARING

1. Mr. Palmer moved to the public hearing for the purpose of amending the City of Niagara Falls' Public Hearing: for the purpose of rezoning of 56 Acheson Drive, S.B.L. # 159.14-2-5, on behalf of the applicant U.S. Leaseco Inc., aka Rainbow Air Tourism Center, from the existing D1-C "Downtown" zoning to I1 "Business Park."

Mr. Aaron Faegre, introduced himself as the architect on the project. He explained that Rainbow Air would like to move their current operation from Main Street to 56 Acheson Drive. He explained that Rainbow Air would convert and abandon industrial site to a family entertain center providing Helicopter rides over the river and Niagara Falls. Moving the location would minimize the noise impact in the city. Because owners would like to start construction right away in the spring and summer if we can. The new site would offer plenty of clearance for the helicopter to take off. The front of the building will be landscaped to blend in with the city's landscape. And the next sheet should be the floorplan. The entertainment center will offer visitors to experience flying a helicopter digitally. The facility will also house a Heritage Center featuring the aviation history of Niagara Falls. He hoped that the company could obtain a permit within a month.

Kevin Forma explained that there was a conflict with the City Council meeting at the end of the month. In two weeks a city council meeting will be held and the following week, another city council meeting will be held. So there will be back to back meetings for weeks. The applicant was hoping to try and get something through because of the procedures. A public hearing, a meeting to refer zoning changes to the City Council and the site plan approval. As the schedule stands right now, that would not be until the 17th of next month.

Mr. Spanbauer asked if the 17th was after the two city council meetings.

Kevin Forma stated that was correct.

Mr. Palmer asked if the building would have any windows. He explained that the move from downtown to the industrial site would eliminate having windows in the hangar but he thought there would be windows in the front of the building.

Mr. Faegre replied that there would be arched windows there but that the museum area would not have windows.

Kevin Forma stated that it is consistent with the zoning change because it would be a rezone to an I1 district as opposed to the downtown district which currently the two things that didn't fit the downtown district were the windows and parking.

Mr. MacDougall asked if there would be a sign upfront.

Mr. Faegre confirmed that there would be a sign.

Mr. Palmer asked if there was anyone in the audience that would like to speak.

Grant Babcock, Community Missions at 1570 Buffalo Avenue introduce himself and asked how late the company went out at night on tours.

Dennis Pilon stated that they don't go out that late at night. The latest the go out is approximately 7:00 pm – 7:30 pm.

Grant Babcock asked if most of the noise will go out toward the river.

Mr. Pilon explained that they tested the helicopter and mapped out the noise area. The noise level was below 65 decibels.

Mr. Babcock asked about traffic issues. He was concerned with the number of cars entering the facility with no traffic light.

Mr. Faegre ensured Mr. Babcock that they talked to the city about transportation. They did not foresee any problems or need for a traffic light. Most groups would come in on Tour Buses.

Mr. Babcock stated that there was a bad smell in the area due to the Waste Treatment plant.

Mr. Palmer asked if there were any more speakers. He stated to the Board that the meeting on the 26th was cancelled due to a conflict with the City Council's meeting. There is now public hearing and a second public hearing after that. Mr. Palmer asked if the Board wanted to do a special meeting before the 26th to address both of these

public hearings, so that they could get to the city council. This would allow Rainbow Air to begin construction.

Mr. Spanbauer suggested that the board have a special meeting.

Kevin Forma stated that a week was needed to post the agenda. He suggested the April 24th, 2023 – April 28th, 2023.

Mr. Palmer called for a motion to hold a special meeting on April 25th, 2023 at 6:00 pm.

Motion was made by Mr. Spanbauer and seconded by Mr. MacDougall.

Vote

Mr. Palmer	Yes
Mr. Spanbauer	Yes
Ms. Callen	Yes
Mr. MacDougall	Yes
Ms. Cowart	Abstain
Ms. Williams	Yes
Mr. Dallavia	Yes
Ken Nossavage	Excused
Timothy Polka	Excused

MOTION: Passed by majority vote

Public Hearing was closed at 7:01 pm.

2. Public Hearing: for the purpose of adding a High Energy Overlay Zone on the I2 “Industrial” zoned parcel at 5380 Frontier Avenue, S.B.L. # 160.14-1-1.2, at the request of the applicant North East Data, LLC, DBA Block fusion USA, Inc.

Mr. Palmer opened the public hearing for the purpose of adding a high energy overlay zone and AI to industrial zone parcel at 5380 Frontier Avenue, at the request of the applicant, Northeast Data LLC. (Blockfusion, USA).

Lauren Adornetto introduced herself and her colleague, William Rossi, representing Northeast Data LLC. She asked for questions from the planning board in connection with supplemental filing that were prepared for the city at the end of March. Ms. Adornetto requested that the Board recommend that the project be placed on the special meeting agenda for April 25th

Mr. Palmer asked that Northeast Data, LLC (Blockfusion, USA) be added to the April 25th, 2023 Agenda. , and we can put that on the April 25th.
Mr. Palmer asked for additional questions and speakers.

The public hearing was closed at 7:08 pm.

OLD BUSINESS:

None

NEW BUSINESS:

Mr. Palmer stated that 6200 Niagara Falls Boulevard Catherine's Plaza has been put on hold right now.

PLANNING REPORT:

Kevin Forma introduced the new clerk in the Planning Dept., Ms. Vickie Hall.

ADJOURN

Mr. Palmer entertained the motion to adjourn. Motion was made by Ms. Williams and seconded by Mr. MacDougall

EXHIBIT C
PROPOSED ZONING AMENDMENT

Pursuant to Section 1319.5, the Zoning Map be amended to create a High Energy Usage Overlay District superimposed over the existing I2 zoned parcel located at 5380 Frontier Avenue, S.B.L. #160.14-1-1.2.