CITY OF NEWBURGH | Lisa Daily, Chairperson
PLANNING BOARD | Eliana Diaz, Secretary
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PLANNING BOARD MEETING

The City of Newburgh Planning Board meeting was held on Tuesday, October 18, 2016 in the Activities Center, 401 Washington Street, Newburgh, New York.

Members Present: Lisa Daily
Ramona Monteverde
Argelia Morales
Lillian Burgarelli

Members Absent: Elsworth Banks
Victor Bramble

Also Present: Alexandra Church, City Planner
Jason Morris, City Engineer
Michelle Kelson, Corporation Counsel
Eliana Diaz, Land Use Board Secretary

The meeting was called at 7:50 p.m. after a quorum was confirmed.

NEW BUSINESS

INDEX NO. 2016-15 **SITE PLAN** to establish a House of Worship
Location: 304-310 Fullerton Avenue
Applicant: Brad Will

The comment letters of the City Engineer and the City Planner are to be made a matter of record.

DISCUSSION BY THE BOARD

- Brad Will, applicant representative, Pastor Reyes and Amanda Reyes applicants appeared. Mr. Will stated that the property is located on the corner of Fullerton and Gidney Avenue. The property is located in a Commercial Zone and the subject building for the proposed church is the 3,600 sq. ft. Building on Fullerton Avenue. The building is a single story, brick veneer structure with a stucco in brick, low pitch double gabled roof. The property was formerly a medical clinic and is currently unoccupied. At the moment the Reyes are in the process of finalizing the purchase of the property and the necessary documents have been submitted to the Land Use Boards Secretary to prove the proposed application is being permitted by the current owner. This property provides enough space, ample parking, off-street parking and the ability to take down non-bearing walls and use the property as a church/assembly area. Mr. Will gave an overview for the proposed interior of the property. This includes having non-fixed seat for the main assembly hall, three sun tubes will be introduced to provide increased natural lighting. A small office will be at one side of the foyer which will be reconfigured with a new door and new stone veneer siding. The exterior of the property will undergo few changes, most of the changes will be done to the interior of the property.

- The City Engineer stated that the size of the water and sewer services need to be indicated on the Site Plan. In addition the owner's consent note and a note that identifies the uses as it relates to the parking requirements in the City Code and have columns that show a schedule of parking use for all the buildings and all the parking spaces.
- The City Planner clarified the confusion regarding the address of the property. She stated that the section, block and lot is 7-12-13.1 and it does have multiple addresses. The property is in the commercial zone, the proposed project does require the Site Plan review and it is an unlisted action under SEQRA. It was stated that when the purchase is completed the affidavit needs to be updated. There needs to be clarification on the EAF submitted, in the materials submitted it shows that there are 357 seats available, however the count made by the City Planner is that there are 157 seats available. The Planning Board was encouraged to look into shared parking. Overall there needs to be clarification on the uses the square usage and the seating per zoning so the Planning Board can confirm that there is adequate parking available. The City Planner stated that the idea of "shared parking" plays into having the surrounding business operating from Monday through Friday during regular business hours and the Church would operate on Sundays. Shared parking in this case would not call for an excess of parking spaces in the area. It was clarified that the Church would operate Sundays and Wednesday nights. Mr. Brad will clarified that there are 166 proposed seats in the building. The City Planner stated that there are enough parking spaces within the realm of reasonable requirements.
- The representative from Corporation Counsel stated that in order to do a parking analysis the uses for the other buildings that are able to use the parking lot need to be identified, as well as the total number of spaces required for the uses and if there is adequate parking on site with the number of spaces. If not, a shared parking analysis will allow to reduce the number of spaces required.
- The Chairperson of the Planning Board questioned the need for a parking study stating that historically to the best of her knowledge businesses at the location have not operated after five or six o'clock in the evening or Sundays. Lillian Burgarelli asked if the other business needed to provide approval for having a house of worship established on the site. Corporation Counsel stated that the use is permitted by right, what is being focused is the plan for the implementation of the use. It was recommended that adequate counting of the parking spots is needed to make a determination.
- The applicant will come back for the November 15, 2016 Planning Board meeting with the necessary studies and will submit a Short Form EAF.

OLD BUSINESS

INDEX NO. 2016-12 **SPECIAL USE** to utilize shipyard parcel for the temporary storage of steel pipes
Location: 401 South Water Street
Applicant: David Plotkin

The comment letters of the City Engineer and the City Planner are to be made a matter of record.

DISCUSSION BY THE BOARD

- Mike Siemers, applicant representative, David Plotkin applicant and Animal Hughes appeared.
- Mr. Siemers gave an overview of the project. The project is located on South Water Street, the zoning of the property was changed in 2015 by the City of Newburgh to an Open Space zone. The historic use of the property has been as an accessory use to the shipyard and parking for Steelways Inc. and the proposal is allowed through the issuing of a Special Use permit. There is a clearing that runs through the center of the property halfway. The parcel contains existing sewer mains, one that runs along the southern property line along the Quassaick Creek and the Southern interceptor sewer which runs along the northern property which have access and maintenance easements which benefit the City. The overall proposal is to use 6 of the 10.3 acres of the property for the temporary storage of steel pipes that will be ultimately be used to construct the Delaware Aqueduct Bypass. The storage areas will utilize the flatter areas running down the center of the site. The steep slopes to the South along the creek will be avoided of disturbance. The project will require the removal of almost three acres of trees. The erosion control plan shows where the tree removal will take place. The CAC and Planning Board visited the site to view the types of vegetation in the area. There will be no stump removal to avoid disturbances. The trees will be mulched and spread to help increase erosion control to the site. The steel pipes will arrive by a barge monthly until all pipes have been delivered, each barge will contain 21 pipes. The pipes will be stored for approximately 3 ½ years. Once the 3 ½ year storage concludes the pipes will be taken from the property and trucked to the site where needed. The trucking of the pipes will be conducted at night as per the Town of Newburgh's request to avoid any traffic impacts. The pipes will be removed at a rate of 1 ½ pipes per day and the total length of the project is of 5 years. A long Form EAF has been filled out and the NYS Office of parks has been contacted. As a result it has been determined that the project will not have any impact on archeological or historic resources due to the proposal having no substantial ground disturbance. In addition a rare plant has been identified along the creek and in the forest and flood plain. The Site Plan has been revised to address issues to not cause any disturbance to the rare species. A full erosion control plan has been conducted to minimize disturbances, this project will require no water, sewer or energy utilities.
- David Plotkin provided an overview of Steelways and what it has historically done in the City of Newburgh, this overview included former projects and employment.

- The City Engineer stated a summary of the a letter received from the OPRHP which states no impact conditioned upon no substantial ground disturbance and the DEC Natural Heritage Program letter identified the rare and endangered species that the applicant stated is probably within the flood plain, the Planning Board can discuss whether they are willing to accept such explanation. The two remaining outstanding items for the City Engineer are related to easement location and language for the sewer easement and the trail access easement. Animal Hughes, representative for David Plotkin in the Environmental aspect of the project appeared. Mr. Hughes stated that there is a twelve foot easement on the corner of Walsh Road on the South side and that the American Trail Conference has suggested that a bridge be replaced where it once was originally. Based on this suggestion Mr. Hughes suggests that a sidewalk be created from the corner of Walsh road up to the sewer interceptor and another easement to walk over the top of the sewer easement that Warex enjoys from Steelways property. This would connect to the North end of the interceptor and get to Renwick and the Rowing Club and the fifty foot right of way which would allow a solid connectivity access to the river. Mr. Hughes stated that there are problems with other parcels because the train runs through such parcels. In order to make the process complete Steelways is willing to give the City an easement.
- The City Planner reiterated the statements by Engineering regarding the two letters received from OPRHP and the DEC. The City Planner pointed out that the applicant has proposed a mitigation technique which consists of moving the pipes further East on the property and the DEC has stated that the final requirements of the project to avoid, minimize or mitigate potential impacts are determined by the lead agency in this case the Planning Board. The City Planner and the Assistant City Engineer met with Mr. Hughes and came to an agreement that in addition to the existing CSO easement which is generally on the Northern part of the Quassaick Creek on the southern boundary of this property the easement would extend generally to the rest of the trail system and provide public access. This project does require GML239 review because it's on a municipal border. Comments include trail connectivity and a report from the Quassaick Creek Watershed Management plan which is part of Orange County Water Authority. The City Planner stated that the proposed easement is generally acceptable, there are pros and cons to the proposal and the Planning Board is to determine what is acceptable. According to the City Planner the two main items that the Planning Board should focus on is the mitigation technique for the woodland agrimony and the proposed trail easement. A floating easement is to be provided by the applicant in order to formalize the agreement.
- Lillian Burgarelli asked about a bridge mentioned by Mr. Animal Hughes, she asked who would fund it. Mr. Hughes stated that they are only facilitating the means to construct a bridge but not the funding for one.

Ramona Monteverde moved and Argelia Morales seconded the motion to open the Public Hearing.
The motion was carried 4-0.

Alden Link, owner of 4 Clark Street asked questions regarding the use and size of the pipes.

Kippy Boyle, representing the Conservation Advisory Council clarified that the CAC in no way intends to be of any impediment to the project and to characterize the request as turning it into a botanical garden is untrue. She referred to the letter from the Engineering Department dated September 6th which stated that an easement shall be prepared, location to be determined by the Planning Board in consultation with the CAC, to the date there have been no drafts of easements presented. The erosion and sediment control the Overlay District called for a 100 foot buffer and there has been a compromise to only require a 50 foot buffer. The easement is questioned so that the ability to work within the easement doesn't start five years down the road.

Hillary Rayford, Councilwoman for the City of Newburgh asked if Steelways will hire new employees and if so, how many new hires would there be and what kind of agency would be used to hire employees.

Stuart Sachs, City resident believes that having a trail is a good idea and hopes this can be worked out between all of the entities involved.

Mark Carnes, City of Newburgh resident wanted to know if Steelways paid full property taxes or worked out a payment in lieu of taxes.

Roxy Royal, City of Newburgh resident wanted to know how this project would affect the river, what union Steelways worked with and how this project would impact employment.

Raymond Unoni wanted to comment on the project and spoke of the history of Steelways and encouraged the Board to support further development and the work Steelways.

Argelia Morales moved and Ramona Monteverde seconded the motion to close the Public Hearing.
The motion was carried 4-0

- The Chairwoman to the Planning Board addressed the changes that zoning and planning has undergone to the growing concern for the environment and how we now must undergo reviews that wouldn't have had to be done years before.
- Argelia Morales asked if the mitigation process proposed by the applicant to preserve the endangered species would be enough to preserve the species. Mr. Siemers stated that according to his research it is a rarity that a species such as this would appear in the area it is currently at, and in not disturbing the flood plain it would mitigate any dangers. Ramona Monteverde asked if there had been any draft easements presented, it was stated that no drafts had been presented for review.
- Mr. Plotkin addressed the questions asked during the public hearing stating that there will be between 8-12 new hires. Steelways works with Local 417 Union, they pay taxes in full and have never asked for anything in return. Lillian Burgarelli asked if the pedestrian access trail could be modified. It was suggested that the CAC's recommendation to have the Planning Board, CAC and applicant meet to discuss should be implement when discussing the pedestrian trail.

- At this moment the application has not reached its thirty day procedural waiting period in order for the board to take any action or determination of significance. There are several agencies that have not responded to the notifications sent and the deadline to respond has not yet expired. Mr. Plotkin stated that not receiving a determination from the board would cause a major problem for his project. The representative from Corporation Counsel stated that in accordance with Section 300-82 of the Zoning Code Construction started prior to the effect of the dated chapter a minimum area can continued to be utilized. It was stated that by the following Planning Board meeting the board would be in condition to make determinations of significance including identifying mitigation and impacts.

Argelia Morales moved and Lillian Burgarelli seconded the motion to allow the applicant to use a 20,000 sq. ft. portion for the following month until final approval is granted for the approval of pipes storages.
The motion was carried 4-0

INDEX NO. 2016-02 **SITE PLAN** to redevelop with a mix-use building consisting of 13,800 sq. ft. of retail space and 91 residential apartment units.
Location: 140 Broadway between Lander Street and Johnston Street.
Applicant: Mill Street Partners LLC

DISCUSSION BY THE BOARD

- David Cooper, attorney at Zarin-Steinmetz law firm, appeared.
- Mr. Cooper stated Mill Street Partners and the City of Newburgh have a Public Private Partnership. Both parties took various obligations in the Development Agreement to revitalize and redevelop this property which is an abandoned and contaminated site. Mill Street has compiled data and empirical studies that the City and Board needs to complete the process, a thorough record has been prepared throughout the past nine months. Mr. Cooper stated that there is a rule that governs the process which is that when there is a complete application before the board it must make a determination of significance. As of August the board had a complete application in order to issue a determination of significance more specifically a SEQRA Negative Declaration and a Site Plan determination. There is nothing more that Mill Street has prepared to submit seeing as how the Planning Board has a complete application, therefore, they request a Negative Declaration from the Planning Board.
- The Chairwoman stated that all the parties involved in the project have acted in the best interest of the City. Mr. Cooper recognizes the work and thoroughness provided for this project by the members of the board and City Staff.
- The City Engineer had no further comments or comment letter.
- A question regarding the fire access was brought up, the applicant indicated that the interior could be widened 26 feet to accommodate the fire apparatus. The City Engineer stated that no new submissions have been made regarding this aspect but assumes the applicant would still be willing to make the modifications. The location of the Church was also addressed. It was stated that the location of the church would

not impact the ability to make a determination in connection with the SEQRA review. In the August meeting, Part II was presented to the board for consideration and review and subsequently resubmitted in the September meeting along with Part III which was also originally submitted in August and revised adding a list of documents that have been submitted in to the record for review and consideration upon which the board was able to rely in preparing the Part III and make the determination under SEQRA. Therefore, it is believed that the board is in a position to make a determination on the Environmental Review.

Lillian Burgarelli moved and Ramona Monteverde seconded the motion to declare SEQRA Negative Declaration.
The motion was carried 4-0

- Regarding the Site Plan and the driveways proximity to a house of worship located at 24 Lander Street. It has been determined that the building is within two hundred feet of the driveway entrance and exit shown on the Lander Street side. The is question whether the driveway entrance and exit on the Lander Street side can be less than two hundred feet from the church which is a requirement of Section 300-68A7 of the code. The Building Inspector has previously indicated to the board that 300-68 would apply to the Form Based and Traditional Zoning Districts and if 300-68A applies of which subsection 7 is the two hundred feet requirement then it would also follow that 300-68F would also apply since it is part of the same section. What 300-68 states is that non-conforming parking lots should be brought into conformance to the extent practicable. The City records show that the parcel currently identified as 18 Johnston Street has been owned by the City since at least 1962 and has had a parking lot designation and the configuration has remained the same for that length of time. To make the property closer to the two hundred foot mark the entrance would have to be moved closer the intersection of Broadway and Lander Street. However, in doing so a traffic hazard would be created and it seems impractical to move the driveway, entrance and exit. Therefore, if 300-68A applies then 300-68F applies as well, what needs to be determined is if it is practical to make this particular parking lot conform completely to the current existing code. What is suggested is that this would create other hazards that wouldn't otherwise be there and that may be an impractical result. Regarding the five foot buffer shown on the plans, it is located in the streetscape zone as it's defined in the Form Based Code meeting its requirements.

- Lillian Burgarelli had further questions regarding parking. The City Planner stated that the number of parking provided are within the range that the Planning Board can make a decision. In order for the Planning Board to approve the Site Plan only the spaces provided in their parking lot and there is enough parking in the vicinity. The planning Board does have the discretion to approve reduced parking as well based on five points. Such points include parking in the vicinity and proximity to municipal parking lots. The question regarding parking on Johnston Street and Lander Street to accommodate fire apparatus was posed. Mr. Cooper stated that a parking analysis was done and revised twice. It was determined that there would be more than ample parking available even in a worst case scenario when taking away twenty parking spaces since there are parking spaces available in surrounding areas. A request made to the County to relocate a bus stop closer to the site was brought up for discussion, the request was not feasible because relocating that stop would force a recalibration of stops before and after. The City Planner stated that the bus system runs on a flag down system and the county would consider moving the stop if there is a large demand in the future.

Argelia Morales moved and Lisa Daily seconded the motion for Site Plan approval.
The motion was carried 4-0

APPROVAL OF MINUTES

Argelia Morales moved and Lillian Burgarelli seconded the motion to approve the minutes of the September Planning Board meeting.

The motion was carried unanimously.

Meeting adjourned at 9:00 p.m.

Respectfully submitted,

Eliana Diaz
Secretary