

Town of Canandaigua

5440 Routes 5 & 20 West
Canandaigua, New York 14424

PLANNING BOARD
Established February 20, 1962

Tuesday, November 9, 2022 • 6:00 p.m.

MINUTES—DRAFT #2—SUBJECT TO CHANGE

B. Referral from the Town Board:

Venezia Group, c/o Rocco Venezia, 5120 Laura Lane, Canandaigua, N.Y. 14424

Petition to rezone a 44.2-acre lot at 2435 Brickyard Road from Industrial to Mixed Use Overlay and to amend the Official Zoning Map.
TM #70.00-1-67.111

August 12, 2022 Petition received by Town Clerk

September 12, 2022 Town Board referred the petition to the Planning Board for an advisory report (Town Board Resolution #2022-240). The Planning Board has 60 days from the date of the Town Board resolution to provide the report.

October 11, 2022 Planning Board discussion and request for additional information (concept plan, overall plan, market analysis, and narrative describing the proposed development); discussion continued to November 9, 2022.

November 9, 2022 Discussion to be continued.

(See Planning Board minutes, October 11, 2022, pp. 4–10, for a description and the initial discussion of this referral.)

At the Planning Board meeting on October 11, 2022, the applicant was given the deadline of Wednesday, October 26, 2022, to provide the additional information which the board requested.

On October 26, 2022, Mr. Venezia provided the following information to the Development Office:

Re: Uptowne Pointe Development
TM# 70.00-1-67.111
Rezoning request for MUO

Dear Sirs/Madams:

We are writing to request a rezoning to MUO for the area on Airport Road as shown on the attached proposed Plat, presently zoned Industrial. We are proposing a Phase 1 development of five residential building lots.

The entire parcel owned by Uptowne Point LLC consists of 44.2 acres and has frontage on both Brickyard Road and Airport Road. The area of the proposed five lots (Phase 1) is 1.970 acres. The gas line that traverses the property can be utilized for a future walking trail.

Future Phase 2, as shown on the attached Plat, consists of 19 proposed residential building lots with a proposed Uptowne Pointe Boulevard access road. The future intent of Uptowne Pointe Boulevard is to traverse through the subject property and eventually intersect with Thomas Road.

We would like to ask for rezoning for the area covering both Phase 1 and Phase 2.

Four three-acre industrial building lots on Brickyard Road were recently approved by the Planning Board.

Thank you for your consideration of this project. Please contact us for any further information you may require.

—*Rocco Venezia, Venezia Group*

Mr. Brabant said that the Planning Board has a time limit for the completion of the advisory report to the Town Board. Ms. Bonshak said that the Planning Board has 60 days [from the date of the Town Board resolution on September 12, 2022] to provide the report to the Town Board.

On November 4, 2022, Ms. Bonshak submitted the Planner's Analysis, a portion of which appears below:

Determination:

The plan, as presented, is a very basic sketch/conceptual plan. The plan, in its current form, does not warrant a full-scale site plan analysis but merely a determination as to how it meets the general intent of the MUO.

Ultimately, the following design standards will be applicable later, but should also be considered now;

1. A site plan that will continue to attract appropriate development in order to expand upon the economic and fiscal base of the Town in a manner that maintains the unique character of the respective growth node and contributes to maintaining a high quality of life within the community;
2. A site plan that encourages architectural and site design that is compatible with the site's surroundings;
3. A site plan that encourages buildings that provide an appropriate transition between adjacent sites within the growth nodes;
4. A site plan that encourages buildings that are protective of open space resources important to the Town;
5. A site plan that establishes a clear and consistent character for new structures with existing structures and sites;
6. A site plan that reduces delays and avoids confusion that developers, landowners, or business operators may encounter during the construction phase of the proposed project; and
7. A site plan that the Planning Board finds will minimize land use conflicts between adjacent sites and within the growth node area to the greatest extent practicable.

Considerations for the Planning Board:

Is it the intent of the applicant to request a rezoning of the entire parcel?

Phase 1 and Phase 2 are for a portion of a larger, 42-acre lot. Pieces of the parcel were recently subdivided into 4, three-acre, Industrial lots. The Planning Board has an active application for a mini-storage facility on one of the parcels.

How does this meet the intent of the Uptown Canandaigua study (2019)?

This proposal involves replacing industrially zoned land with residential which is not recommended. According to the Uptown Plan from 2019, the Town has just under 100 acres of industrial land use within the Uptown Corridor. Although only approx. 7 percent of land in the Town is zoned industrial, nearly all of Canandaigua's industrial facilities are located within Uptown. It is noted in the Uptown Plan and needs to be called out in this report, the importance of supporting both existing operations and accommodate future growth in the industrial sector in a way that positively contributes to the redevelopment of Uptown over time.

I have reattached visuals, from Pages 85 and 86 of the Uptown Plan, and hash-tagged the parcel in question. Recommendations keep over 90 percent of that parcel in the Industrial zone.

Residential areas, with a mix of different housing types, are better suited, and recommended for buildout along Thomas Road and Sommers Drive. A small portion of the parcel is in that area and could support residential. Page 148 of the Uptown plan details the Mixed-Use Residential area and purpose, and the applicant should address this.

How does this proposal meet the intent of the Town of Canandaigua 2021 Comprehensive Plan Update?

The Town will promote development of sense of place and a diverse and sustainable tax base with a variety of employment options. It will maximize opportunities for commercial, industrial, and service sector development without compromising the town's natural, cultural, and historic resources. Additionally, we the Town, over time, has lost close to fifty percent of its industrial zoned property.

The Town's solar code is currently being updated to better reflect the changing nature of the solar industry as well as protect the Town. One of the recommendations is to keep basically all solar in the industrial areas of the Town. Being this is a 42-acre industrial parcel, are there implications on limiting alternative energy citing if it is rezoned?

Is this rezoning of 42 acres from industrial to residential warranted in maximizing industrial opportunities?

Connectivity?

Prior submissions to rezone this parcel addressed the Auburn Trail and a connection along the gas line near which cuts through the

area. How will this proposal meet the interconnectivity and expansion of the Auburn Trail. In the updated materials, the applicant did state a trail will be provided along the gas easement.

Justification from the applicant?

Has the applicant clearly addressed how this parcel rezoning meets the intent of the adopted land use plans for the Town of Canandaigua? The applicant did provide a more detailed plan of the entire parcel. Unfortunately, the justification lacked the detail requested from Staff as well as the Planning Board. Questions like, how does this meet the vision for Uptown Canandaigua? Does it meet the intent of the Comprehensive plan? If residential is warranted in this area, where is the data that warrants that claim?

Referral to the Planning Board:

The Planning Board must review the application and submit a report to the Town Board prior to them making a recommendation.

—*Planner's Analysis, November 4, 2022*

In an email to the board today (November 9, 2022), Ms. Bonshak said that it is important to note that the new plan submitted by Mr. Venezia does not match the application document and plan which were submitted to the Town Board on August 12, 2022. She said that although the Planning Board asked for additional information, nothing can move forward because the August plan shows a much smaller area than is now presented. She said that there are parcels in the new area which are not owned by Mr. Venezia and that the current owners did not sign off on the application. Ms. Bonshak suggested that the Planning Board issue a statement regarding this and at a minimum require Mr. Venezia to submit a new application with all the property owners on board.

Mr. Venezia discussed this application with the board via remote video conference.

He said that he has not changed the plans from the original application which is a rezoning of the property from Industrial to Mixed Use Overlay for the creation of 22 single-family home lots. He said that the board had requested a plan of what he might ultimately do, but which he is not asking for at this time, and that he does not even own several of the parcels. Mr. Venezia said that the overall development could be many years from now but that he provided the overall plan at the board's request.

Mr. Oyler said that the board asked for a conceptual idea of what Mr. Venezia planned for the entire property, which he provided. Mr. Oyler said that the application is for the rezoning of the area of the property which will include only Phase 1 and Phase 2 of the proposal for 22 single-family home lots.

Ms. Bonshak said that an important question to ask is how will the Planning Board recommend to the Town Board the rezoning of a portion of one parcel of land? Mr. Brabant suggested that either the entire 44-acre parcel should be rezoned or the portion to be rezoned should be subdivided off from the 44-acre parent parcel.

Mr. Oyler said that this seems to be an application for the rezoning of a portion of one parcel of land.

Ms. Bonshak asked about the justification for the rezoning application and how the board will analyze the application without considering the full conceptual plan.

Mr. Oyler said that this is an issue of the rezoning of a portion of the full 44-acre parcel and whether the proposed use (residential) is in compliance with the *Comprehensive Plan Update*. He suggested that the board first consider the issue of the residential use of the property and that the Town Board at a later date can address the issue of the rezoning of a portion of a parcel of land.

Mr. Brabant suggested that the Planning Board could recommend to the Town Board that the subdivision of the full 44-acre parcel should occur before the portion of the proposed areas of Phase 1 and Phase 2 are rezoned.

Ms. Bonshak said that the Planning Board has a time deadline to submit its advisory report to the Town Board (60 days from September 12, 2022).

Mr. Venezia's original plan drawing was then displayed on the video screen.

Mr. Oyler said that the justification letter which Mr. Venezia submitted on October 26, 2022, included the same information which was submitted when the application was first presented. Mr. Oyler said that he feels that Mr. Venezia did not provide more justification to the board on why this parcel should be rezoned from Industrial to Mixed Use Overlay. Mr. Venezia said that additional information [regarding the justification for the rezoning] is included in the [*Comprehensive Plan Update*] report.

Ms. VanLaeken said that the board requested that Mr. Venezia provide this information.

Mr. Venezia said that after a number of years he is unable to attract an industrial user to this property. He said that the Town Board designated this property as Mixed Use Overlay to accommodate the change of use from Industrial to single-family homes. He said that he could write an elaborate letter but that he would just like the application to be referred to the Town Board. He also said that it would not be a problem for him to provide the Town with a plan for the development of the whole 44 acres.

Ms. VanLaeken said that she understands that the larger plan would include townhomes, duplexes and single-family homes, but that what is represented [on the overall plan which Mr. Venezia submitted] is not everything which is currently owned by Mr. Venezia.

Ms. Bonshak reviewed the boundaries of Mr. Venezia's property, and the properties owned by others, on the drawing which was displayed on the video screen.

Mr. Oyler said that the Town Board requested an advisory report from the Planning Board within 60 days on the rezoning of the property from Industrial to residential and on the proposed development of Phase 1 and Phase 2. He said that the advisory report should include the board's thoughts on the compliance of the application with the *Comprehensive Plan Update* and with other documents to which the Town refers for planning purposes. Mr. Oyler said that the Form-Based Code does not strictly apply to this property. He reviewed the boundary of the Form-Based Code zoning area on the drawing.

Mr. Oyler then reviewed his determination of the "positives" of this application:

- Increase in the connectivity of the road system.
- Increase in the Town tax base.
- Increased walkability to the Uptown Canandaigua area.
- Installation of sidewalks on Airport Road to State Route 332.
- Potential public transit stop at Airport Road and the new subdivision road.

Mr. Oyler said that open space must be provided on a portion of the parcel. Mr. Venezia said that 35 percent open space is proposed.

Mr. Brabant said that the current application is only for Phase 1 and Phase 2 of the potential overall development. He said that the board must also determine compliance with the criteria for the Mixed Use Overlay zoning district in the first two phases.

Mr. Oyler then reviewed his determination of the "negatives" of this application:

- Loss of limited Industrial land in the Town.
- Noise and safety concerns due to the proximity to the airport.
- Required buffering due to the proximity to the school district bus and operations facility.

- Existing industrial uses (i.e., Pactiv Corporation) in the vicinity of potential residential homes.
- Existing and future truck traffic on Airport Road.

Following his review of the “positives” and “negatives” of the application, Mr. Oyler said that he believes that residential is the way to go and that he would certainly recommend to the Town Board the consideration of the application. He said that he cannot ever see this property developed as industrial uses and that a residential use would provide a transition from Uptown Canandaigua, and the school district operations and bus facility, to the non-residential areas of the Town to the immediate west.

Mr. Tolbert said that a residential use of the property would provide no financial gain to the Town. He said that, **according to data provided in the Town of Canandaigua Comprehensive Plan Update**, every dollar of residential use costs the Town \$1.16 in services. Mr. Tolbert also said that the airport has an expansion plan and that a residential use of this property could conflict with that. He said that an industrial use of the property **only costs \$.30 for public services for every \$1 of revenue generated**.

Mr. Tolbert said that in his opinion a rezoning of property should be a benefit to the *Comprehensive Plan Update* and that he does not see a benefit to the *Comprehensive Plan Update* by the rezoning of this property [to residential].

Mr. Oyler said that the *Comprehensive Plan Update* is somewhat mute [on the development of this area of the Town]. He asked if Mr. Tolbert is thinking that the property would be better left undeveloped. Mr. Tolbert said that if the property is going to be rezoned then it should provide a benefit to the *Comprehensive Plan Update*.

Mr. Venezia said that this is not the view of the Town Board and that the development of the property is why the Town Board designated the Mixed Use Overlay for the property. He said that to go back to Industrial zoning seems short sighted.

Regarding the expansion of the airport, Mr. Venezia said that the airport is just planning on building a hangar and that a sanitary sewer cannot be installed there. He said that the reality is that there has been no movement at all [on attracting an industrial user to his property]. He said that they just do not have any takers.

Mr. Oyler said that he is having a hard time comprehending the use of the land in the *Comprehensive Plan Update* since it did not include a future land use plan. He also said that the Uptown Canandaigua study was mostly related to transportation.

Ms. Bonshak said that the *Comprehensive Plan Update* chronicles the loss of industrial land but that she did not see any recommendations specific to this area of the Town. She said that it was difficult to glean anything [about this area] from the *Comprehensive Plan Update*.

Mr. Oyler said that this [residential use] would provide a transition between the Form-Based Code area to the east and the non-residential use to the west.

Mr. Neal said that the land could possibly sit vacant [if the Planning Board were to recommend against the rezoning]. Mr. Venezia said that the property has been on the market [for industrial uses] for 25 years, so there you go. He said that there is not enough electric or water utilities to support industrial users and that no one is going to spend \$25 million to support industrial uses on 44 acres. Mr. Venezia said that this is a “Catch 22” and that if you [deny the rezoning] then he is left with 44 acres of glorified hunting land.

Mr. Oyler said that the board understands what Mr. Venezia is saying but that this is the 11th hour [regarding the Town Board deadline for an advisory report from the Planning Board]. Mr. Oyler said that Mr. Venezia should have included all of this information in his justification letter for the rezoning

Mr. Oyler said that the even if the Planning Board were to recommend denial of the rezoning, the Town Board will ultimately make the rezoning decision, even if the Town Board did not agree with the Planning Board. He said that the Planning Board must go ahead this evening with the information which has been submitted.

Ms. Bonshak asked if the Planning Board advisory report must be positive or negative. She also said that the Town Board always can request additional information [from an applicant].

Mr. Oyler said that the Planning Board could say that it does not have enough justification to render an advisory report.

Mr. Neal said that he agrees with Mr. Oyler’s “positives” and “negatives” and that the Town Board should see these points and should also hear from Mr. Venezia [on his rationale for the rezoning application].

Mr. Oyler said that the Planning Board advisory report is an analysis and recommendation.

Mr. Neal said that if the Town is encouraging development, and if the land is just sitting there now, the Town Board can make the decision.

Mr. Venezia said that seems as though the Planning Board is just kicking the can down the road, and if the Planning Board denies this then he will take it up with the Town Board.

Mr. Oyler said that the rezoning is the Town Board's decision and that the Planning Board is just giving them [the Town Board] our analysis. He said that the analysis could be a consensus of the Planning Board of how the board feels about it.

Ms. Bonshak said that the Town Board may wish to refer the application to the Ontario County Planning Board for comment, as well.

Mr. Venezia said that he is confused about the Town Board's designation of this property to be in the Mixed Use Overlay zoning district. Mr. Oyler said that the designation is no guarantee that the Town Board would rezone the property. Mr. Venezia asked what was the Town Board's purpose to designate the Mixed Use Overlay district for this property. Mr. Brabant said that the goal of the Town Board may have been to provide flexibility for creative uses of the land but that the designation itself is not a guarantee that any project would be approved, in general.

Mr. Oyler said that in this case the applicant feels that a residential use [is appropriate for this property]. He said that the Planning Board must consider this and will provide an advisory report to the Town Board, but that the rezoning decision is ultimately up to the Town Board. Mr. Venezia said that he has understood this from Day One.

Ms. VanLaeken suggested that the "positives" and "negatives" as discussed this evening be submitted to the Town Board. Mr. Oyler suggested that Ms. Bonshak's analysis also be provided to the Town Board.

Ms. Bonshak said that the deadline is tomorrow (November 10, 2022) for the Town Board agenda of November 21, 2022. She said that she already has a placeholder on the Town Board agenda for the Planning Board's report. She said that she will speak with the Town Clerk about holding off until Monday, November 14, 2022, due to the Veterans' Day holiday closing of the Town Hall on November 11, 2022.

Mr. Oyler requested that board members submit any additional information as soon as possible to Ms. Bonshak for inclusion in the advisory report to the Town Board.

Mr. Oyler said that he also would like to include Mr. Tolbert's concerns in the materials to be submitted to the Town Board. Mr. Tolbert said that his concerns of rezoning are that there should be a purpose for the rezoning which benefits the Town. He said that this is his intent and that we know that residential [use] places a fiscal burden upon the town.

Mr. Venezia said that there are currently three [industrial] building lots available but that the 44-acre parcel cannot be developed because of [a lack of adequate]

utilities. He said that the utilities are good for residential uses and that there are few choices today in the Town for single-family home buyers. He said that this residential development would open that up.

Mr. Oyler again said that everything which Mr. Venezia discussed with the board this evening should have been included in his justification letter.

Mr. Venezia asked if this could be put off for another two weeks. Mr. Oyler said no, because the board has a time deadline to provide the advisory report to the Town Board. Ms. Bonshak said that the advisory report must be submitted to the Town Board at its meeting on November 21, 2022. She said that Mr. Venezia is absolutely welcome to submit a justification letter to the Town Board. Mr. Brabant said that documenting Mr. Venezia's rationale is the key and would go a long way with the Town Board.

Mr. Tolbert asked if Mr. Venezia would return to the Planning Board for subdivision approval [if the Town Board were to approve the rezoning of the property to Mixed Use Overlay]. Mr. Brabant said yes, and that the Planning Board would see the subdivision application.

Mr. Brabant said that he understands Mr. Venezia's approach and that this is a struggle for the planning side. He said that the Planning Board has to look at the whole picture, that the Planning Board cannot segment the State Environmental Quality Review (SEQR) procedure, and that the Planning Board must assure that utilities [i.e., water, sewer, roads, etc.] are sized adequately [for the overall development]. He said that this is a fine line.

Mr. Oyler said that Mr. Venezia received a positive advisory report from the Planning Board when the development was first proposed in 2020. Ms. Bonshak said that the 2020 application was then withdrawn from the agenda by Mr. Venezia.

Mr. Oyler said that today there are new Planning Board members and different Town planning documents which include the Form-Based Code and the Uptown Canandaigua study.

Mr. Oyler requested that board members provide their thoughts to Ms. Bonshak as soon as possible for her completion of the advisory report to the Town Board.

There were no additional comments or questions on this application this evening.