PLANNING BOARD MEETING

The City of Newburgh Planning Board meeting was held on Tuesday, September 18, 2018 at the Activity Center, 401 Washington Street, Newburgh, NY 12550

Members Present: Lisa Daily, Chairperson
Argelia Morales
Alicia Ware
Duane Ware
Sarah Hooff

Members Absent: Lillian Burgarelli
Heather Moore

Also Present: Alexandra Church, City Planner
Chad Wade, Assistant City Engineer (arrived at 7:40 p.m.)
Jeremy Kaufman, Assistant Corporation Counsel
Omar Balbuena-Palma, Secretary

The meeting was called at 7:35 p.m. after a quorum was confirmed.

APPROVAL OF MINUTES

Ms. Ware moved to approve the minutes of the August board meeting.
Mr. Ware seconded the motion.

The motion carried unanimously.

OLD BUSINESS

Index No. 2018-03

Applicant: Joseph & Maureen Darmetko
Owner: Joseph & Maureen Darmetko
Location: 2 Nicoll Street

SITE PLAN to install a pool.

Joseph and Maureen Darmetko, Property Owners, appeared before the Board. Mr. Darmetko said his intent is to install an in-ground pool at the rear of the property.

The Assistant Corporation Counsel said the concern lies with the exact location of the build zone for the pool relative to the City's sewer line. He said the Owner was to submit a maximum build zone, where the property owners would then be permitted to build anywhere within that zone. He said an updated survey has been prepared to include proposed staking and notes as requested by the City Engineer. He said the stakes on the survey are critically important and the Applicant should dig no further than the marked boundaries. He clarified that the pool apron and any other pool-related construction must be within the maximum build zone shown on the survey. Digging would not be permitted outside of that boundary area. He said the major comments from the City Engineer were addressed and the Assistant City Engineer informed him that minor revisions should not delay approval by the Planning Board.

Argelia Morales moved to approve the application as submitted.
Lisa Daily seconded the motion.
The motion passed unanimously via roll-call vote.

The Chair said the Assistant City Engineer has not yet arrived to the meeting and moved the presentation for Index No. 2018-05 later on the agenda.

NEW BUSINESS

Index No. 2018-16

Applicant: RUPCO
Owner: Newburgh Community Land Bank, Inc.
Location: 98 Lander Street

SITE PLAN to renovate the existing building with a Community Center on the lower level and first floor, and a three-bedroom apartment on the second floor.

The Informational Inspection Report of the Building Inspector and the comment letters of the City Engineer and City Planner were made a matter of record.

DISCUSSION BY THE BOARD

AJ Coppola, Project Architect, and Chuck Snyder from RUPCO, appeared before the Board representing the Property Owner.

The Assistant Corporation Counsel said SEQRA requires the City of Newburgh Land Use Boards to consider the environmental impacts of an entire project/proposal and not just an individual portion of the project that might be before a particular land use board. He said the Phase II project involves 23 parcels separated into various applications. Not all of the individual parcels would come before the Planning Board.

The Assistant Corporation Counsel explained the concept of "segmentation" as it applied to SEQRA. He said segmentation is defined as the division of the environmental review of an action so that various activities or stages are addressed collectively and not as independent, unrelated activities needing individual determinations of significance. He said the Board must consider the environmental impacts of the entire Phase II project even though the Board may only be required to consider a portion of the individual parcel projects.

The Assistant Corporation Counsel then explained what a "significant" environmental impact meant for SEQRA. He said that a Type I action, by comparison example, were project types that are defined as likely that there would be a significant environmental impact on the environment. He said that Type I actions were outlined and defined in the SEQRA rules and regulations. He cited the following examples from the rules and regulations that were Type I actions:

1. Adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres of the district;
2. Construction of new residential units that meet or exceed the following thresholds:
    a. 10 units in municipalities that have not adopted zoning or subdivision regulations;
    b. 50 units not to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;
    c. in a city, town or village having a population of less than 150,000, 250 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;
3. Activities, other than the construction of residential facilities, that meet or exceed any of the following thresholds; or the expansion of existing nonresidential facilities by more than 50 percent of any of the following thresholds:
    a. a project or action that involves the physical alteration of 10 acres;
    b. a project or action that would use ground or surface water in excess of 2,000,000 gallons per day;
    c. parking for 1,000 vehicles;
    d. in a city, town or village having a population of 150,000 persons or less, a facility with more than 100,000 square feet of gross floor area;

He said the Board is obligated to ask questions of all the Phase II projects in the context of assessing the environmental impact.

Ms. Morales confirmed the Full EAF contains information regarding the entire RUPCO/Land Bank, Phase II project.

The Assistant Corporation Counsel said the submitted Full EAF depicts the total size of the RUPCO/Land Bank, Phase II project as approximately five (5) acres with a build out of about 65 apartment units. He asked the Applicant for the totals of water usage, parking spaces and gross floor area for the entire RUPCO/Land Bank, Phase II project.

The Project Architect said approximate usage of 6,400 gallons of water per day, approximately 130 parking spaces, and approximately 65,000 feet of gross floor area.

The Assistant Corporation Counsel said those figures, if accurate, appear well below the Type I action thresholds for SEQRA. He encouraged the Board to ask environmental questions and determine if the project requires further environmental review.

The Project Architect said 98 Lander Street is part of the RUPCO/Land Bank, Phase II project. He presented a layout of the project (which was made part of the record) and highlighted the following:

- Phase I of the project consisted of renovating 15 buildings to create 41 apartments for affordable housing.
- Buildings are certified Leadership in Energy and Environmental Design ("LEED")

- Phase I costs were approximately $12 million (~$285,000 per dwelling)
- Funded by the low-income housing tax credit (LIHTC) program and the Historic Tax Credit (HTC) program
- Phase I will be completed by Fall 2018
- Phase II of the RUPCO/Land Bank project has begun for 23 buildings and approximately 63 apartments (11 buildings will be renovated and 12 buildings will be new construction)
- Phase II buildings all have been abandoned for years
- Buildings will be handicapped-accessible (existing buildings will be lowered for accessibility)
- RUPCO is unable to salvage all the buildings and is requesting to demolish some buildings to mitigate the costs
- Buildings for demolition lack historic content
- Five (5) applications for demolishing will be reviewed by the Architectural Review Commission
- 98 Lander Street will be renovated at a cost of approximately $1 million
- A community room will also be constructed in a new building at 122 Lander Street
- Eight (8) applications have already been submitted to the Zoning Board of Appeals ("ZBA"), and four (4) of those applications have already received approval

The Project Architect said the intent for 98 Lander Street is to renovate the existing building with a Community Center/mechanical space on the lower level and Community Center on the first floor with a three-bedroom apartment on the second floor. He said the carriage house is collapsing and is not listed as a significant building in the National Register. He said the carriage house will be demolished to provide a parking area and a carriage house will be constructed at 193 First Street. He said a ZBA application will be submitted for 98 Lander Street and he will submit a complete site plan for review at the October Planning Board meeting.

He said the building at 116 Lander Street is collapsing and the intent is to renovate the building and construct two (2) additional buildings on the property. He said the recommendation by the Building Inspector was to subdivide the lot with one building on each lot because the City Code does not allow more than one residential building on one lot. He said a ZBA application and a Planning Board application will be submitted for review later.

He said a Sanborn map from 1887 showed (2) houses on 116 Lander Street and the proposal has been modified to construct a smaller building on the south end.

The City Planner said the project is located in the Medium Density Residential zone and is not subject to CAC or GML §239 review. She said Community Center requires Site Plan approval by the Planning Board and the Applicant should revise the Full EAF.

The Project Engineer agreed to revise the Full EAF.

The Assistant City Engineer said the site plan should be revised to include the City of Newburgh Streetscape Standards, AutoCAD Blocks for signatures and additional plumbing information. He said the action is within the City's designated Municipal Separate Storm Sewer System ("MS4") area therefore coverage under the New York State Department of Environmental Conservation ("NYSDEC") State Pollutant Discharge Elimination System ("SPDES") permit for Stormwater Discharges from construction activity is required.

The Assistant City Engineer explained that a NYSDEC permit for construction activity is required because stormwater from 98 Lander Street flows directly into the Hudson River. He said the Applicant needs to prepare a partial Stormwater Pollution Prevention Plan ("SWPPP") consisting of a pre vs. post-construction drainage analysis, and an erosion & sediment control plan with appropriate construction details in conformance with the latest edition of the New York State Standards and Specifications for Erosion & Sediment Control Manual. He said dependent upon the outcome of the pre vs. post analysis, additional stormwater management controls may be necessary to mitigate increased rates of runoff. He said a review of the above items will be necessary for the City to sign the MS4 Acceptance Form should the Planning Board approve the project. He said the Applicant is adding pervious surface at 98 Lander Street and if the Streetscape Standards are applied, a negligible increase of no more than 5% stormwater runoff is anticipated. He said the actual amount depends on the extent of the Applicant's proposed work.

The Assistant Corporation Counsel said the Planning Board may vote to schedule/waive the public hearing and recommend to wait for additional details before voting on the application.

Ms. Hooff said the Board should wait until a revised site plan is submitted. She confirmed the Applicant will comply with the City of Newburgh Streetscape Standards.

Ms. Ware said she feels comfortable waiving the public hearing.

Ms. Morales moved to waive the public hearing.
Ms. Ware seconded the motion.
The motion passed unanimously via roll-call vote.

Ms. Ware moved to declare the Planning Board Lead Agency pursuant to SEQRA.
Ms. Morales seconded the motion.
The motion passed unanimously via roll-call vote.

The Applicant was informed to submit additional details in order to attend the following Planning Board meeting.

Index No. 2018-05

Applicant: Bank of America c/o CBRE
Owner: 503 Broadway Newburgh LLC
Location: 503 Broadway

SITE PLAN to convert the existing vacant lot into a Drive-Thru (for ATM) and walk-up ATM.

The Informational Inspection Report of the Building Inspector and the comment letters of the City Engineer and City Planner were made a matter of record.

DISCUSSION BY THE BOARD

Paul Mutch from Stonefield Engineering appeared representing the Property Owner.

Mr. Mutch gave a brief overview of the project and highlighted the following:

- Intent is to install a drive up ATM in Phase 1 and a second walk-up ATM in Phase 2
- One-way entrance from West Street and exit on Broadway
- Streetscape Standards were incorporated into the site plan
- Bank of America is seeking an irrigation system
- LED lights reduced to 3,000 kelvin

Ms. Hooff commended the Applicant for addressing her concerns.

Mr. Mutch said reports were provided for the existing environmental issues. He said all of the tanks were removed in 2007, the oil tanks and gas infrastructure were removed and the monitoring wells were abandoned because no further action is necessary.

The Assistant City Engineer said the Applicant went above and beyond the requirements of the site plan and said the impervious surface was greatly reduced. He said irrigation system details will be addressed as part of the building permit application by the Plumbing Inspector. He said the project site is located within the City's designated MS4 area and will require coverage under the NYSDEC SPDES Permit for Stormwater Discharges from construction activity. He said an analysis of the existing and proposed stormwater conditions of the site is required to ensure compliance with the NYS Stormwater Management Design Manual and is necessary for the City to sign the MS4 Acceptance Form should the Planning Board approve the project. He said the Applicant should address minor details per his comment letter and nothing from the Engineering Department warranted delaying an approval by the Planning Board.

The City Planner said she has no outstanding comments.

Ms. Hooff confirmed site plan approval includes phase I and phase II of the project.

Ms. Hooff moved to declare the Planning Board Lead Agency pursuant to SEQRA.
Ms. Ware seconded the motion.
The motion passed unanimously.

Ms. Ware moved to issue a Negative Declaration pursuant to SEQRA.
Ms. Hooff seconded the motion.
The motion passed unanimously.

Ms. Hooff move to approve the Site Plan application subject to the following conditions:

1. The Applicant shall satisfy all comments set forth in the Informational Inspection Report of the Building Inspector, the Comment letter of the City Planner and the Comment letter of the City Engineer.

Ms. Ware seconded the motion.
The motion passed unanimously via roll-call vote.

Index No. 2016-06

Applicant: Nemias Magana
Owner: JSN Property Management
Location: 82 Bridge Street

SPECIAL USE PERMIT to establish a base office for taxi service.

The Special Use Permit Extension Request Letter, comment letter of the Building Inspector, Complaint Summary Report from the Department of Code Compliance, Police Blotter Call Summary from the Newburgh Police Department, photograph taken by the Newburgh Police Department, photograph taken by Mayor Harvey, and photograph taken by the Building Inspector were made a matter of record.

DISCUSSION BY THE BOARD

Nemias Magana, speaking on behalf of the Property Owner, and Magada Arauz, Mr. Magana's translator, appeared before the Board.

The Assistant Corporation Counsel gave a brief summary of the Special Use Permit for 82 Bridge Street. He said there were two (2) Special Use Permits in effect at 82 Bridge Street and at the August 21, 2018 Planning Board meeting – one for a taxi radio base and one for an automotive sales/repair. The motion to extend the Special Use Permit to establish a radio base office for taxi service did not have enough votes to extend and thus expired. He said the Board used the opportunity at the time to give notice to the Applicant that the Board, based on the violations and other information submitted relative to the property, intended to revoke the second Special Use Permit to operate an auto repair/auto sales business. He said the Applicant now has an opportunity to address the concerns of the Board. He said the City Code does not mention an opportunity for public comment for extensions of Special Use Permits. He said given the amount of people who appeared for the extension application and who had an expectation of commenting, the Planning Board could choose to have a public comment period for those who showed.

The Secretary to the Land Use Boards said Mr. Magana submitted letters and pictures of the existing property (which were made part of the record). He said the Owner mailed a copy of the letter to the adjacent Property Owners.

Ms. Daily said the record is not clear on the amount of cars allowed on the property. She said the motion that carried was a maximum of six (6) cars.

Ms. Hooff said at the previous Board meeting, a maximum of 11 cars on the property was discussed.

The Assistant Corporation Counsel said there was discussion of 11 cars per the June 16, 2009 Planning Board minutes. He said the record is not clear and the parking amount did not carry into the decision. He said the Board should assume 11 cars are allowed on the lot, as the number of cars should be construed in favor of the owner in the event of ambiguity. In the current instance, the Board has the option to revoke, modify or do nothing to the existing Special Use Permit.

The Owner said he removed illegal vehicles from the rear yard and cleaned the property. He said junk vehicles were scrapped and new rules were established for the property. He said the auto repair shop must now close at 7:00 p.m. in order to address the noise concern.

Ms. Daily clarified that the Property Owner is also the Owner of the repair business at 82 Bridge Street.

Ms. Ware asked if the Owner received any complaints from the neighbors.

The Owner said he has not received a complaint in the past couple weeks.

Ms. Hooff said there were violations on the record from the previous Planning Board meeting; she asked if the violations were unique to one special use permit and not the other. She asked if there were any new violations.

The Assistant Corporation Counsel said the violations didn't distinguish between special use permits on the property. He said the Building Inspector submitted pictures of the property simply to show general care and maintenance of the property.

Ms. Ware said the pictures show taxis on the property. She asked if the taxi dispatch is still in operation at 82 Bridge Street.

The Owner said the business is still in operation but the office location has changed. He said the taxis on the property are undergoing repairs.

Ms. Ware said she drives by the property every morning and every night and there are always taxi cabs parked outside of the property.

The Owner said the radio dispatch on the property is closed and the taxi cabs outside rent their radios from him. He said those taxi cabs are independently owned and he cannot control their actions. He said the dispatch is operated from his car and sometimes from his home.

The Assistant Corporation Counsel said the Board must decide on the credibility of the information presented and vote on the existing special use permit.

Ms. Hooff said the statement by the Owner is being questioned because the impact of taxi cabs on the neighborhood has not changed. She said the conversation should remain on the existing special use permit.

The Planning Board opted to hear public comment.

Paul Belcito, 64 Bridge Street, spoke against the application. He said the neighborhood has suffered for two (2) years because of the taxicab parking and other traffic issues, and the permit should not be renewed. He said he has not received a letter and nothing has changed.

Gabe Capobianchi, 78 Bridge Street, spoke in favor of the application. He said he owns Precision Propeller next door and can affirm that the Taxi Dispatch at 82 Bridge Street is closed. He said he has not received a letter and that he owns the driveway that the Auto Repair Shop utilizes. He said he is willing to allow the Auto Repair Shop to use his driveway for another three (3) months subject to the Planning Board's determination. He said parking is an issue in the neighborhood and they are dealing with the remnants.

The City Planner clarified the adjacent property owners have not received a letter because it was recently mailed.

Ms. Hooff said the Owner has dramatically improved the cleanliness of the lot and he should not be penalized for the actions of independent drivers. She said the Board should give the Owner an additional three (3) months to confirm the property is properly maintained and to address the parking concern.

The Owner clarified the submitted letter was revised and mailed several hours before the Planning Board meeting. He submitted the revised letter (which was made part of the record) to the Chair.

Ms. Daily read the revised letter.

Ms. Hooff asked if conditions could be placed to stop taxis parking on the street.

Ms. Morales said she is open to giving the Owner a three (3) month extension.

The Assistant Corporation Counsel said the Board may place conditions within the property of the special use permit. He said parking on the street is subject to different regulations. He asked the property owner if vehicles were being sold on the lot.

The Owner said he is not currently selling vehicles on the lot and asked if he can re-obtain the special use permit for taxi dispatch.

The Assistant Corporation Counsel said the Owner needs to re-apply for the special use permit for a taxi-related service. He said the Board may revoke the Special Use Permit for auto sales now, as the applicant said he no longer used the property for auto sales, and revisit the Auto Repair Business later. He said the Board can also adjourn the revocation proceeding for a short period of time to allow the applicant to address the on-street parking issues and review the Special Use Permit. During that period, Code Enforcement, the Building Inspector and the Police Department could provide updated information with respect to the property maintenance.

The Chair informed the Owner that the Board will adjourn the revocation proceeding until the December 18, 2018 Planning Board meeting.

With no further business to discuss, the meeting was adjourned at 9:10 p.m.

Respectfully submitted,

Omar E. Balbuena-Palma,
Secretary to the Land Use Boards