

## Colden Planning Board Meeting

February 15, 2022

Planning Board  
Members Present: Walt Kammer (Chairman), Andrew Gow, Peter Newsom,  
George Reinhardt, Cheryl Schenne, and Bobby Walker

Excused: Jackie May

Also Present: Jim DePasquale (Town Supervisor), Tom Dziulko (Fire  
Inspector/Asst Code – Enf. Officer), Patti Zurbrick (Councilman),  
Applicants Timothy Bunn, William Goetzmann, Richard  
Friedfertig (Attorney representing High Point of Erie County, LLC)

The February 15, 2022 Planning Board Meeting was called to order at 7:03 PM by Walt. The meeting was held in the courtroom at the Colden Town Hall and was also virtually hosted via GoToMeeting.

### Minutes: January 18, 2022

The Board Members reviewed the January 18, 2022 minutes. Peter motioned to approve the minutes and George seconded, all were in favor.

### Minutes: January 25, 2022

The Board Members reviewed the January 25, 2022 minutes from the special Planning Board meeting. Cheryl motioned to approve the minutes and Bobby seconded, all were in favor.

### High Point LLC Change of Use (CoU)

Walt reviewed the CoU process with the Planning Board Members and with the Applicants of High Point LLC. Walt referred to the slide of his presentation and referenced the parcel map that was submitted. Walt explained that if the Town Board approves the new use it will become the principal use on the parcel. The main existing building will be the principal structure supporting the new principal use on the parcel. The Colden's CoU and Site Plan Review will require a NYS-SEQRA (specifically a Short Form SEQR & EAF submission. The parcel ownership is High Point of Erie County LLC and the ownership is consistent with representations on the CoU application and submissions. The applicant's Supplemental Submission of Stewardship Plan is

properly executed on behalf of the Applicant. There isn't a Subdivision of land or other parcel boundary changes that will affect the Change of Use.

The lot will remain as presently defined in the deed and survey. The activity will take place on an inactive/fallow parcel associated with the applicant's lot known as SBL 260.00-119.11 at 9168 Center Street.

The CoU Application is for the applicant to commence operations of a formally managed Tree Farm Operation per Colden Zoning and Code. The permitted use is consistent with other nearby land use.

The establishing tree farm in Colden requires the preparation and submission of a formal Forestry Stewardship Plan, or a Forestry management Plan, which will define the farm, as well as the management plan going forward on the farm.

The Applicant submitted an executed Forestry Stewardship Plan prepared by an authorized NYS DEC Forestry Specialist; it is acceptable for the purposes of this CoU.

The parcel zoning is completely Ag Zoning. There isn't a restrictive road frontage zoning and is present on that section of Center Street. There aren't any nearby zoning district transitions. There aren't any special considerations that are triggered by reasons of a zoning boundary.

As Code Article XXI, under code 108-113 it requires a formal Site Plan review for the Applicant's CoU request.

As per Chapter 108, Ag-zoning Article IX 108-36.A(13) defines Ag-zoning permitted use of Tree Farming as a Principal Use.

Chapter 108 Article XX 108-108 requires insurance of a Certificate of Zoning Compliance by the Code Enforcement Department prior to the Site Plan Review by the Planning Board.

Colden's CEO issued his Building Inspectors Report from 1/26/22, and the Certificate of Zoning Compliance (CZC) on 1/28/22. There weren't any issues identified in their report or on the CZC.

The Applicant's package was received by the town Clerk on 1/13/22. The parcel is SBL 260.00-1-19.1 being about +/- 48.7 Acres, and modified rectangle in shape missing the two corners of north and south road frontages at the east end.

The entire parcel is located in Ag-zoning.

The initial plan indicates that approximately +/- 15 Acres will be planted with conifers per the applicant's plan and will be managed subject to the Plan.

The short form SEQR Part 1 was reviewed by the Environmental Board on 2/1/22. The Environmental Board executed SEQR Part 2 and Part 3 at their meeting and subsequently issued an Advisory Report to the Lead Agency (Colden Town Board). Part 2 was filed by the Environmental Board on 2/2/22 along with the Environmental Board advisory preparation of Part 3. The Environmental Board concluded the action was a Negative Declaration.

Chapter 108 / 108-36 applies to the CoU and Zoning is Agricultural.

The High Point LLC of Erie County has submitted a narrative letter, dated 1/13/22, explaining the proposed tree farming operations planned for the land.

A NYS PLS signed parcel survey was submitted by the Applicant.

There weren't any public notice requirements sent out to surrounding parcels since a Public Hearing isn't required for the CoU.

During the Planning Board Chairman's review, it was determined per NYSDAM AGML the CoU requires a notice to be mailed to AGM-303-B District parcels within a 500' zone of impact.

- NYSDAM Overlay Parcel database confirms several nearby parcels which are in an AGM-303-B District
- Several parcels in the zone of impact existed and were identified as to individual ownership and/or common ownership in District Southeast #15
- Examination of NYSDAM Agricultural Overlay Districts indicate that the project parcel is not included in any AGM-303-B overlay
- Two landowners were notified; the required Agricultural Data Statements (ADS) were mailed on or about 1/19/22 (for purposes of AGML notices a "no-response" is considered to be a "no objection" response)
- Based upon the above, no objections were received by the Town Clerk's Office
- The Erie County DEP 239(m) Referral response was received by the Town Clerk's office. The 239(m) determined that this CoU is a local matter

The land disturbance is well less than 1-Acre; therefore, no SWPPP is required due to any regulatory reason, and further:

- Per the Town of Colden's Engineer and prior experience, land clearing and tree planting is NOT considered a surface disturbance since generally, among other factors, the topsoil remains in place and not stripped
- The parking area disturbance impact is negligible
- No drainage plan required for the AG pursuit

Proposed use is consistent with existing Colden Master Plan and no conversion of Ag land to other purpose is proposed.

This is an Ag principal use, it is low traffic volume, and is a permitted use. No traffic study, roadway accident study, roadway accident study, or other review is warranted.

No roadside signage proposed in the application submitted, if necessary in the future any signage will be coordinated with the CEO's and suitable accessory building permits obtained per Colden's zoning for signs.

No provisions of Article XIV, Supplemental Use Regulations seem to apply to this CoU

At the Planning Board Meeting:

- The Applicant gave a short narrative of the present plans and any known future plans.
- The Applicant confirmed that the contents of the Forestry Stewardship Plan will be executed and that, as appropriate, their Plan will be updated as farming expands on the parcel, or other activities changed or created which are not covered by this CoU.
- The Applicant explained any concerns or conditions which may impact their farming actions, now or known later. There were none identified.

Other discussions for Planning Board action/closure on matter determined that no supplemental information is required by Planning Board prior to our advisory recommendation to the Town Board

The Planning Board asked the applicant to confirm, for info only, the planting limits proposed to the west since their handwritten note was cut off in application submission and that the cover letter differs from the PLS signed conceptual drawing submission(s) (with respect to farmed acres). The initial plantings only will be approximately 4-acres with the future farming reaching 10 to 15 acres based upon near term plans per the Forestry Stewardship Plan submitted.

The Planning desired to reconfirm if any temporary or permanent signage would be at the road frontage. The Applicants indicated none was planned. The Chairman reminded them that for any future signage that the CEO's must confirm code compliance, and an accessory building permit secured per Article IX 108-42 (Sign Regulations) & Article XIII (Signs) 108-65 to 108-75.

While no action is required at this time, the applicant was asked to confirm short- and long-term plans for the existing access driveway, and if future plans will include accommodation for two-way traffic. The Applicants indicated that due to the wholesale sales nature of the operation the existing access lane is adequate for the farm's needs.

The discussion of the existing structure, area lighting, irrigation, and sale transactions were reviewed by the Planning Board.

The PB asked for planned general usage of the (pending) existing Principal Structure. The existing structure will be used for equipment.

The PB asked if any plans now, or in the future, for any substantial Area Lighting at the Parcel (SEQR#9=no power). There might be a need for lighting in the future, but currently there aren't any plans for lighting.

The PB asked about well water (SEQR#10=no need) and sanitary facilities (SEQR#11=port-a-potty) for tree farm operations staff and landowner, now and in the future. The applicant's discussion of using a port-a-potty was reviewed as there isn't any running water or well on the property. Future sales will be wholesale and not retail. Walt did review that parking lot operations in Ag will be reviewed by the Colden Code Enforcement Officers and if future changes are made to the Center Rd access the Highway Superintendent should be consulted.

The Chairman as the Applicant to acknowledge Colden requires coordination with the CEO's about any Pond construction and placement per Article XVI 108-91.C. All water impoundment must comply with NYS DEC and/or NYSDAM regulations/permitting (SEQR#18=possible future need). The applicant agreed.

During deliberation on the CoU the PB considered the above and these items before action taken:

- Use is permitted in parcel Ag-Zoning
- Use is consistent to Colden Zoning Chapter 108
- Use is consistent with the Colden's Master Plan
- Use does not convert Ag or active farmland to another purpose
- While not required by our existing Master Plan, the proposed use is consistent with higher level planning documents (specifically, Erie-Niagara Framework and One Region Forward)

Bobby motioned to approve the subject of conditions and recommendations by the Planning Board. The wholesale and driveway operation should be discussed with the Highway Superintendent and the Town of Colden Code Enforcement Officers is retails sales should take place. Walt scrolled through Agricultural Data Structure submitted by the Applicant and the Environmental SEQR for the record. The Applicant agreed for the record that all the data submitted was accurate. Cheryl seconded and five out of six Members were in favor. Andy withheld his vote due to familiarity of the documents submitted.

After the CoU matter was finished, Walt reviewed the upcoming meetings scheduled for the Planning Board for February and March including Special Meetings scheduled.

Bobby motioned to adjourn the meeting at 7:55 PM, and George seconded. All were in favor.

Submitted by: Crystal Barrett