

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

**TUESDAY
JULY 13, 2021
8:00 A.M.**

PLANNING DEPARTMENT CONFERENCE ROOM

AGENDA

PRESENT:

___ JOSEPH SEMIONE, CHAIRMAN
___ JANE KELLEY, VICE CHAIRMAN
___ MIKE FITZGERALD, TREASURER
___ JOSEPH GILLIS, SECRETARY
___ TODD RULISON, MEMBER
___ DAVID D'AMORE, MEMBER
___ JAMES MRAZ, EXECUTIVE DIRECTOR
___ KARA LAIS, FITZGERALD, MORRIS, BAKER, FIRTH PC (VIA ZOOM)
___ SCOTT HENZE, PLANNING DIRECTOR
___ WARREN GREENE, LIAISON, ECONOMIC DEVELOPMENT AND ENVIRONMENT COMM.
___ BRYAN TAYLOR, FULTON COUNTY CENTER FOR REGIONAL GROWTH (VIA ZOOM)
___ MARTY ANDREWS, DIRECTOR OF DEVELOPMENT, HOFFMANS CARWASH

I. MINUTES FROM JUNE 15, 2021 MEETING:

MOTION :
MADE BY :
SECONDED :
VOTE :

II. BUDGET REPORT:

MOTION :
MADE BY :
SECONDED :
VOTE :

III. COMMITTEE REPORTS:

A. Nominating Committee:

- No report.

B. Audit Committee:

- Monthly Bank Reconciliation Report: Joe Semione

C. Governance Committee:

- No report.

D. Finance Committee:

- No report.

IV. FULTON COUNTY/FULTON COUNTY CENTER FOR REGIONAL GROWTH (FCCRG) REPORTS:

1. Fulton County Report: Warren Greene, Liaison
2. FCCRG Report: (See attached.) Bryan Taylor

V. OLD BUSINESS:

A. Nexus Renewables Solar Project:

1. Status Report:

- Revised Lease and Revenue Sharing Agreements, Easement Agreement and Cross Access and Interconnection Easement have been signed.
- Kara Lais working with Nexus's attorney on closing documents for providing sales tax exemptions.

IDA DISCUSSION:

B. Fulton County Site Inventory and Assessment Project:

1. Status Report:

- a. Elan Planning/Landscape Architecture/Engineering D.P.C. has been retained by MVEDD/FCCRG to prepare assessment of potential sites.
- b. Participated in May 12, 2021 kickoff Zoom meeting.
- c. Sent MVEDD information on Primary Development Areas as potential sites.

IDA DISCUSSION:

C. Proposed Sale of Former Maintenance Building:

1. Status Report:

- Lott Holdings is still conducting its due diligence on the property.
- Lott Holdings is waiting for National Grid (NG) to provide a quote for NG to run a new electric service to the new transformer Lott Holdings must purchase and install. Lott Holdings needs to receive that quote before it can commit to purchase the building.
- The purchase contract calls for Lott Holdings to complete its due diligence by July 15, 2021.
- Lott Holdings is requesting that the July 15 date be extended to September 15, 2021.

IDA DISCUSSION:

IDA ACTION:

MOTION:

MADE BY:

SECONDED:

VOTE:

D. Easement with Gloversville Board of Water Commissioners:

1. Status Report:

- Easement Agreement was drafted and sent to Kara Lais to review.
- Kara's comments were incorporated into a revised Agreement.
- Easement Agreement e-mailed to Anthony Mendetta, Superintendent, on July 1, 2021.

IDA DISCUSSION:

E. Vireo Health's Proposed Expansion Project:

1. Background:

- Vireo Health currently operates a pharmaceutical manufacturing business in the Tryon Technology Park.

2. Proposed Expansion Project:

- On March 31, 2021, Governor Cuomo signed the Marijuana Regulation and Tax Act (MRTA) legalizing adult-use cannabis in New York State. In addition, MRTA also expanded New York's Medical Cannabis Program.
- In response, Vireo Health is proposing a major expansion of its operations in the Tryon Technology Park.
- Vireo Health is proposing to construct a new 323,982 sf facility on Lots 1 and 2.
- The proposed project is expected to create up to 180 new full-time and 10 part-time jobs within two (2) years.
- Total project cost is estimated at approximately \$55 million.
- Cordos Construction based in Chicago, Illinois has been retained by Vireo to design and construct this project.
- Filoramo Talsma Architects, based in Chicago, Illinois is designing the building.
- C.T. Male Associates is preparing the Site Plan and performing Civil Engineering work.
- The project includes the demolition of all existing buildings on Lots 1 and 2.
- The project includes relocating the waterline that goes to the elevated tank. The existing line crosses Lot 2. It will be relocated so that it is not located on the parcel being sold to Vireo.
- The project also identifies two (2) future expansion projects each totaling 225,000 sf.
- If both expansion projects are completed, a total of 773,992 sf of building on Vireo's property.
- Vireo desires to have the building completed by the end of the first quarter of 2022.

3. State License for Cannabis:

- The State Legislation approving adult use cannabis creates various potential licenses the State can approve including:
 - a. Registered organization adult-use cultivator, processor, distributor and retail dispensary
 - b. Registered organization adult-use cultivator, processor and distributor
 - c. Adult-use cultivator
 - d. Adult-use processor
 - e. Adult-use cooperative
 - f. Adult-use distributor
 - g. Adult-use retail dispensary
 - h. Microbusiness
 - i. Delivery
 - j. Nursery
- Vireo anticipates applying for a Registered Organization Adult-Use Cultivator, Processor, Distributor Retail Dispensary License. They are grandfathered in for that license type given its current status as a Registered Organization under the medical cannabis licensing program.

4. Project Application:

- Vireo Health has filed a Project Application with the IDA requesting financial incentives.
- The Project Application requests four (4) financial incentives:
 - 1) Payment in Lieu of Tax Agreement (PILOT)
 - 2) Sales Tax Exemptions
 - 3) Mortgage Recording Tax Exemption
 - 4) Taxable Bond Financing
- The real property tax exemption would be modeled after 485-b of NYS's Real Property Tax Law. A 50% exemption would be provided in year 1. The exemption would decrease 5% a year for ten (10) years. After ten (10) years, the PILOT would terminate.
- The sales tax exemption would be available to Vireo for the period of July 13, 2021 to July 31, 2022.
- Since the Project Application requested IDA benefits greater than \$100,000, a public hearing must be held.
- The Public Hearing was held on Thursday, July 1, 2021, 10:00 a.m., Senior Citizen Center, Town of Perth Municipal Complex. No one spoke at the Public Hearing.

5. Updated Civil and Site Plans:

- On July 6, 2021, Vireo submitted updated Civil and Site Plans to the IDA Board that included the following changes from the original plans reviewed at the June 15th IDA meeting:
 - 1) Addressed comments received from the Perth Volunteer Fire Department on June 14, 2021 including fire hydrant locations and location of fire access road relative to the building. Provided additional details regarding sprinklers, standpipes, fire line sizing and roof construction.
 - 2) Addressed comments from the Town Planning Consultant requesting additional details (Grading and Drainage, Specification and Construction Details, Sanitary Sewer, Water Supply, Planting Schedule and SWPPP).
 - 3) Public Watermain – Prepared Plans for relocation of the existing public watermain on the project site to along the existing gravel access road to the water tank within the proposed easement to the Gloversville Water Board.
 - 4) Park Design Standards – Incorporated the Tryon Technology Park logo into the street address sign along County Route 117.
 - 5) Fencing and Gates – Finalized proposed new fence locations and preserved existing perimeter fence in good condition. Worked with the Perth Volunteer Fire Department to add a siren actuated gate for use by emergency vehicles.
 - 6) Grading and Drainage – Revised the grading plan based upon recommendations of the Geotechnical Report, along with earthwork consideration, construction phasing and sequencing and stormwater management design. Added a short retaining wall at the northwest corner of the proposed building to minimize grading limits and impacts to existing trees and perimeter fencing.
 - 7) Utilities – Progressed the design of Site Utilities by working with the MEP, Fire Protection Engineer, Architect and Utility Service Providers.
 - 8) Landscaping – Added Landscaping Plan including planting details and specifications as well as sod in the front of the site and Vireo's existing facility.
 - 9) Stormwater Pollution Prevention Plan (SWPPP) – Prepared SWPPP report in conformance with NYSDEC standards for coverage under the SPDES General Permit for Stormwater Discharges from Construction Activity.

6. Project Structure:

- A. Vireo will likely partner with a Real Estate Investment Trust (REIT) to finance this project. The likely REIT is Innovative Industrial Properties (IIP). IIP is the current owner of the facility Vireo now occupies at Tryon. If so, Vireo would enter into a ground lease with the REIT. The IDA and Vireo would then enter into a Lease and Leaseback arrangement with Vireo Health.

B. An alternative would be if Vireo decides to pursue the issuance of IDA bonds to finance the project. This approach would result in a different project structure.

7. Project Number:

- The project has been assigned the following Project Number: 1701-21-01-A

8. Sale of Land:

- Sent survey to Vireo Health on June 17, 2021.
- Vireo Health ordered a title search on the 92+/- acres.
- Sent appraisal to Vireo Health on June 30, 2021.

9. SEQR:

A. Background:

- Vireo Health filed a Part 1 Environmental Assessment Form (EAF) with the IDA.
- At the June 15, 2021 meeting, the IDA Board:
 - a) Classified the proposed project as a Type I Action.
 - b) Proposed that the IDA serve as SEQR Lead Agency for a Coordinated SEQR Review.
 - c) Authorized the distribution of the Part I EAF to all Involved Agencies asking for their consent to having the IDA serve as SEQR Lead Agency.
- The list of potential Involved Agencies included:
 - Fulton County Industrial Development Agency
 - Town of Perth Planning Board
 - Gloversville Board of Water Commissioners
 - Empire State Development
 - NYS Department of Environmental Conservation (NYSDEC)
 - NYS Department of Health (NYSDOH)
- Letters were sent to all Involved Agencies on June 15, 2021.

B. Lead Agency:

- Involved Agencies were given until 5:00 PM, Friday, July 9, 2021 to respond.
- Responses were received from the following Involved Agencies:
 - Town of Perth Planning Board
 - NYSDEC
 - NYSDOH
 - Gloversville Board of Water Commissioners
- All respondees consented to the IDA serving as SEQR Lead Agency.

IDA DISCUSSION:

IDA ACTION:

MOTION: To designate the IDA to serve as the Lead Agency in a Coordinated SEQR Review on the proposed Vireo Health Expansion Project.

MADE BY:

SECONDED:

VOTE:

C. Part 2 EAF:

- The IDA has completed a Part 2 EAF.
- See attached.
- Review Part 2 EAF.
- The Part 2 EAF identified no moderate or large impacts. All potential impacts were found to be no or small impacts.

IDA DISCUSSION:

D. Determination of Significance:

- Based upon its review of the Part 1 and 2 EAF and all project information, the IDA Board now needs to issue a Determination of Significance under SEQR.
- Two options exist:
 1. Positive Declaration: If the IDA Board determines that the proposed project may create 1 or more significant environmental impacts, it must issue a Positive Declaration which means a Draft Environmental Impact Statement (DEIS) must be prepared.
 2. Negative Declaration: If the IDA Board determines that the proposed project will not create any significant environmental impacts, it must issue a Negative Declaration which means a Draft Environmental Impact Statement (DEIS) does not have to be prepared and the SEQR process has been completed.

IDA DISCUSSION:

IDA ACTION:

MOTION:

MADE BY:

SECONDED:

VOTE:

10. Town of Perth Planning Board:

- The Town of Perth Planning Board met on June 21, 2021 to commence its review of Vireo's Application for a Site Plan Review.
- The Planning Board found Vireo's Application for Site Plan approval to be complete.
- The Planning Board has scheduled a public hearing for July 19, 2021.

11. 239 Review:

- Since the proposed project lies within 500' of a County road, the proposed project was sent to the County Planning Board for a 239 Review.
- County Planning Board met on June 22, 2021 to conduct its review. However, they did not have a quorum. As a result, no recommendation was provided.

12. Resolution:

- Kara Lais has drafted a Resolution to approve granting the requested financial benefits for the proposed Vireo Health Expansion Project.
- See attached.

IDA DISCUSSION:

IDA ACTION:

MOTION: To adopt a Resolution approving a certain project, appointing Vireo Health Company as the Agent of the IDA for the purpose of constructing and equipping the Project Facility and authorizing the execution and delivery of closing documents.

MADE BY:

SECONDED:

VOTE:

VI. NEW BUSINESS:

A. Proposed Hoffman Carwash Project:

1. Background:

- Hoffman Development is a family-owned business based in Colonie, NY that employs over 700 people.

2. Proposed Project:

- Hoffman's purchased, at auction, the former Travers Diner property located at 342 South Kingsboro Avenue, Gloversville, NY.
- SBL: 149.18-6-1
- The property is 3.2 acres in size and has municipal water and sewer available.
- Hoffman is proposing to:
 - 1) Subdivide the parcel into two (2) parcels.
 - 2) Parcel 1 would include the former Travers Diner building and parking.
 - 3) Parcel 2 would be where Hoffman's would construct and operate a new, state-of-the-art carwash.
- The proposed project would include the construction of a 6,400 sf building consisting of masonry, standing seam metal siding and architectural shingles.
- The project will be an upscale state of the art carwash facility with innovative equipment and design. It will include a 160' conveyORIZED tunnel, automated blowers with 2 million BTU heated drying.
- The project will include a leading edge, complete sophisticated water reclamation system, computer controlled systems and high-pressure nozzles and pumps which will minimize the amount of "fresh" water needed to provide quality exterior wash.
- The facility will have three (3) point of sale tellers creating trouble free and timely transactions.

3. Presentation by Hoffmans Carwash:

- Marty Andrews, Director of Development.

4. Project Application:

- HDC2 Realty Gloversville, LLC has submitted a Project Application to the IDA.
- The Application Fee has been submitted.
- The Project Application requests the following IDA benefits:
 - 1) Real Property Tax Exemption
 - 2) Sales Tax Exemption
 - 3) Mortgage Recording Tax Exemption
- The total volume of the requested exemptions are as follows:
 - 1) Real Property Tax Exemptions : \$121,910
 - 2) Sales Tax Exemptions : \$296,000
 - 3) Mortgage Recording Tax Exemption : \$ 60,000
- Since the total benefits requested exceed \$100,000, a public hearing must be held.

5. Project Review Criteria:

- Section 8 of the Project Application states that the IDA Board shall review Project Application and utilize the following specific criteria for evaluating and determining whether to provide financial incentives to a proposed project:

a. Will the Project Create or Retain Jobs?

- 1) Hoffman’s proposed expansion project will create four (4) new full-time jobs and six (6) part-time within two (2) years.
- 2) Hoffman’s proposed expansion project will also create construction jobs.

b. What are the wages to be paid for the new jobs being created and the existing jobs being retained?

Category of Jobs to be Retained and Created	Average Annual Salary Hourly Rate for New Job Created	Average Salary or Range of Salary for Jobs Retained	Average Fringe Benefits for New Jobs Created	Average Fringe Benefits for Jobs Retained
Management	\$ 60,000	\$ 60,000	\$ 12,600	\$ 12,600
Professional				
Administrative				
Production	\$17.50/hr.	\$17.50/hr.	\$7,600	\$7,600
Other				

c. What is the Total Private Sector Investment?

\$6.6+/- million

d. How Much Local Labor will be Utilized During Construction:

- Hoffman’s will be hiring as much local labor as possible to work on the project.

e. How much will property values and property tax revenues increase for local taxing jurisdictions?

- The property which includes the former Travers Diner is currently assessed for \$402,000. This property will remain. The new carwash will be located on a subdivided lot and create new assessed valuation thereby generating new property tax revenues for the City of Gloversville, Fulton County and the Gloversville School District.

ISSUE: Based upon the answers provided to these Project Review Criteria, does the IDA Board determine that Hoffman’s proposed expansion project should receive the requested financial incentives?

IDA DISCUSSION:

IDA ACTION:

MOTION:

MADE BY:

SECONDED:

VOTE:

6. Project Structure:

- HDC2 Company, LLC will lease the property to the IDA.
- The IDA will lease the property back to HDC2 Company, LLC.

7. Project Number:

- The project has been assigned Project Number 1701-21-02-A.

8. Site Plan Review/SEQR:

- HDC2 Company, LLC submitted a Site Plan to the City of Gloversville Planning Board to review and approve per the City's Zoning Ordinance, as well as a request for a 2-lot subdivision.
- At its April 6, 2021 meeting, the Planning Board established itself as SEQR Lead Agency for conducting a Coordinated SEQR Review. The IDA was identified as an Involved Agency and was included in the Coordinated Review.
- The Planning Board then issued a Negative Declaration concluding the SEQR review. A copy of the Negative Declaration was filed with the IDA.
- The Planning Board approved both the Site Plan and the 2-lot subdivision.

9. Public Hearing:

- It is proposed that a Public Hearing be scheduled for:

Tuesday
July 27, 2021
10:00 a.m.
Fulton County Center for Regional Growth Offices
34 West Fulton Street
Gloversville, NY 12078

- See attached Resolution.

IDA DISCUSSION:

IDA ACTION:

MOTION: To adopt the Resolution scheduling a public hearing related to the HDC2 Realty Gloversville, LLC Project.

MADE BY:

SECONDED:

VOTE:

10. Retail Project:

- The Application classifies this project as a Retail Project.
- Section 862 of General Municipal Law places certain restrictions on how IDA's can provide financial assistance to "retail" projects.
- Financial assistance may be provided to a retail project if the project meets one or both of the following criteria:
 - 1) The predominant purpose of the project would be to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the city, town, or village within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services; or
 - 2) The project is located in a highly distressed area.
- The Project Application indicates that:
 - 1) The project will be located in a highly distressed area.
 - 2) The project would make available goods or services which would not, but for the project, be reasonably accessible to the residents of the City of Gloversville and/or Fulton County.
- After the public hearing on this proposed project, the IDA Board will need to make two (2) findings in order to provide the requested financial incentives:
 - 1) The proposed project meets one (1) or both of the criteria listed above and therefore qualifies for financial incentives.
 - 2) The proposed project will increase overall employment in the area.
- After making these findings, the Chairman of the Board of Supervisors will need to confirm the IDA Board's findings.

IDA DISCUSSION:

IDA ACTION:

MOTION:

MADE BY:

SECONDED:

VOTE:

B. Board Training:

1. Conflicts of Interest:

a. Background:

- There are two (2) types of conflicts of interest:

- 1) Actual
 - 2) Perceived
- An actual conflict of interest is a situation in which the financial, familial, or personal interests of a Board member or employee come into actual conflict with their duties and responsibilities with the Agency.
 - A perceived conflict of interest is a situation where there is the appearance that a board member or employee can personally benefit from actions or decisions made in their official capacity, or where a board member or employee may be influenced to act in a manner that does not represent the best interests of the Agency.
 - The perception of a conflict may occur if circumstances would suggest to a reasonable person that a board member may have a conflict. The appearance of a conflict and an actual conflict should be treated in the same manner.
 - Board members and employees must conduct themselves at all times in a manner that avoids any appearance that they can be improperly or unduly influenced, that they could be affected by the position of or relationship with any other party, or that they are acting in violation of their public trust.
 - While it is not possible to describe or anticipate all the circumstances that might involve a conflict of interest, a conflict of interest typically arises whenever a Board member or employee has or will have:
 - A financial or personal interest in any person, firm, corporation or association which has or will have a transaction, agreement or any other arrangement in which the Agency participates.
 - The ability to use their position, confidential information or the assets of the Agency, to their personal advantage.
 - Solicited or accepted a gift of any amount under circumstances in which it could reasonably be inferred that the gift was intended to influence them, or could reasonably be expected to influence them, in the performance of their official duties or was intended as a reward for any action on their part.
 - Any other circumstance that may or appear to make it difficult for the board member or employee to exercise independent judgment and properly exercise their official duties.

b. Best Practices:

1. Disclose: All material facts related to a conflict of interest (including the nature of the interest and information about the conflicting transaction) should be disclosed to the Agency. Such disclosure shall be made part of the official record of the proceedings of the Agency.
2. Referral: If there is uncertainty whether a conflict of interest exists, the matter should be referred to the Agency's Governance Committee. The Governance Committee should review all facts and render a decision on whether a conflict of interest exists.
3. Recuse and Abstain: No board member or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting, when they know or have reason to know that the action could confer a direct or indirect financial or material benefit on themselves, a relative, or any organization in which there is an interest. Board members and employees must recuse themselves from deliberations, votes, or internal discussion on matters relating to any organization, entity or individual where their impartiality in the deliberation or vote might be reasonably questioned, and are prohibited from attempting to influence other board members or employees in the deliberation and voting on the matter.

4. Record: The minutes of the Agency's meetings during which a perceived or actual conflict of interest is disclosed or discussed shall reflect the name of the interested person, the nature of the conflict, and a description of how the conflict was resolved.

IDA DISCUSSION:

VII. OTHER BUSINESS:

A. Executive Session:

1. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken to appropriate public moneys:
 - i. matters which will imperil the public safety if disclosed;
 - ii. any matter which may disclose the identity of a law enforcement agent or informer;
 - iii. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
 - iv. discussions regarding proposed, pending or current litigation;
 - v. collective negotiations pursuant to article fourteen of the civil service law;
 - vi. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
 - vii. the preparation, grading or administration of examinations;
 - viii. the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.**

MOTION: To go into Executive Session to discuss the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

MADE BY :
SECOND :
VOTE :

TIME :

MOTION : To go out of Executive Session.

MADE BY :

SECOND :

VOTE :

TIME :

VIII. NEXT MEETING:

Tuesday
August 10, 2021
8:00 a.m.

IX. CLOSE MEETING:

MOTION :

MADE BY :

SECONDED :

VOTE :

TIME :