

CITY OF NEWBURGH
PLANNING BOARD

123 Grand Street, Newburgh, New York 12550

Lisa Daily, Chairperson
Omar Balbuena-Palma, Secretary

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PLANNING BOARD MEETING

The City of Newburgh Planning Board meeting was held on Tuesday, November 15, 2016 in the Activity Center, 401 Washington Street, Newburgh, NY 12550

Members Present: Lisa Daily
Ellsworth Banks
Lillian Burgarelli
Duane Ware
Argelia Morales

Alternate Members Present: Alicia Ware

Members Absent: Ramona Monteverde

Also Present: Alexandra Church, City Planner
Michelle Kelson, Corporation Counsel
Jeremy Kaufman, Assistant Corporation Counsel
Omar Balbuena-Palma, Land Use Board Secretary

Lisa Daily and the Planning Board noted Victor Bramble's resignation and thanked him for his service.

The meeting was called at 7:32 p.m. after a quorum was confirmed.

NEW BUSINESS

INDEX NO. 2015-14 **SITE PLAN** for 4 family dwellings at 39A Johnston Street and 6 family dwellings at 39B Johnston Street.
Location: 39A Johnston Street and 39B Johnson Street
Applicant: Rural Ulster Preservation Company (RUPCO)

DISCUSSION BY THE BOARD

- AJ Copolla, the project architect, appeared on behalf of RUPCO properties. Mr. Copolla stated that he was before the board in January 2016 and received a conditional approval. An application to Housing and Community Renewal (HCR) was submitted in December 2015 and were awarded in May 2016, low income housing tax credits. Construction drawings are finished and applications for building permits submitted. He will go before the ARC on 11/17/2016. His intention is to close in January 2017 to immediately begin construction on the project.

- The RUPCO Project consists of the renovation of 15 buildings and 45 apartments
- Site plan approval was required for 39A and 39B Johnston Street but the SEQRA review required the inclusion of all of the subject buildings. Mr. Copolla stated a long form EAF was submitted, and through the course of this year there were a couple changes to the project. He presented to the Board to review those changes and re-affirm the negative declaration previously issued. Those changes were as follows:
 - o Delete 33 Lander St. (three proposed apartments).
 - o Add 46 Lander St. (two proposed apartments).
 - o In the switch, one apartment was lost. HCR wanted to add onto the EAF:
 - i) Parking lot at 183 First St.
 - ii) Parking lot at 187 First St.
 - iii) Minor changes on application dates and overall acreage of the property
- The City Planner mentioned that the City Engineer and Assistant City Engineer are out of town and that they have no comments. The City Planner has no comment either but wanted to clarify that:
 - o Both lots were looked on by Planning as they looked at the parking calculations for the site plan but the addresses just weren't on the SEQRA
 - o Both properties are in a zoning district that doesn't require site plan approval so that's why the only action the board took on those two properties was part of the SEQRA looking at the entire project.
 - o The City Planner had issued a letter with two updates,
 - i) Added the new EAF that was received.
 - ii) Under SEQRA comment, the City Planner just described the action that the applicant requested.
- Mr. Copolla clarified to Ms. Burgarelli that the lot which was added (46 Lander St.) is an existing building that is going to be renovated into a two-family apartment. It is going to be one of three buildings in a row (46, 48, and 50 Lander St.).
- Ms. Kelson stated that the applicant has completed the revised part one of the full Environmental Assessment Form and the City Planner has completed part two on behalf of the Planning Board. Part three consists of two pages. There is a draft narrative identifying any impacts that were raised in the project and addressing any mitigation that might be necessary and an attached sheet with some of the documents the Planning Board relied on in making the determination of significance.
- Ms. Daily commented that the staff found in part two of the EAF, that there's very insignificant impact in all the phases of construction. In part three, there really isn't any significant impact such as noise, odor, light etc. There is some moderate impact on historic resource which the applicant can mitigate. There'll be some demolition and then heavy renovation; the demolished building will be used as a parking lot and there will be a small impact on noise during demolition and construction.
- Ms. Burgarelli asked for the impact on traffic during construction on Lander Street. Mr. Copolla replied that one of the buildings of 39B Johnson Street (the warehouse basement) will be used as a storage area throughout the project. Most of the buildings are within walking distance from the storage area and everything else would be done immediately in front of the building, so traffic shouldn't be affected too much. Ms. Burgarelli mentioned that the construction vehicles on the road may affect traffic; however, the City Planner added that there is no need for truck permits. Mr. Copolla added that the building permit covers the

construction. Mrs. Daily added that even with the construction vehicles on the road, there is still room to go around them.

Lillian Burgarelli moved and Argelia Morales seconded the motion for a Negative Declaration. The motion was carried 6-0

OLD 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 appeared before the Board
- He submitted a list addressing the City Planner & City Engineer comment letters
- Mr. Will added that after he first appeared before the board on the 18th of October, the Church purchased the property. He submitted an updated proxy statement and a note that shows the purchase. In addition, Mr. Will mentioned that he submitted the short EAF with the drawings on November 3rd and that he would like to go down the list addressing the comment letters. He started with the City Planner's comment letter.
 - Item number one refers to addressing the City Engineer's comments which are found later on in the list
 - The informational report for item number two is still pending. He mentioned he has made multiple attempts to obtain an informational report without success. Ms. Kelson commented that the missing informational report is not something that would impair the Planning Board to review and make a determination on the application. City staff will follow up on the informational report.
 - Mr. Will submitted an updated and notarized proxy statement for item number three.
 - The completed short form EAF was submitted for item number four.
 - Item number five is moot since it is replaced with the short form EAF.
 - Item number six has been updated to show the building occupancy on the drawings as being one-hundred eighty-five. One-hundred and eighty-four as moveable seats in the assembly area and one in the office space
 - Item number seven is the Parking Tabulation which reflects the seventy-three total parking stalls available at the three entrances on Fullerton (1) and Gidney (2). It describes the addresses on the property and the use, area of buildings, and parking stalls for each. It also notes the hours of operation. The total of parking required is seventy-seven but Mr. Will states that it would be of little impact because of the Church's hours of operation.
 - Item number 8 is in regards to building areas, tenant, uses and parking requirements which are again shown in the Parking Tabulation.
- Mr. Will stated that would be it for the City Planner's letter and goes on to the list for the City Engineer.
 - Item number one is a reference to the planning letter.
 - The site plan has been updated for Item number two.

- o The size of the existing water service has been included in the drawings for items number three and four.
 - o The 'Planning Board Approval' box (item number 5) and the 'City Engineer Approval' box (item number 6) have been added to the A-100 site plan as well as the 'Owner's Endorsement' statement and signature line (item number 7).
 - o Item number eight is a reference to the City Planner's letter.
 - The City Planner updated comment number seven. She clarified the applicant's calculations regarding parking. The City Planner mentioned City Code Section 300-89(D)(3)(b), which is in the site plan review and suggested that the Board review the language, "allowing shared off-street parking for non-conflicting uses." In addition to noting that the applicant did give the hours for each of the businesses, the City Planner mentioned that the deficit is four spaces so about five percent, and in other instances it has been twenty percent.
 - Engineering requested a table of contents for the final set plans as per comment number 9.
 - Ms. Kelson mentioned that a conditional approval can be made upon satisfying outstanding comments.
 - o Final plans have to be submitted for the City Engineer's signature and Chairman signature.
- Ms. Kelson added that it's an existing building and there is not much work done to the site. Most of the renovation will be inside the building.
- Ms. Burgarelli commented that because there's businesses around, no special parking signs are needed. Ms. Kelson clarified that it's due to peak demands being opposite each other (one during weekday business hours and the other evenings and weekends) with regards to parking. Then added that it's not going to change the character of the neighborhood and no residents are being added, so it won't impact clutter resources such as: water, sewer, sanitation.
 - Ms. Daily reiterated that Lead Agency was declared the prior month.

Lillian Burgarelli moved and Argelia Morales seconded the motion for SEQRA Negative Declaration.

The motion was carried 6-0

Argelia Morales moved and Lillian Burgarelli seconded the motion to approve the application. The motion was carried 5-0 (Elsworth Banks abstained)

INDEX NO. 2016-11 SITE PLAN to establish a Dunkin Donuts
Location: 445 Robinson Ave.
Applicant: Scott Shearing

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

DISCUSSION BY THE BOARD

- Scott Shearing appeared on behalf of Bohler Engineering representing Shiv Management.
- Mr. Shearing gave an overview on the project which was to reuse the existing building at 445 Robinson Avenue and convert about thirty-one hundred (3,100) square feet of it into a Dunkin Donuts. They've been meeting since about June of 2015, and have gone to the

workshops and had planning board presentations and recently met with the Zoning Board on October for a variance on the parking.

- Mr. Shearing stated that a lot of improvements have been made on the plan. They are working alongside DOT and the local fire department to make sure that emergency vehicles have vehicle access and noted that there would be a one way in and a one way out, with circulation around the building to accommodate a drive through. In addition to some landscaping menu boards, closing up the existing entrance, adding sidewalk pedestrian access and a little bit of restoration of the fence which is not believed to be the property owners.
- Mr. Shearing is looking for a SEQRA determination and also a referral for the next planning board meeting to be a public hearing to move forward on the project. Requested a workshop meeting December 6th to take everything a step further. Noted that the traffic report is not available at the moment but that it is being concluded which would address the left turn in and the queuing in the lot between the hours of 3pm and 6 pm as per the Zoning Board's request. The report would incorporate the impact for the evening commute as well as the buses.
- The City Planner handed Mr. Shearing her comment letter on the project and mentioned that comment number eight is to be noted by the parking variances issued by the ZBA on October 25th. Her last two comments are contingent upon seeing the traffic study.
- The City Engineer's comments are generally awaiting the traffic study though; they did ask if there was an update on the adjacent property owner over a failing retaining wall and if there was a possibility to reach out to that property owner. The City Engineer's comments are also on pedestrian circulation, the interference between the loading dock and the queuing of the drive-thru. There was a question to clarify the existing storage that's on the property, specifically, that there's a spray foam truck and waiting taxis currently there and wanted to clarify what will be parking where.
- Mr. Shearing replied that once the contract is structured for the lease agreement and once the final approval is given and the site becomes under the control of his client, then those can and will be addressed.
- Ms. Daily asked if the foam business will continue once Dunkin Donuts takes over, to which Mr. Shearing said no and clarified that at this point the primary focus is to renovate the interior to accommodate the Dunkin Donuts. Mr. Shearing added that some of the details for the space still have to be negotiated but the foam business has not been decided at this point but it is not anticipated to stay and that the second story is primarily storage.
- The City Planner added one more request (subject to GML239 review meeting) for Mr. Shearing to submit a full application set with a full set of plans (full-size) so that it may be sent to the county for their review.
- Ms. Kelson recommended to wait for the Board to review the results of the traffic study before making a final determination of significance because it will be one of the critical factors in the environmental review. Ms. Kelson also commented that the Planning Board may want to consider a public hearing due to public interest that was expressed at the Zoning Board meeting.
- Ms. Burgarelli asked for clarification on the taxi service. Mr. Shearing replied that there is a business that operates out of the existing facility but until the site is under control of the proposed tenant the taxis cannot be controlled. The taxi service is just a dispatch and it is anticipated to stay there however the taxis are not due to the limited parking spaces.

- Ms. Burgarelli asked how is the applicant going to control if there are taxis on the property., Ms. Daily replied that it would be a Building Inspectors issue. Ms. Kelson recommended to memorialize it on the site plan. Ms. Daily stated once a final declaration is made, those concerns would be included in it, so everyone would be on the same page in terms of what to expect when the project is finished.

Ms. Burgarelli made a motion to hold a public hearing next month, Argelia Morales seconded. The motion was carried 6-0

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 a brief overview of the project to new members on the Board. Steelways is proposing to store approximately two-hundred and thirty steel pipes that are sixteen foot in diameter and forty feet long. A gravel access drive has been laid out going into the project with the pipe storage around the gravel access drive. The pipes will be unloaded along the docks across the street on the river, then placed on a truck, and trucked across the street and towards the storage area. They will be avoiding the steeper slopes on the project and stored on timbers. Approximately three acres of trees need to be cleared. Those trees will be chipped and spread on the ground to improve the erosion control on the project. Silk fences will be installed to improve the erosion control. The public hearing was held the previous month and he believes the remaining issues are:
 - o Sewer access easement going over the gravel access drive (submitted to the City Planner and the City Engineer)
 - o Deed to property (submitted to City Engineer)
 - o Trail access easement
 Mr. Siemers noted the Planning Board declared its intent to be lead agency and the time frame lapsed. He followed by introducing Animal Hughes, representative for David Plotkin in the environmental aspect of the project to discuss the trail access easement.
- Mr. Hughes presented locations of various items in the project, including crosswalks and connectors.
- The City Planner expressed concern that none of the applicants mentioned the Woodland Agrimony, a threatened species potentially found on the site. She reiterated that the applicant had proposed one mitigation on the previous Planning Board meeting to avoid the flood plain where it was found
 he City Planner recommended another form of mitigation where workers on site would be trained in identifying the Woodland Agrimony and how to avoid it. The City Planner's last comment was the need for language for the trail easement.
- The City Engineer's comments regarded:
 - o An update on the Sewer Easement language received and satisfactory

- Reiterated the need for the trail easement language.
 - Finalizing the mitigation as suggested by the DEC.
- The final comments from the staff are:
 - Have as few street crossings as possible.
 - As complete trail, as possible.
- Mr. Siemers wanted clarity on the trail easement on whether the Planning Board needed an easement with language filed or if a verbal agreement was enough due to some confusion as to where the bridge location will begin.
- Ms. Kelson clarified that the Planning Board is not going to be able to condition or make an approval based on something that's not part of the application in front of it, and what the Planning Board is seeking are locations on the subject property so that they can secure with the parties who are here tonight and cannot speculate what will happen in the town of New Windsor or what some other organization or government it's going to do that is not subject to the City's jurisdiction and control.
- Mr. Hughes stated that what Steelways is committed to granting an easement to the City at the intersection of the bridge and Mr. Plotkin's property, passed the edges of the property (about three thousand feet).
- Ms. Kelson also noted that there is an alternative opportunity to extend the trail easement on the southern border of the property from number two on the packet, all the way to the Warex Terminal location. Mr. Plotkin questioned what the alternate route has to do with the approval to use the property. Ms. Kelson replied that the property is located in the waterbody protection overlaid zoning District of the zoning code and in order to secure site plan approval for the protection, one of the conditions that the board is required to look at is found in 300-46(F)(3)(d), so that the proposed activity would provide passive, nonpermanent recreation and walking trails and/or public pedestrian access to the creek, stream or waterbody and will comply with all other applicable provisions of this chapter.
- As per Mr. Hughes request, Section 300-46(F) was read out loud. Ms. Kelson noted that the ultimate decision is for the planning board and that the staff has pointed out there may be another alternative that doesn't require crossing Walsh Road two times. Mr. Hughes replied that the alternate route requires putting the trail in the middle of an industrial complex and that the trail would be in the flood plain which can get a foot of water over it, so building on it would be impossible.
- The City Planner reiterated that early on the City suggested (due to the construction of the pipes) would be happy with an easement stating that it could not construct the trail until the expiration of the permit and that the Special Use permit have an initial period of five years which could be extended by the Planning Board.
- Ms. Daily asked whether the bridge exists. If didn't exist, who would provide the funding to build it? Mr. Hughes commented that the bridge is only 130 feet from edge to edge and that they might be interested in helping the City build the bridge if the City connects everybody upstream.
- Mr. Ware asked if the Town of New Windsor is looking to get rid of its Sewage Treatment Plant and the easement that goes with it, why couldn't that be open for discussion? Mr. Plotkin replied that they are currently considering it but it won't be done quickly. Right now, what is currently available is the piece of land (150 feet wide) between the tanks that allows for river access. Mr. Hughes mentioned that George Green from the Town of New Windsor

will allow access to the public. However, what they are dealing with right now is another barge coming in with twenty-one pipes and they need to move forward.

- Ms. Daily mentioned the parking lot site has contaminated soil and questions whether a parking lot could be built upon it. Ms. Kelson clarified there must be remediation done and the level of remediation would depend upon the usage. Ms. Daily then asked how pedestrians would gain access to which Mr. Hughes and Mr. Plotkin explained that the whole trail beginning from Front Street in Newburgh could be walked and elaborated that once everything is connected, it would be twenty-one miles long and go all the way to Plattekill. Mr. Plotkin added that the slope which the City is talking about is inaccessible and can't be walked on, mentioned that across the street would be a much safer alternative.
- The City Planner wanted to clarify that there are two trails.
 - o One goes all the way to South Water Street
 - o The other has the bridge.Mentioned to the Planning Board members that they would not be inconsistent if they chose one over the other and that the NY/NJ Trail Conference is the most concrete plan there is.
- Ms. Daily asked whether the trail proposed by Steelways would involve American Felt and Fiber and the Town of New Windsor, to which Ms. Kelson clarified it would and that the alternative may be a challenge or unsuitable for a walking trail. In addition, there would be a five-year delay. Ms. Kelson then went over the information given to the Planning Board members regarding draft versions of: the second part of the EAF, Determination of Significance, Special Use Permit. and Site Plan Resolution.
- Ms. Kelson noted that in September the Planning Board declared its intent to be lead agency and that the thirty-day period expired.

Argelia Morales moved and Lilian Burgarelli seconded the motion to declare SEQRA Lead Agency.

The motion passed 5-0 (Elsworth Banks Abstained)

Argelia Morales moved and Mr. Ware seconded the motion for a Negative Declaration.

The motion passed 5-0 (Elsworth Banks Abstained)

Lilian Burgarelli moved Mr. Ware seconded the motion for a Special Use Permit.

The motion passed 4-1 (Elsworth Banks abstained)

- o Five-year term on special permit.
- o Provide an easement for access for future trail development from the bridge west along the southern boundary of the property.
- o Agreement to re-evaluate easement for the future access at the end of the five year term of the special permit.

Argelia Morales moved and Mrs. Ware seconded the motion to approve the Site Plan

The motion passed 4-1 (Elsworth Banks abstained)

APPROVAL OF MINUTES

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

The motion was carried unanimously.

Meeting adjourned at 9:50 p.m.

Respectfully submitted,

Omar Balbuena-Palma,
Secretary