

CHILI PLANNING BOARD  
January 14, 2020

A meeting of the Chili Planning Board was held on January 14, 2020 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Acting Chairperson David Cross.

PRESENT: Paul Bloser, David Cross, Joe Defendis, Matt Emens and Glenn Hyde.

ALSO PRESENT: Michael Hanscom, Town Engineering Representative; David Lindsay, Commissioner of Public Works/Superintendent of Highways; Eric Stowe, Assistant Counsel for the Town; Paul Wanzenried, Building Department Manger.

ERIC STOWE: Similar to the last time we had this, there needs to be a motion for a temporary chair with a second and a vote.

MATT EMENS: I make a motion for Dave Cross to be Acting Chair tonight.

GLENN HYDE: I second.

ERIC STOWE: All in favor?

The Board was unanimously in favor of the motion.

DAVID CROSS: I'll call meeting to order.

I'd like to make a motion to adjourn into Executive Session due to pending litigation on this application at 7:09.

GLENN HYDE: I'll second.

The Board was unanimously in favor of the motion.

DAVID CROSS: I'd like to make a motion to come out of Executive Session at 7:18.

PAUL BLOSER: Second.

The Board voted unanimously in favor of the motion.

Acting Chairperson David Cross declared this to be a legally constituted meeting of the Chili Planning Board. He explained the meeting's procedures and introduced the Board and front table. He announced the fire safety exits.

**OLD BUSINESS:**

1. Application of Howitt-Paul Road LLC, owner; 758 South Avenue, Rochester, New York 14620 for final site plan approval to revise approval granted on April 13, 2010 to erect two three-story commercial buildings (Building #1 & 2) totaling 57,870 sq. ft. (19,290 sq. ft. per level) with commercial area on first floor and 17 apartment units on each of the second and third floors; and Building #3 to be a three-story apartment building totaling 27,000 sq. ft. (9,000 sq. ft. per level) at property located at 751 Paul Road in RB w/PNOD zone.

Betsy Brugg and Jess Sudol were present to represent the application.

MS. BRUGG: Good evening, Mr. Cross, members of the Board. It's good to be here tonight in this not-so-packed room.

Anyway, it's a pleasure to be here on this application. We're here requesting final site plan approval. You're very familiar with the project. The Board granted preliminary approval with some conditions just a couple months ago.

We are prepared to go forward with final. We are asking that the Board exercise some discretion that the Board has that is specific to the PNOD zoning district. This is not something that you would commonly find in other zoning districts, but I will remind the Board this is the only property in the Town of Chili that is in this unique PNOD, which is an Overlay District over the Restricted Business District. This is the only property in the PNOD zoning.

So we are asking that consistent with the PNOD regulations, that the Board approve modifications of the zoning criteria to achieve the most desirable pattern of development in the PNOD, specifically to allow the height of the proposed buildings to be 45 feet where code requires 35 in the Restricted Business District. The code is actually silent with respect to the PNOD, but the underlying district is Restricted Business.

And to allow front-yard parking for -- well, as what is shown on the plan here, we're showing about 16 spaces. I would point out that both of these circumstances are consistent with development in the neighborhood. We did bring some information to share with you, so I'm going to quickly walk through it. I should back up and say Jess Sudol from Passero has really

pulled all this together and we have representatives from the property owner if you have any questions.

So what we have brought you -- you gave them copies?

MR. SUDOL: (Mr. Sudol indicated non-verbally.)

MS. BRUGG: So here is our site plan. With respect to the height -- I probably should stay at the podium -- so with respect to the height, this building could be built at 35 feet. The additional 10 feet is really necessary in order to provide a more desirable roof design and utilize peaked roofs. The section of the Town Code that addresses architecture really calls for this type of a design, and I will defer to Matt (Emens), but I believe the Architectural Advisory Committee would also prefer the peaked roofs to the flat roof. They have more of a historic character that is consistent with the code and with the residential development in the nearby surrounding areas. So there is a very good reason to add the 10 feet for the roof line.

There was an exhibit here. In terms of whether this is consistent or appropriate in height for the neighborhood, it is consistent with other development in the area. What you have is a drawing showing kind of the nearest development. We're showing the highest point on the Wegmans building at 42 feet. The Fathers House is at 45 feet. And the Town of Chili Community Center, which is being built, is going to be built to 65 feet, significantly taller, all in the immediate vicinity of the property.

With respect to the front-yard parking, um, I think you also have a drawing -- this is actually an aerial photograph.

I believe the Board is aware that front-yard parking is commonly found throughout -- throughout not just the Town as a whole, but throughout the entire area, including the adjacent Wegmans, Target. I believe Walgreens has it. Certainly the Aldi's plaza, Chili Square, Fathers House. You find it commonly found throughout the area.

So this is consistent with the character of the neighborhood and it is actually for a small amount of parking relative to other developments in the area. If you look at the site plan, you will see it's a relatively small amount of front-yard parking and it really serves to help accommodate the needs of smaller-scale tenants that you want in this development. This is designed for smaller tenants. They do need to have some parking that is accessible to survive in those spaces. So to attract those tenants, you do need to have some front-yard parking.

Also with respect to -- to the parking, I would point out that this is part of a larger PNOD -- the PNOD zoning district requires a development concept plan for original PNOD. I think it was originally approved back in 2010, modified in 2012. I believe this is actually a reduction in the amount of front-yard parking from the original -- or from the 2012 plan. So it is actually less front-yard parking than previously approved by the Town Board.

As the Board may recall, in addition to granting preliminary for this project, you did make a recommendation for approval of the development concept plan. The Town Board did take your recommendation and did grant approval back in July. So there has been, I think, overall tremendous support for the concept plan. I don't believe there has been any type of public or neighborhood option.

Jess (Sudol), I believe, hosted a neighborhood meeting. There are maybe 40 or 50 folks who attended and I think that was before you filed the application.

And I think that the project was well received. There is support in the community for it and I think people would like to see this get built. We do need this relief in order to -- to move forward with the project.

So that is what we're presenting to you tonight. In terms of the plan itself, do you want to go through some of the questions that they might have?

MR. SUDOL: Yes. I don't think I have a lot to cover. One thing I did want to point out is the front parking over here (indicating) along Paul Road, one of the original plans this Board saw as part of the referral process on the Master Plan Update did include parking on the Paul Road side so you would actually have cars facing. We did remove that as an improvement to create more space there and to keep the headlights away from Paul Road. We did make a reduction.

But we do still need, as Betsy (Brugg) mentioned, some of those stalls to make some of the tenants that are kind of on this side (indicating) of the L viable. If there is absolutely no parking there, would it be challenging certainly to get those to be occupied.

Other than that, as Betsy (Brugg) mentioned, we always looked at this project as a transitional project from the large commercial development of Wegmans and Target and so on into the existing residential neighborhood. And we think the residential feel of the building helps to accomplish that as opposed to the flat roofs, which in our opinion, is really out of place for this location.

In terms of what else we have been doing for the last couple of months since we received our negative declaration on SEQR and preliminary site plan approval is we have been working with Mr. Hanscom and gotten through a couple rounds of his comments.

We actually had a chance to review his most recent round and got it down to some very minor items. I do have response letters prepared for that if anyone is interested in reading them, but again, I would quantify them as extremely minor.

Working with the County Health Department, of course, and DOT, et cetera, we pretty much got everybody lined up in a place where we can move forward with construction once we receive final approval here.

I know it's kind of a quick overview, but I'm happy to address anything else. It is the fourth time we have been here. There haven't been any substantial changes to the project more or less than addressing agency comments along the way, none of which have had a major change in the

layout or the design.

DAVID CROSS: Yeah. I do have a copy of the Lu Engineers -- Town Engineer comments dated January 10th and I agree, they seem minor in nature. Mine -- general engineering comments and storm water comments.

Nothing that you can't handle, Jess (Sudol)?

MR. SUDOL: Absolutely not.

DAVID CROSS: Okay. So that is that.

And then I have a letter from the County DOT, Brent Penwarden, basically saying that they -- they feel strongly -- and I think the Planning Board also feels strongly that you, the applicant, continue discussions with Wegmans on working on a pedestrian and/or vehicular access agreement with them. I think we're ready to move forward tonight, but that is something that we -- we would like you to pursue.

And if you do a -- a vehicular agreement, you will have to come back for -- a revised site plan.

MR. SUDOL: Definitely something we're interested in continuing to pursue. I think Wegmans and our side are very much on the same page as far as providing the pedestrian access. We're still working out some details on the vehicular access, but it is something I think both parties are ultimately interested in seeing happening. So we're not going to stop working towards that resolution tonight.

DAVID CROSS: Thanks, Jess (Sudol).

Brent (Penwarden)'s second comment was that a traffic signal at Paul Road and the Wegmans drive entrance is not warranted at this time. But at full build-out and full occupancy we would like the applicant to come to -- to --

MR. SUDOL: Do another study.

DAVID CROSS: -- let's update the numbers and see where we're at. Okay?

So I think this Board would be comfortable -- want to make sure that we make that as a condition tonight.

MR. SUDOL: Even to the extent -- I don't believe this Board even has to make it a condition. If you read through the DOT, as part of their permit -- which allows us to construct this access way -- they will not issue us the permit unless we enter into the agreement, which is referred to in that comment, with the County DOT stating that we will have to do a study.

DAVID CROSS: True. True.

We like this extra layer, though, so we'll probably add it, Jess (Sudol). I think. Well, we'll vote on it.

So we have Town Engineer comments. We have traffic impact study. Um, the applicant didn't make the AAC meeting tonight. Maybe there was a mix-up in communication.

MR. SUDOL: I apologize for that.

Just on that front, I think we have been to two or three prior AAC meetings and over the course of time, we have been refining the design. We do have several comments, all of which I will say wouldn't have major impact to the building, just improvements. We were waiting to get through the process tonight, at which point we would be full steam ahead towards construction, including coming back to the AAC one last time just to show that we have addressed their comments.

DAVID CROSS: I don't know we'll make you come back to the AAC one last time, but definitely --

MR. SUDOL: Address their comments.

DAVID CROSS: -- address all their comments to date, and any additional ones that trickle in here in the next couple of days --

MR. SUDOL: Okay. That's fair.

DAVID CROSS: Okay. Any other discussion at this point? Side table have anything?

ERIC STOWE: Just with respect to the DOT condition, if we could just -- as a compliance issue, that they comply with any County DOT regulations or comments.

MR. SUDOL: Yes. That is one way to handle it.

DAVID CROSS: Thanks, Eric (Stowe).

ERIC STOWE: Yep.

DAVID CROSS: I think those are in -- when we --

ERIC STOWE: Standard.

DAVID CROSS: -- our preliminary hearing, those -- those comments are in there and all those will still be applicable.

So any other comments from the side table? Mike (Hanscom)? Paul (Wanzenried)?

MATT EMENS: A couple follow-up questions, Jess (Sudol). So back to the AAC to add a little detail. You guys were there two times. Tonight would have been your third. We did receive the drawings. You guys were on the agenda. So like we said, there was some confusion there. I believe that Andrew Gartley from TY Lin had addressed the concerns we had. We did look at the drawings and kind of chatted before we realized that no one came.

MR. SUDOL: Sorry.

MATT EMENS: No. That's okay. I didn't mean to say it that way, but just trying to get it in the minutes here.

So I think what Dave (Cross) is saying, I think you're almost there and it looks like it. So whether or not you actually have to come back, I think we can handle it with the AAC Chair and probably the Building Department.

MR. SUDOL: Sure. Perfect.

MATT EMENS: I think that is acceptable.

MR. SUDOL: Great. Thank you.

MATT EMENS: Two follow-up questions to what you and Betsy (Brugg) had presented here. One question, the existing portion of the development that is built, what is the roof peak on that, your highest point in that?

MR. SUDOL: Those are mostly single-story. They're probably 30, 32 feet in there. Two in there.

UNIDENTIFIED SPEAKER: All two-story.

MATT EMENS: I knew what you meant.

I knew they weren't three-story, but I knew they were two-story and the gable. So thinking they were higher.

Now I forgot my second question. No.

The second question was, it looks like on these 11 by 17s you handed out, you did do a version here which it fully did eliminate the front parking. But what we're looking at in the larger plans --

MR. SUDOL: There were layers turned off when we were trying to put that drawing together. The site plan that we submitted is with the parking.

MATT EMENS: Yeah, you presented. So I see that. You have the trees there. So I'm good. That's all. Thank you.

DAVID CROSS: So with authority under Article 278 of New York State Town Law this Board has the -- we can modify the zoning criteria in order to achieve the most desirable pattern of development.

And I guess -- I will read some statements here and some findings of facts that we put together.

And, Sandy (Hewlett), there is a lot here so I will give you a copy of this.

So I will read through these and then we'll talk about some conditions and we'll go to a vote.

Be it resolved that as part of this site plan approval, the following zoning criteria are modified to achieve the most desirable pattern of development for property in the PNOD, as authorized by Chili Town Code.

The height of the three buildings proposed shall not exceed 45 feet in height, consistent with other buildings in the neighborhood.

The proposed parking in the front yard shall be permitted consistent with similar uses in the neighborhood.

The modifications are granted based on the consideration of the following findings of fact:

The site is unique its zoning, location and size. It is the only land remaining in the PNOD and is the remaining portion of a larger PNOD development concept plan approved in 2010 and modified in 2012. There is no other property in the Town of Chili zoned in the PNOD. The PNOD zoning is a transitional zoning, with the seven plus or minus acres site being the remaining land located between larger and more intense commercial development, a townhome community developed as part of the larger PNOD development concept plan and a large church, in proximity to the Town of Chili Community Center site and nearby residential neighborhood.

On July 17th, 2019, the Town Board, in agreement with a recommendation by the Planning Board, approved the proposed modifications to the approved development concept plan approved conditioned upon the applicant obtaining site plan approval from the Planning Board.

On October 15th, 2019, the Planning Board issued a neg dec pursuant to SEQR and granted the application for preliminary site plan approval and Special Use Permit.

There has been no public opposition to this application. The applicant reported holding a neighborhood meeting in April of 2019 with over 40 neighborhood residents in attendance and reported that the neighbors were supportive of the proposal.

The applicant has demonstrated that the proposed three-story buildings could be built to a height of 35 feet with flat roofs. The height of 45 feet is necessary for the use of peaked roofs which are more consistent with the favored -- and favored by Town Code and the Architectural Advisory Committee. The peaked roof contributes to the overall residential character of the architecture which is appropriate for the property in this PNOD.

The building height of 45 feet will be similar to or less than the maximum height of other comparable buildings in the surrounding area, including the neighboring Fathers House church at 45 feet, Wegmans at 42 feet and the Town of Chili Community Center that is being constructed currently at 65 feet.

The proposed buildings will not dominate the area or impact nearby residential neighbors. The site has limited frontage and visibility from Paul Road, with the development aligned adjacent to the neighboring Wegmans site.

The Chili Code does not restrict height in the PNOD zoning.

Parking in the front yard exists throughout the neighborhood, including the adjacent Wegmans/Target plaza. The inclusion of a row of parking in the front yard is consistent with the character of the neighborhood -- the neighborhood while also being minimal in the amount or nature when compared to the larger amounts of front-yard parking found in the area.

The current site plan proposes less front-yard parking spaces than the previous development concept plan approved by the Town Board in 2012.

The proposed front-yard parking spaces will provide parking needed to serve and support the tenant spaces along Paul Road.

The front-yard parking is adjacent to the fire lane/vehicular travel lane, such that the

parking area will not have a significant visual impact from Paul Road.

The conditions I have come up with, to this point: All previous conditions, as set by this Planning Board still apply.

I will add one condition. Developer shall conduct a follow-up traffic study and submit to the Town upon full build-out and occupation to determine if a signal is warranted at the Paul Road/Wegmans entrance intersection.

And we're going to look for compliance with all Architectural Advisory Committee comments.

Okay? Any additional conditions anyone can think of? Any additional comments?

David Cross made a motion to approve the application, and Joe Defendis seconded the motion. The Board was unanimously in favor of the motion.

DAVID CROSS: This motion carries.

MR. SUDOL: Thank you very much.

MS. BRUGG: I just wanted to make sure your motion included the word -- it was final site plan approval?

DAVID CROSS: Yes. I did not read the application over again, but yes, this is for final site plan approval.

MS. BRUGG: Great. Thank you.

DECISION: Unanimously approved by a vote of 5 yes with the following conditions:

1. All previous conditions set by this Board still apply.
2. Developer shall conduct a follow-up traffic study, and submit to the Town, upon full build-out and occupation to determine if a traffic signal at Paul Road/Wegmans entrance or other mitigation is necessary.
3. Comply with all requirements of the Architectural Advisory Committee.

The following findings of fact were cited:

Be it resolved that as part of this site plan approval, the following zoning criteria are modified to achieve the most desirable pattern of development for property in the PNOD, as authorized by Chili Town Code:

1. The height of the three (3) buildings proposed shall not exceed 45 feet in height, consistent with other buildings in the neighborhood.
2. The proposed parking in the front yard shall be permitted consistent with similar uses in the neighborhood.

The modifications are granted based on the consideration of the following findings of fact:

1. The site is unique its zoning, location and size. It is the only land remaining in the PNOD and is the remaining portion of the larger PNOD development concept plan approved in 2010 and modified in 2012. There is no other property in the Town of Chili zoned in the PNOD. The PNOD zoning is a transitional zoning, with the seven plus or minus acres site being the remaining land located between larger and more intense commercial development, a townhome community developed as part of the larger PNOD development concept plan and a large church, in proximity to the Town of Chili Community Center site and nearby residential neighborhood.
2. On July 17th, 2019, the Town Board, in agreement with a recommendation by the Planning Board, approved the proposed modifications to the approved development concept plan approved conditioned upon the applicant obtaining site plan approval from the Planning Board.
3. On October 15th, 2019, the Planning Board issued a negative declaration pursuant to SEQRA, and granted the application for preliminary site plan approval and a Special Use Permit.
4. There has been no public opposition to the application. The applicant reported holding a neighborhood meeting in April 2019 with over 40 neighborhood residents in attendance, and reported that the neighbors were supportive of the proposal.
5. The applicant has demonstrated that the proposed three-story buildings

could be built to a height of 35 feet with flat roofs. The height of 45 feet is necessary for the use of peaked roofs which are more consistent with and favored by the Town Code and the Architectural Advisory Committee. The peaked roof contributes to the overall residential character of the architecture which is appropriate for the property in the PNOD.

6. The building height of 45 feet will be similar to or less than the maximum height of other comparable buildings in the surrounding area, including the neighboring Fathers House church at 45 feet, Wegmans at 42 feet and the Town of Chili Community Center that is being built at 65 feet.
7. The proposed buildings will not dominate the area or impact nearby residential neighbors. The site has limited frontage and visibility from Paul Road, with the development aligned adjacent to the neighboring Wegmans site.
8. The Chili Code does not restrict height in the PNOD zoning.
9. Parking in the front yard exists throughout the neighborhood, including the adjacent Wegmans/Target plaza. The inclusion of a row of parking in the front yard is consistent with the character of the neighborhood -- the neighborhood while also being minimal in amount or nature when compared to the larger amounts of front-yard parking found in the area.
10. The current site plan proposes less front-yard parking spaces than the previous development concept plan approved by the Town Board in 2012.
11. The proposed front-yard parking spaces will provide parking needed to serve and support the tenant spaces along Paul Road.
12. The front-yard parking is adjacent to the fire lane/vehicular travel lane, such that the parking area will not have significant visual impact from Paul Road.

DAVID CROSS: Last order of business, approval of meeting minutes from December 10th.

Matt Emens made a motion to approve the November 12, 2019 and December 10th, 2019 Planning Board meeting minutes, and Joe Defendis seconded the motion. The Board was unanimously in favor of the motion.

David Cross made a motion to adjourn the meeting, and Matt Emens seconded the motion. The Board was unanimously in favor of the motion.

The meeting ended at 7:40 p.m.