



To: Franklin County Board of County Commissioners
From: Pat Toth
Department: Planning & Building
Date: Wednesday, April 5, 2023

AGENDA ITEM NARRATIVE

Approval of Special Use Permit Application #2302-2037 (Plug Power) to allow for the installation and operation of a 18,000-gallon liquid hydrogen storage tank and ancillary dispensing equipment in an I-1, Light Industrial Zoning District.

BACKGROUND

The applicant is requesting approval of a Special Use Permit for the installation and operation of a 18,000-gallon liquid hydrogen storage tank and ancillary dispensing equipment in an I-1, Light Industrial Zoning District. The project site is commonly known 3300 K-68 Highway and is located on the South side of K-68 Highway and approximately one-quarter (1/4) mile East of Nebraska Terrace, in the Northeast Quarter (NE ¼) of Section 32, Township 16 South, Range 20 East.

The current use of the property is the Wal-Mart Distribution Center and **this tank would only be used to fill their material handling equipment on-site.** The exterior of the storage tank will have emergency shutoffs at each gate as well as at the LH2 truck gate; flame detectors; will be all metallic parts that will be properly grounded; lightning protection; fire extinguishers, signage for emergency services and all of the part will be built to the National Fire Prevention Association.

The applicant is proposing to have three (3) hydrogen dispensers connected to the hydrogen tank. The dispensers will be located indoors and equipped with gas detection sensors. The dispensing area will be monitored by infrared detection for automatic shutoff if leak detected. There will be emergency shutoffs at each of the three (3) dispensers. The building the dispenser are located in will be sprinkled and will have an additional shutoff at the control panel. There will be fire extinguishers within 50 feet but not less than 15 ft of each dispenser. The fire alarm system will comply with National Fire Prevention Association standards. All dispensing equipment will have automatic fire detection systems to activate remote shutdown of the system. All alarms that will trigger automatic shutdown will be complete with audible and visual alarms. The manual alarms are required to be not less than 20 feet but no more than 100 feet and will be at the nearest exit from the dispenser. Notice was sent to eighteen (18) surrounding property owners as well as other County Department and Agencies. The comments that were received by the Planning Department are attached and two (2) people appeared at the public hearing (see draft minutes attached).

The Planning Commission has recommended approval of the Special Use Permit the installation and operation of a 18,000-gallon liquid hydrogen storage tank and ancillary dispensing equipment in an I-1, Light Industrial Zoning District based on the findings and subject to the conditions listed in the Resolution.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners approve Special Use Permit Application #2302-2037 (Plug Power) to allow for the installation and operation of a 18,000-gallon liquid hydrogen storage tank and ancillary dispensing equipment in an I-1, Light Industrial Zoning District based on the findings and subject to the sixteen (16) conditions recommended by the Planning Commission.

SPECIFIC ACTION REQUESTED

An Affirmative motion in support of this item would read as follows: "I make a motion to approve Special Use Permit Application #2302-2037 (Plug Power) to allow for the installation and operation of a 18,000-gallon liquid hydrogen storage tank and ancillary dispensing equipment in an I-1, Light Industrial Zoning District based on the findings and subject to the sixteen (16) conditions cited in the attached Resolution".

ATTACHMENTS

Applicant Submittals

Comments Received

Site Plan

Zoning Map

Aerial Photo (3)

Excerpt of Draft Planning Commission Minutes

Resolution



A RESOLUTION APPROVING SPECIAL USE PERMIT APPLICATION #2302-2037 (PLUG POWER) TO PERMIT INSTALLATION AND OPERATION OF AN 18,000-GALLON LIQUID HYDROGEN STORAGE TANK AND ANCILLARY DISPENSING EQUIPMENT IN THE I-1, LIGHT INDUSTRIAL ZONING DISTRICT

WHEREAS, Franklin County, Kansas is a county municipal government, organized pursuant to K.S.A. 19-101; and

WHEREAS, The Franklin County Board of County Commissioners did adopt Resolution # 23-91 creating the Franklin County Planning Commission as provided in K.S.A. 12-744; and

WHEREAS, the Franklin County Planning Commission did publish notice on February 21, 2023 that public hearing would be held to consider Special Use Permit application #2302-2037 (Plug Power) as required by K.S.A. 12-757 and Article 23, Section 23-5.02 of the Franklin County Zoning Regulations; and

WHEREAS, the Planning Commission did on March 16, 2023 hold a public hearing for the consideration of Special Use Permit application #2302-2037 (Plug Power) to allow for the installation and operation of a 18,000-gallon liquid hydrogen storage tank and ancillary dispensing equipment; and

WHEREAS, the Franklin County Board of County Commissioners did adopt Zoning Regulations on August 14th, 2002 which included Article 23, Section 23-1 through 23-5 setting out the procedures and basis for review in considering a Special Use Permit including the following criteria:

- a. Whether the use is in compliance with, and would further enhance the implementation of, the adopted Comprehensive Plan;
 - b. Whether the use complies with the purpose and intent of the adopted Zoning Regulations;
 - c. Whether the use complies with other adopted standards of the County;
 - d. Whether the use fits the character of the neighborhood
 - e. Whether the use would be unduly detrimental to surrounding properties and uses;
 - f. The suitability of the subject property for the proposed use;
 - g. Approval of mitigation measures to minimize impacts to surrounding properties or services;
- and

WHEREAS, the Planning Commission, after due consideration of the criteria set forth in Article 23, Section 23-5.04 of the County Zoning Regulations, the relative factors of the Supreme Court case of Golden vs. City of Overland Park, together with all written reports and public testimony, the Planning Commission, by majority of its membership did find the following:

1. That the Special Use Permit is consistent with the County Zoning Regulations
2. That the Special Use Permit is in conformance with, and would further enhance, the County Comprehensive Plan
3. That, as conditioned, the Special Use Permit will not overburden the County roads and other public services
4. That, as conditioned, the Special Use Permit will not unduly affect the character of the surrounding community
5. That, as conditioned, the Special Use Permit will not impact property values of the surrounding properties
6. That, as conditioned, the Special Use Permit will comply with all other County Codes and Regulations
7. That the subject property is suitable for the proposed use.

NOW, THEREFORE, Be It Resolved, that the Franklin County Board of County Commissioners does hereby approve Special Use Permit Application #2302-2037 (Plug Power) as follows:

Section 1: Special Use Permit #2302-2037 (Plug Power) is granted for the following described property:

A tract of land in the Northeast Quarter of Section 32, Township 16 South, Range 20 East of the 6th P.M., described as follows: COMMENCING at the Northeast corner of said Quarter Section; thence on an assumed bearing of South 88 degrees 50 minutes 20 seconds West, 262.48 feet along the North line of said Quarter Section to the POINT OF BEGINNING; FIRST COURSE, thence South 01 degrees 09 minutes 40 seconds East, 149.64 feet to the Southerly right of way line of the existing highway; SECOND COURSE, thence South 57 degrees 28 minutes 45 seconds West, 29.38 feet; THIRD COURSE, thence South 89 degrees 08 minutes 55 seconds West, 585.10 feet; FOURTH COURSE, thence South 88 degrees 19 minutes 27 seconds West, 172.88 feet; FIFTH COURSE, thence North 88 degrees 18 minutes 04 seconds West, 60.00 feet; SIXTH COURSE, thence North 68 degrees 47 minutes 55 seconds West, 50.92 feet; SEVENTH COURSE, thence North 87 degrees 21 minutes 03 seconds West, 208.80 feet to the East line of a tract of land described in a deed recorded in Book 243, Page 595 in the Register of Deeds Office, Franklin County, Kansas; EIGHTH COURSE, thence North 53 degrees 27 minutes 54 seconds East, 25.68 feet along said East line to said Southerly right of way line; NINTH COURSE, thence North 01 degrees 09 minutes 45 seconds West, 112.20 feet to said North line; TENTH COURSE, thence North 88 degrees 50 minutes 20 seconds East, 1077.47 feet along said North line to the POINT OF BEGINNING. The above described tract contains 3.90 acres, which includes 3.47 acres of existing right of way, resulting in an acquisition of 0.43 acre, more or less.

Section 2: The Special Use Permit for the real property described above shall be authorized for the installation and operation of a 18,000-gallon liquid hydrogen storage tank and ancillary dispensing equipment pursuant to the Franklin County Zoning Regulations and the following conditions:

1. That the Special Use Permit is granted for the bulk storage and dispensing of liquid hydrogen for Wal-Mart employees only. Any additional uses will require approval of an amended Special Use Permit.
2. Development of the site shall comply with all building, fire and other applicable county and state codes and permit requirements.

3. A six (6) foot high chain link fence be installed around the storage tank and ancillary dispensing equipment.
4. That a sign be placed on the security fence to include a telephone number of a responsible party in the event of an emergency.

5. That the enclosed area, including all valves to the storage tanks and the dispensing facility shall be locked at all times except when being used by company employees.
6. That the 18,000-gallon liquid hydrogen storage tank and ancillary dispensing equipment, including security fencing, shall comply with NFPA and requirements of the State Fire Marshall.
7. The dispensers will be located indoors and equipped with gas detection sensors.
8. The dispensing area will be monitored by infrared detection for automatic shutoff if leak detected.
9. There shall be emergency shutoffs at each of the three (3) dispensers.
10. The building the dispensers are located in will be sprinkled and will have an additional shutoff at the control panel.
11. There shall be fire extinguishers within 50 feet but not less than 15 ft of each dispenser.
12. The fire alarm system will comply with National Fire Prevention Association standards.
13. All dispensing equipment shall have automatic fire detection systems to activate a remote shutdown of the system.
14. All alarms that will trigger automatic shutdown will be complete with audible and visual alarms.
15. The manual alarms are required to be not less than 20 feet but no more than 100 feet and will be at the nearest exit from the dispenser.
16. The Special Use Permit shall be null and void by operation of law if the Special Use Permit has not been initiated or utilized by commencing the activity or use at the site specified in said permit within one (1) year of the date of approval.

PASSED AND ADOPTED by the Franklin County Board of County Commissioners this 5th day of April, 2023. This action shall become effective upon publication in the official county newspaper.

Ianne Dickinson
Chairman

Received and recorded this the 5th day of April, 2023.

Janet Paddock
County Clerk