

CHILI PLANNING BOARD
December 13, 2022

A meeting of the Chili Planning Board was held on December 13, 2022 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Michael Nyhan.

PRESENT: Paul Bloser, David Cross, Joseph Defendis, Matt Emens, Glenn Hyde, John Hellaby and Chairperson Michael Nyhan.

ALSO PRESENT: Michael Hanscom, Town Engineering Representative; Matthew Piston, Assistant Counsel for the Town; Paul Wanzenried, Building Department Manger.

Chairperson Michael Nyhan 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.

1. Application of TUGLI. LLC, 1891 Scottsville Rd., Rochester, New York 14623 owner; for recommendation to rezone 269 Ballantyne Rd. from AC (Agricultural Conservation) and FPO (Flood Plain Overlay) to AC, FPO with Incentive Zoning at property located at 269 Ballantyne Rd. in AC, FPO District.

Ed Martin and Rhett Turner were present to represent the application.

MR. MARTIN: Hello and good evening. My name is Ed Martin. I'm a licensed engineer with DDS. I'm here tonight representing Turner Underground and their application before you. Also in attendance tonight is Rhett Turner. He is the owner and operator of Turner Underground. I will invite him up for any questions I'm not able to answer.

But as you mentioned, Mr. Chairman, we're here for referral from the Town Board seeking your recommendation back to them for rezoning -- incentive rezoning to allow construction of a storage yard as we show in plans in front of you. These are conceptual level plans and should this move forward with the rezoning, this Board will get a whole separate review and SEQR review, site specific to what we're proposing on the site.

Currently we're proposing a storage yard in the northeast quadrant and that location is somewhat critical in that the site is encumbered with prime soils as mapped by the Town. As you know, this whole area is prone to flooding so very limited development possibilities out here.

What the Turners would like to do is have a storage yard to supplement their operation on Scottsville Road. Large equipment that's not being used at the moment would be stored out here and then as needed at a site, delivered to the site, used and then returned to this storage yard.

Feedback from the Town Board suggests that we will be fencing this in. Again, this Board will have more details in the future should -- should we get the rezoning. But there is no water supply. There will be electric run to this to allow for camera coverage and for lighting which would be predominantly motion-activated so as not to change the character of the area.

Drainage will be maintained. The -- the flow is generally kind of south and to the west, but as you can imagine, this whole area is very flat. We won't be impacting any of the neighbors. And we will be utilizing an existing curb cut on Ballantyne Road. If you have driven by the site, you have probably seen it.

It is a fairly straightforward plan. Again, it's conceptual only so we're asking for this Board's feedback and we're hoping to go back to the Town Board for them to schedule a Public Hearing for rezoning. So with that, I would be happy to answer any questions that you might have.

JOSEPH DEFENDIS: Other than storage, no repair will be going on on equipment?

MR. MARTIN: Correct. No operation. Just storage of equipment and possibly product, that sort of thing that would be pallet-mounted. Just stored at the site but no actual operation at the site whatsoever.

MATT EMENS: So just to stay on this for a minute with the storage and what is going on there, this is in support of the new facility on Scottsville Road?

MR. MARTIN: Correct.

MATT EMENS: So first question, I guess, would be does that mean that some of the things I see outdoors would be going to this lot? Is that the idea?

MR. MARTIN: I think it's a fair statement to say it would all go away would probably be a bit of exaggeration. That's pretty accurate.

MR. TURNER: I'm Rhett Turner. Evening. It just would be stuff that we don't use on a daily basis. Some of our stuff we might not use for six months at a time to a year and just, you know, to -- to have a spot to keep it out of our normal day-to-day operation is what we're looking to do. So I mean it would be -- you know, we wouldn't be in and out of there a lot. Some of it might sit there for extensive periods of time.

MATT EMENS: I know that was one of the concerns when you guys came through. I go

by there every day. So the traffic, you know -- I want to -- I wouldn't necessarily say the traffic, but if you hit it at the right time, your crews are going out or coming back. So I think it is good to hear that it's one of the things or things that are used monthly, not daily, because my big concern would be the in-and-out traffic on this lot. Right? If you ever drive down that way, it's -- there is a lot of traffic at the beginning and the end of the day.

So -- and I guess the other big thing is I see some berming there. I know you said you will come back with details, but I think the biggest concern would be making sure that that stuff can't be seen, right? Because I know that is probably -- your biggest issue with people going by on Scottsville Road is it is just wide open. You can see everything.

MR. MARTIN: Right.

MATT EMENS: I'm not saying that is good or bad. I'm just saying you can see everything. So.

MR. MARTIN: Yeah. Our plan is to install berms with plantings to block that view and Supervisor Dunning made that clear that was an expectation of the Town also. So we'll be sure to provide that on the detail on the site plans.

MATT EMENS: That's all I have right now.

JOHN HELLABY: Just out of curiosity, did you have any conversations with your neighbors to the east as far as utilizing some of their area over there? I mean, they have been there for years. They have been storing equipment. I know he is always looking for a way to make a buck. It would have alleviated all of this, I would think.

MR. MARTIN: Do you want to speak to that?

MR. TURNER: I have made several attempts. I know a lot of people that -- we're all kind of connected. Very hard to get a hold of and, you know, reached out numerous times going different ways. I haven't really gotten anywhere.

JOHN HELLABY: Really?

MR. TURNER: No. I had the same thought.

JOHN HELLABY: I know he is a different type of person and I think he has been trying to back out of that business with some other endeavors that he had going, but just curious.

This is a paved lot or a stone lot?

MR. MARTIN: It will be stone.

JOHN HELLABY: How would you address a spill back there? I mean granted, you get a spill anywhere, but somebody said "How will you get a spill back there if you're not working on equipment?"

You start a shovel up, blows a hydraulic hose, next thing you have it all over the place. How will you be prepared for that?

MR. MARTIN: It's not unlike any construction site you go to. This happens all of the time. There are procedures in place. Different -- we call it "kitty litter" in the industry -- put down on spills, it absorbs it and you can vacuum it up. But it is no different than any storage yard or construction site.

JOHN HELLABY: I don't necessarily need a list today, but do you have a list of items that you plan on storing back here? In other words, I don't want to be here tonight saying we got room to put 50 pieces of equipment back here and then find out six months from now you actually have 150 pieces of equipment back there.

MR. MARTIN: Yes. I will work on compiling that list and we'll size it only to what Rhett actually needs for storage. Again, this is conceptual only. Equipment, drill rigs, drill bits, things like that that might not be used at the moment, but yes, I will come back with a list.

MICHAEL NYHAN: The tire area, with the exception of a small portion of the driveway, looks to be outside the prime soils. Is that accurate?

MR. MARTIN: Correct.

MICHAEL NYHAN: I notice you will remove an existing barn which is in prime soils.

MR. MARTIN: Correct. That was largely at the request of the Town. It's dilapidated.

MICHAEL NYHAN: There is also asphalt and gravel in that same area of prime soils. Will you be removing that? I think if you did, you may be able to reuse the gravel on your new driveway. But that would completely free up where all of the prime soils are and probably mitigate the prime soils you're looking to take in this driveway.

MR. MARTIN: Our plan would be to clean it up, to hog it out and bring it over to where we could use it as structural fill in the area that we're developing.

MICHAEL NYHAN: We want to see that on the plan, as well, that all of it will be removed and top-soiled. I don't have any further questions.

GLENN HYDE: Do you have an estimated delivery and withdrawal pattern that you might anticipate for this structure?

MR. MARTIN: Sorry?

GLENN HYDE: Anticipated or estimated delivery/withdrawal pattern for this facility?

MR. MARTIN: You mean frequency of operation, that sort thing? Would say monthly on average, every other month.

MR. TURNER: Kind of all depends. It might be very slow at times where we wouldn't really need to get in there for an extensive period. I mean it might be weeks, a month. But it -- but it's not like our shop where we're coming in and out of there and employees are coming in and out. This is just, again, kind of for stuff that we don't use on a daily basis that we can, you know --

GLENN HYDE: Over a month, you're talking about a light traffic pattern back and forth?

MR. TURNER: Yes. Very light.

GLENN HYDE: That's all.

DAVID CROSS: You note the flood plain elevation of 525. When you come back for a graded plan, you will have taken that into account, I'm sure?

MR. MARTIN: I will and I'm glad you brought that up. This site is inundated with flood plains. If we were trying to develop this under traditional code regs, you're looking at finished floors at least 2 feet above that. In order to achieve that, you're filling the flood plain. So from my perspective, this is a perfect use of the property. We don't have to be above a flood plain. We don't have to reduce storage of the flood plain. We can achieve this without taking away storage. I think that is probably a good thing.

DAVID CROSS: You do know a barn is going to be removed in the back and I think there is -- this is all site plan stuff, but there is some trailers back there or storage boxes. Those will be removed, as well?

MR. MARTIN: Yep.

DAVID CROSS: I would be interested to see more of the details on a nice landscape berm. Visual screening from Ballantyne Road so that the public does not have to see a bunch of equipment back there.

MR. MARTIN: Yep. We will do that.

PAUL BLOSER: That was my biggest concern because it's kind of a -- long-term storage facilities. With -- lack of visibility of what is back there from the road, for people driving by. It is kind of hard for neighbors up and back on the hill, because they're looking down at everything.

MR. MARTIN: Right.

PAUL BLOSER: But at least in the front, from the road, the traffic, they don't know what is back there.

MR. MARTIN: We'll do --

MICHAEL NYHAN: What is the incentive to the Town provided on this?

MR. MARTIN: Offer of \$30,000 in cash.

MICHAEL NYHAN: Comments from the Side Table?

MATTHEW PISTON: No.

PAUL WANZENRIED: Did he say he was putting lights out there?

Did you say you're putting lights out there?

MR. MARTIN: We're planning on lights that will primarily be motion-activated. Not a dawn-to-dusk. Maybe one at the gate just to highlight that a little bit. But generally we don't like to light it up unless there is movement back there.

MICHAEL NYHAN: All set?

PAUL WANZENRIED: I will tackle that one when I get to site plan.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Michael Nyhan made a motion to close the Public Hearing portion of this application, and John Hellaby seconded the motion. The Board unanimously approved the motion.

The Public Hearing portion of this application was closed at this time.

MICHAEL NYHAN: Purpose of this is not to approve. Just to recommend or not recommend to the Town Board. They will be the approving body.

MATTHEW PISTON: I was just getting ready to say if you were going to SEQR, to tell you not to go do SEQR.

MICHAEL NYHAN: Okay. And the Town Board will also be doing SEQR for this application.

Any other questions or comments for the applicant?

With that, I would make a recommendation -- make a motion to recommend this to the Town Board for the application of TUGLI LLC, 1891 Scottsville Road, Rochester, New York 14623 owner; for recommendation to rezone 269 Ballantyne Road from AC (Agricultural Conservation) and FPO (Flood Plain Overlay) to AC, FPO with Incentive Zoning at property located at 269 Ballantyne Road in AC, FPO District.

JOHN HELLABY: Second.

DECISION: The Planning Board recommends to the Town Board of Chili by a vote of 7 yes for incentive rezone.

The Planning Board agreed to report the following to the Town Board:

1. This parcel of land currently has a barn, asphalt parking area and gravel driveway, which are located on the west side of the property. The barn, parking area and driveway are located in prime soils and will be removed and soil replaced where they existed. The proposed area for a new gravel driveway is partially in prime soils and the gravel storage is outside the prime soils area. This request serves to preserve and increase unused prime soils on this property.
2. The request also provides for a \$30,000.00 cash payment to the Town of Chili.

3. The use of this gravel parking lot will be the storage of equipment and supplies that are infrequently used. Items stored will be those that are used once every 6 months to a year or longer. There are no structures on site so no utilities, with the exception of electricity for lot lighting, will be installed. This is a low, infrequent use of the gravel surface storage area so there is no significant impact on public utilities.

OLD BUSINESS:

1. Application of Valley Energy Services, LLC. 762 Brooks Avenue, Rochester, New York 14618, Genesee Valley Regional Market Authority, 900 Jefferson Road, Rochester, New York 14623, owner; for preliminary site plan site approval of a distribution facility at property located at 1861 Scottsville Road, Rochester, New York 14623 in LI, FPO District.

Matt Napierala and Paul Tandlmayer were present to represent the application.

MICHAEL NYHAN: This is for final site plan approval, correct? Not final -- final site plan approval.

MR. NAPIERALA: Matt Napierala with Napierala Consulting representing Valley Energy. With me tonight is Paul Tandlmayer from Valley Propane & Energy. Not with me -- who was with us last month -- is Stacy Silvers from Hiltz. She had a conflict tonight and unfortunately could not join us.

When we were here last month, during the preliminary review, there was about four or five items in which the Board wanted us to address. I will quickly go through those. Maybe not in the same order but my order.

Which first was site grading. We do have a grading plan that was added to the set. I will flip to that now.

So we -- we acquired and provided a parcel topo of the subject site area showing grading of the expanded pad at an appropriate 2 or 2 1/2 percent grade across the pad and then appropriately off-graded that area at -- at a 4-on-1. I believe code requires 3-on-1. So we flattened it out a little bit. In so doing that grading, we are within certainly the limits of the property, but as well minimizing any tree or vegetation disturbance so there won't be a lot of -- or no big tree cuttings to achieve that off grade.

I know we kind of talked about being able to look at this to make sure we do not need a retaining wall and with this grading we do not need a retaining wall to achieve that flat area for the propane distribution area.

The other item, minor item was to make sure that the plan identified and located an existing hydrant off of the Regional Market road. We have now shown that. I will point out that the hydrant is located about here (indicating). We, as well -- because of the truck movements -- are proposing bollards protection so that the hydrant location will be protected with a bollard -- two bollards actually to make sure that that is fully protected on any movements coming off the distribution area.

There was some conversations and discussions with regards to landscaping. First, you know, whether or not -- because we did not show any to begin with. Because of the industrial nature of this area and then further in the conversations when the neighbors were talking, we have added a surrounding of this improvement with some Arborvitae. They -- what -- a green giant Thuja. That particular species is an Evergreen species. It is of the Arborvitae, the most deer-tolerant. Deer get hungry enough, they will eat anything, but this is the most deer-tolerant of the arborvitae. They're fast-growing. We're planting, I believe -- I can't read it from here, but I think there is 34 of those surrounding the improvement area. So they're located on this drawing surrounding here (indicating). Planted appropriately spaced so as they mature and they -- they are a fast-growing species. They grow between 2 to 4 feet each year once they're established. So once they get planted, they have that recovery period of transplanting, but once they're established, they do grow fast and are a linear screen tree.

So that both provides the landscaping and nature, enhances the existing tree line that surrounds this area and, as well, will provide further buffering of any of the noise that was discussed at our last meeting, as well.

Speaking of noise, as a segue to that, the -- the public from the Genesee Riverview Community did have some concerns with regards to the nature of the -- the trucks for both unloading and loading the bobtails and the tractor-trailers. I will let Paul Tandlmayer talk about how -- what he has done to help at least address or -- not address but deal with the neighbors and how -- what he has discovered.

So if you can, Paul (Tandlmayer).

MR. TANDLMAYER: Paul Tandlmayer. I oversee Valley Propane. So one of the -- the neighbors had reached out, you know, after the last meeting. I gave her a business card. She called me a week later.

I did make an arrangement with her to take our bobtail truck down to that site. We parked right where we would be loading the bobtail and we idled the truck for five minutes. I called her while I was in the truck, while it was running and she said, "I can't hear it."

So we tried to make every accommodation to make the neighbors happy.

MR. NAPIERALA: So the other comments from the Board dealt with making sure that we talked with the Town Fire Marshal, Dave Saur and following the meeting the next day, Stacy Silvers from Hiltz did meet with both the Fire Marshal and the Building Department, Paul Wanzenried.

Hopefully we have addressed in that conversation, at least from Stacy (Silvers)'s standpoint that we reviewed the distribution, the safety measures and things that are happening at the site. Both Paul (Wanzenried) and the Fire Marshal indicated once we get past the Planning stages, there is typical building permits and building type of details for the piers and foundations and such and all of that will occur in a building permit sense. And as well, there is a couple additional permits that are needed from the Fire Marshal side of which we're fully aware of and we will process those permits following Planning Board review. That is what we have and we certainly are open for further questions and comments.

MICHAEL NYHAN: Any further discussion or questions?

MATT EMENS: I see the light pole there. What is the height of that light pole? I can't find the note on that, the --

MR. NAPIERALA: I believe we're going to put that at a -- we can certainly amend that -- at a -- relatively shallow for site light at 15 foot. And as well, that light pole will have both the -- the shutoff and one thing that the Fire Marshal wanted, was a KnoxBox. So we will have a KnoxBox so they can gain access to the control panel of the facility.

MATT EMENS: And the -- I guess here is what I'm -- I will -- I will tell you why I'm asking. I see the grading. It's fairly steep. It's making a nice little nook there. I don't want you to not have lighting, but now I'm just trying to figure out the height of that. So now you will have 9 or 10 feet of grade difference from the top plus the height of the arborvitaes. I just worried about that back side of any other glare. It looks like it will be low enough, but I'm guessing dark-sky compliant.

MR. NAPIERALA: Fully dark-sky compliant. We would probably look at a -- what we call a soft glow, 2,700 Kelvin-type of a light rather than -- when you get the LEDs -- as we all see Christmas lights, you can get the brights or the more soft light. In a site lighting sense, a 2,700 Kelvin is a more -- matches like the old-fashioned sodium lights, more of a yellow instead of the bright white.

MATT EMENS: That's -- that's all I have here now. Thanks.

JOHN HELLABY: Were the plantings reviewed by the Conservation Board?

MR. NAPIERALA: No, sir. We -- we just put them on the plan following our conversation but haven't gone in front of the Conservation Board.

JOHN HELLABY: I think that was part of the original specifications. Didn't it say to specifically meet with them?

MR. NAPIERALA: We talked about different aspects of landscaping, sir, of whether or not -- at one point in time -- Paul (Wanzenried)'s comment was -- making sure we would satisfy the landscaping requirement with a contribution as required with a 5 percent of the construction cost or whatever that number was. But as a final -- point blank, we did not go to the Conservation Board with what we're showing.

JOHN HELLABY: Help me out, Paul (Wanzenried). I think of -- we originally asked that they get their approval and if they couldn't come up with an agreement, then we would ask for the 1 percent or whatever?

PAUL WANZENRIED: I don't have the approval letter with me right now. But you could always make that a condition, that they need to conform to the comments of the -- of the Conservation Board.

JOHN HELLABY: I think it -- it was. I mean if we could re-ensure it is. Is it spelled out on here?

MICHAEL NYHAN: It is a condition on the --

JOHN HELLABY: Like I said, if it's a condition, it has to be done.

MR. NAPIERALA: Sure.

JOHN HELLABY: All I got for right now.

DAVID CROSS: It's Paul (Tandlmayer), right?

MR. TANDLMAYER: Yes.

DAVID CROSS: Thank you for taking the time to meet with the neighbor, bring the bobtail out there and the other truck. That goes a long way. I don't have anything else.

MATT EMENS: I looked it up quick, but Number 4 on the approval letter sent out last month states they need to go to the Conservation Board.

JOHN HELLABY: I don't think it was done prior to permit being done.

MR. NAPIERALA: I apologize. It's been a busy month.

MICHAEL NYHAN: Any other additional conditions than the ones you had from the previous meeting that are necessary for this approval? Final. So no hearing. Everything else is done.

So based on the additional information received and provided, application of Valley Energy Services, LLC, 762 Brooks Avenue, Rochester, New York 14618, Genesee Valley Regional Market Authority, 900 Jefferson Road, Rochester, New York 14623, owner; for final plan site approval of a distribution facility at property located at 1861 Scottsville Road, Rochester, New York 14623 in LI, FPO District.

The following conditions of approval: All previous conditions imposed by this Board that are still pertinent to the application remain in effect.

Approval is subject to final approval of the Town Engineer and the Commissioner of

Public Works.

The Town Engineer and Commissioner of Public Works shall be given copies of any correspondence with other approving agencies.

Applicant shall comply with all pertinent Monroe County Development Review Committee Review comments.

The applicant shall provide a landscape plan along with a required check list to the Conservation Board for review and recommendation on what can be used to deafen the sound from this operation.

Building permit shall not be issued prior to the applicant complying with all conditions.

Application is subject to all required permits, inspections, code compliance regulations.

Applicant to comply with all required life safety conditions and permits from the Town Fire Marshal.

Any signage change shall comply with the Town Code including obtaining sign permits.

Applicant to comply with the New York State Fire Code and NFPA 58, LP-Gas Code.

Applicant to protect existing fire hydrant at the southeast side of the cul-de-sac.

JOHN HELLABY: There was another one to trucks parked on-site after hours.

MICHAEL NYHAN: You want me to add that one?

JOHN HELLABY: Yep.

MICHAEL NYHAN: Okay. I added to trucks parked on-site after hours. So with those conditions of approval.

MR. TANDLMAYER: I assume you mean company trucks? I'm sorry. I just want to make sure. None of our trucks will be parked there. If a random truck goes back there and parks --

JOHN HELLABY: No. We understand that.

MR. TANDLMAYER: I just wanted it clear in my mind. You scared me.

PAUL WANZENRIED: The primary focus is the bobtails.

MR. TANDLMAYER: We don't want them there.

PAUL WANZENRIED: We don't want a transport parked back there. No transport or bobtails parked back there.

Just a comment, with regards to the Conservation Board. They have two paths to compliance. They can take 1 percent of the construction costs and donate it to the Town and not go to the Conservation Board. Or go to the Conservation Board and get their recommendations. I think what the Board perhaps should say, it is the expectation that the plantings presented are completed and implemented.

MATT EMENS: At a minimum.

PAUL WANZENRIED: Whether or not -- that should be almost in addition to, I guess. Okay? Follow what I'm saying?

DAVID CROSS: We would rather see the landscaping than the 1 percent donation.

JOHN HELLABY: Right.

PAUL WANZENRIED: Okay.

MICHAEL NYHAN: Okay.

DAVID CROSS: As proposed.

MICHAEL NYHAN: I will leave it as written. Anything else? With those conditions for the application of Valley Energy Services?

JOHN HELLABY: I will second.

DECISION: Unanimously approved by a vote of 7 yes with the following conditions:

1. All previous conditions imposed by this Board that are still pertinent to the application remain in effect.
2. Approval is subject to final approval by the Town Engineer and Commissioner of Public Works.
3. The Town Engineer and Commissioner of Public Works shall be given copies of any correspondence with other approving agencies.
4. Applicant shall comply with all pertinent Monroe County Development Review Committee comments.
5. The applicant shall supply a landscape plan along with the required checklist to the Conservation Board for review and recommendation on what can be used to deafen the sound from this operation.
6. Building permits shall not be issued prior to the applicant complying with all conditions.
7. Application is subject to all required permits, inspections and code compliance regulations.
8. Application to comply with all required life safety conditions and permits

from the Town Fire Marshall.

9. Any signage change shall comply with Town Code, including obtaining sign permits.
10. Applicant to comply with NYS Fire Code and NFPA 58, LP-Gas Code.
11. Applicant to protect existing fire hydrant at southeast side of cul-de-sac.
12. No trucks parked onsite after hours.

Michael Nyhan made a motion to accept and adopt the 11/15/22 Planning Board meeting minutes, and John Hellaby seconded the motion. All Board members were in favor of the motion.

The meeting ended at 7:33 p.m.