Lisa Daily, Chairperson
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PLANNING BOARD MEETING

The City of Newburgh Planning Board meeting was held on Tuesday, October 15, 2019 at the Council Chambers, 83 Broadway, Newburgh, NY 12550

Members Present:	Lisa Daily, Chairperson Alicia Ware Duane Ware Lauren A. Capul Michael Kelly
Absent:	Sarah Hooff Heather Moore
Also Present:	Chad Wade, Assistant City Engineer Jeremy Kaufman, Assistant Corporation Counsel Omar Balbuena-Palma, Secretary
Also Absent:	Alexandra Church, Director of Planning and Development / City Planner

The meeting was called at 7:30 p.m. after a quorum was confirmed.

APPROVAL OF MINUTES

Mr. Ware moved to approve the minutes of the September board meeting.
Ms. Capul seconded the motion.
The motion passed unanimously.

PUBLIC HEARING

Index No. 2017-10

Applicant: FD Water Street Holdings, LLC
Owner: FD Water Street Holdings, LLC
Location: 272 Water Street

SITE PLAN Application to renovate the existing building into a Professional Office space, and add a crosswalk and 21 parking spaces on Water Street.

The Informational Inspection Report of the Building Inspector and the comment letters of the City Engineer, the City Planner, the Orange County Department of Planning, and the CAC were made a matter of record.

DISCUSSION BY THE BOARD

Justin Dates, Project Engineer from Maser Consulting, appeared before the Board on behalf of the property owner.

The Project Engineer gave an overview of the application and highlighted the following:

- Project scope revised to remove the proposed parking lot at 35-37 Broad Street and the change of use at 302 Water Street from the application;
- Amended proposal is to renovate the existing brick building at 272 Water Street for 725 sq. ft. of Professional Office space;
- Proposing to add 21 parallel parking spaces on the east side of Water Street;
- Project site does not have frontage on, or access to, the Hudson River;
- Proposing to install a mid-block cross-walk and American with Disabilities Act compliant curb ramps in front of 272 Water Street similar to the cross-walk at 27 South Water Street.
- Proposing to install a left turn lane into Broad Street from Water Street

The Chairperson confirmed there are no proposed exterior changes to the footprint of the building or additional site work proposed under the amended application.

The Assistant City Engineer said the Applicant should review §300-87 of the City Code and update the site plan accordingly. He said any information not included on the site plan should be discussed with the Planning Board. He said the existing curb along Water Street is constructed out of granite and any newly proposed curbing should be replaced with granite curbing. He said standard City details related to granite curbing are available for download in AutoCAD format from the City website. He said the plan should also be revised to include the location and size of the existing/proposed water and sewer services. He asked if the Applicant was proposing to install a water pump.

The Project Engineer said they are proposing to install a water pump on the interior.

The Assistant City Engineer said those details should also be included on the site plan.

The Assistant Corporation Counsel said the City Planner was not able to attend the Planning Board meeting and forwarded her comment letter for consideration. He said the action is an unlisted action per SEQRA. With the amended project scope and size, City staff recommends issuing a Negative Declaration. He said the revised application has been forwarded to the CAC and the Orange County Department of Planning for review, and those entities have up to 30 days to submit a comment letter for consideration. He said the only action the Planning Board may take at tonight's meeting is to take comments from the public and then close the public hearing.

The Chairperson opened the public hearing for comment.

There was no one present for or against the application.

Mr. Kelly moved to close the public hearing.
Ms. Ware seconded the motion.
The motion passed unanimously.

The Applicant was informed to submit a revised site plan and attend the following Planning Board meeting on November 19, 2019.

OLD BUSINESS

The Chairperson said application index numbers 2018-17 and 2019-09 are parts of a broader application commonly known as the RUPCO/Land Bank, Phase II Project. She said the Applicant will present both applications together, but the Board will discuss/vote on each application separately.

Index No. 2018-17

Applicant: RUPCO
Owner: Newburgh Community Land Bank, Inc.
Location: 116 Lander Street

SITE PLAN Application to convert the existing use (Professional Office) into a House of Worship (House of Worship).

NEW BUSINESS

Index No. 2019-09

Applicant: RUPCO
Owner: Newburgh Community Land Bank, Inc.
Location: 37 & 39 Dubois Street

SUBDIVISION Application to move the lot line between 37 & 39 Dubois Street.

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

DISCUSSION BY THE BOARD

AJ Coppola, Project Architect, and Darren Stridiron, Project Surveyor, appeared before the Board on behalf of the property owner.

The Project Architect said 116 Lander Street, 37 Dubois Street and 39 Dubois Street are parts of the RUPCO/Land Bank, Phase II project. He gave a review of the RUPCO/Land Bank project and highlighted the following:

- Full EAF revised to include 24 parcels, with new construction for 12 buildings and rehabilitation of another 12, existing buildings;
- Commercial properties at 245 Liberty Street and 257 Liberty Street are part of the project, but do not require Planning Board approvals for intended uses;
- Intent at 116 Lander is to renovate the building and construct two (2) additional buildings on subdivided property at 114 and 118 Lander Street;

- Proposal for 37 & 39 Dubois Street is to move the northern lot line at 37 Dubois Street approximately one (1) foot north to accommodate new construction;
- Lot line change will modify the existing lot widths at 37 & 39 Dubois Street in order to obtain a 25-foot lot width for both properties;
- Properties will each have a three (3) foot alley on the side of the buildings for utility connections;
- 116 Lander Street received preliminary plat approval on November 20, 2018 and was granted an extension to submit the final plat on May 21, 2019;
- Applicant seeks final plat approval for 116 Lander Street, preliminary plat approval for 37 & 39 Dubois Street and a SEQRA determination on the overall project from the Planning Board.

The Assistant Corporation Counsel said the Applicant received preliminary plat approval for 116 Lander Street in 2018 and recently submitted a final plat for review per Chapter 266 of the City Code. He said the Board should consider the comments from the City Engineer before voting on the final plat. He said any approval should be conditioned on satisfaction of the City Engineer's comment letter.

The Assistant City Engineer said the final plat is substantially complete. He said the Streetscape standards should be added to the plat with additional details on tree plantings. He recommended issuing conditional approval.

The Assistant Corporation Counsel forwarded the City Planner's comment letter for 37 & 39 Dubois Street. The City Planner had no further comments on the application for 116 Lander Street.

The Chairperson confirmed with the Board members readiness to proceed with the application for 116 Lander Street. She said any approval should be conditioned on addressing any remaining outstanding comments in the City Engineer's comment letter. She asked for comments on the application for 37 & 39 Dubois Street.

The City Engineer said the plat for 37 & 39 Dubois Street should be revised to incorporate the requirements of §266-31 of the City Code. He said the proposed curb valve locations should be shown on the subdivision plan for each lot with appropriate water and sewer connections noted. Construction details should be provided for all site improvements. He said the Streetscape Standards should also be added to the plat with additional details for tree plantings.

The Assistant Corporation Counsel said the Phase II project is a scattered-site project that involves 24 parcels. Some parcels did not require any land use board approvals. Others required some combination of Planning Board, ZBA, or ARC approval. He said whenever any application before a land use board required a SEQRA analysis, the particular land use board was required to consider the environmental impacts of all parcels in the Phase II project even though the particular board was only reviewing a portion of the project. He said in connection with any SEQRA review, other agencies may be "interested" or "involved," and those agencies must be given an opportunity to comment on the application. He said the Board should declare its intent to act as Lead Agency to coordinate a SEQRA review for the instant application. He said notices will be sent to interested/involved agencies for comment and the Board must take those comments, if submitted, into consideration at the next meeting.

The Assistant Corporation Counsel asked for additional details relating to the environmental impacts of the project and confirmed the following with the applicant:

- 62 to 63 dwelling units proposed for the Phase II project;
- Total physical alteration of the Phase II Project is less than 10 acres;
- Phase II project will use significantly less than 2 million gallons of ground/surface water per day;
- Phase II project requires approximately 130 parking spaces per existing zoning code standards;

The Project Architect said the submitted EAF provides further details on the environmental impacts. He said the EAF will be updated per the City Planner's comment letter.

The Assistant Corporation Counsel said the Phase II project does not appear to reach the thresholds for a Type I action according to DEC Rule/Regulation §617.4. He said some of the parcels are located within the East End Historic District, which would be the only trigger as a Type I action. He said the subdivision application will also require a public hearing at the next Board meeting.

With respect to application index number 2018-17 (116 Lander Street)

Ms. Ware moved to approve the final plat subject to the City Engineer's comment letter.
Mr. Kelly seconded the motion.
The motion passed unanimously via roll-call vote.

With respect to application index number 2019-09 (37 & 39 Dubois Street)

Ms. Ware moved to declare the Planning Board's intent for Lead Agency.
Mr. Kelly seconded the motion.
The motion passed unanimously.

The application was tabled and the Applicant was informed to submit revised information and contact the Land Use Boards Secretary to begin fulfilling the public hearing requirements.

OLD BUSINESS

Index No. 2019-08

Applicant: AMP Architecture
Owner: St Marks Holy Tabernacle Inc.
Location: 313 Fullerton Avenue

SITE PLAN Application to convert the existing use (Professional Office) into a church (House of Worship).

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

DISCUSSION BY THE BOARD

Robert Ferrer, Pastor, appeared before the Board on behalf of the property owner.

The Pastor gave a review of the application and highlighted the following:

- Converting the existing building into a House of Worship;
- No proposed expansion of the building footprint;
- Site plan was revised per City Engineer's comment letter.

The Assistant City Engineer said a signed and sealed survey needs to be submitted. The revised detail area on the rear of the building needs to be striped to better regulate parking. He said construction details should be provided for all improvements proposed on the site plan. The proposed light fixture on the front of the building should be shielded to prevent light pollution. He said signature blocks should be added to the first page of the site plan and additional details need to be provided for the curb cut.

The Assistant Corporation Counsel forwarded the City Planner's comment letter for consideration. He said the only outstanding comment by the City Planner was mentioned on the City Engineer's comment letter. He said the Building Inspector forwarded a revised Informational Report that revised the number of required parking spaces based on the revised plan submitted by the applicant. He said the Applicant can provide eight (8) off-street parking spaces. He needs a variance for the remaining 17 spaces. He said if the Board is comfortable voting on the application, it must conditioned on obtaining the appropriate area variances from the Zoning Board of Appeals.

The Chairperson said she had information that the building was being utilized as a House of Worship for several months despite not having site plan approval or a Certificate of Occupancy.

The Pastor confirmed he was utilizing the building as a House of Worship up until the first Board meeting. He said he has since stopped using the building for that purpose.

The Chairperson said she was under the impression he was going to be performing a religious service this weekend per the Facebook event online.

The Pastor clarified that the service will be performed in the building next door and not at 313 Fullerton Avenue.

The Chairperson said she is not comfortable voting on the application without a determination on the parking requirements from the Zoning Board of Appeals.

Ms. Ware agreed.

Ms. Capul asked the Board members for their thoughts on a conditional approval.

Mr. Kelly said the site plan still needs revision and the parking situation needs to be addressed before he feels comfortable moving on the application.

The Applicant was informed to submit a revised site plan and attend the next Planning Board meeting on November 19, 2019 after attending the October 22, 2019 Zoning Board of Appeals meeting.

NEW BUSINESS

Index No. 2019-10

Applicant: Eli Vaknin
Owner: Otherside Properties LLC
Location: 45 Liberty Street

SITE PLAN Application to convert the existing first floor use (single-family residential) into a retail space on the first floor and residential space on the second and third floors (Mixed-use with Residential/Retail).

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

DISCUSSION BY THE BOARD

Eli Vaknin and Dan Gilbert, Applicants, appeared before the Board on behalf of the property owner.

The Applicant said the intent is to change the use of the first floor of the building into a retail space and utilize the second and third floors as residential space. He said the first floor will also be modified to have a commercial look.

The Assistant City Engineer said with proposed changes to the site, he recommended waiving the site plan requirements. He asked the Applicant to be mindful of the Streetscape Standards for any future work. He suggested that the addition of a tree would benefit the neighborhood.

The Assistant Corporation Counsel forwarded the City Planner's comment letter for consideration. He said the action is an unlisted action and does not require review by the Orange County Department of Planning or the Conservation Advisory Council.

Mr. Ware confirmed there are no proposed changes to the footprint of the building.

Mr. Kelly asked why the Board should consider waiving the site plan requirements.

The Assistant City Engineer said there are no proposed changes to the building footprint and no increase to impervious surfaces. He said the majority of proposed work will be done on the interior of the building.

The Assistant Corporation Counsel said any application that triggers site plan review by the Planning Board per Chapter 300 of the City Code does not necessarily have to propose or be compelled to perform site work. In this case, the Applicant is not proposing any site modifications and thus there is no site work review required. The application is based on a change of use proposal. He said the Board may not compel the Applicant to perform site work on the property. The Building Inspector, as part of a building permit application or a Certificate of Occupancy

application, may determine that certain work needs to be performed to comply with current local and state code requirements.

Ms. Ware moved to waive the public hearing.
Ms. Capul seconded the motion.
The motion passed unanimously.

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

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

Ms. Ware moved to waive the Site Plan requirements under the City Code.
Mr. Kelly seconded the motion.
The motion passed unanimously via roll-call vote.

Ms. Ware moved to approve the Site Plan application.
Mr. Kelly seconded the motion.
The motion passed unanimously via roll-call vote.

PERMIT EXTENSION REQUESTS

Index No. 2009-08

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

SPECIAL USE PERMIT permitting operation of an Automobile Repair/Automobile Sales Facility.

The Special Use Permit Extension Request letter and e-mailed comment from the Newburgh Police Department, were made a matter of record.

DISCUSSION BY THE BOARD

Nemias Magana, speaking on behalf of the property owner, with Magda Arauz, Mr. Magana's translator, appeared before the Board.

The Owner said he is looking to extend the Special Use Permit at 82 Bridge Street. He said the previous tenant no longer occupies the building and he is actively trying to find a new tenant for the building. He said he made a list of rules for the property and any new tenant must follow those rules. He said the submitted photographs showcase the existing conditions of the site.

The Assistant Corporation Counsel gave a summary on the history of the Special Use Permit for 82 Bridge Street. He said the applicant submitted a request letter for an extension to the Special

Use Permit but he did not appear for a discussion with the Board at the previous meeting. He said the Board utilized the time to discuss the Special Use Permit and collectively requested an appearance by the Owner at the October meeting. He said the Board also requested a violation history report from the Building Department. He said a request for the violation history was submitted but no response was given from Building Department. He said the Board should decide if it wants to extend the permit, and if so, for how long.

Mr. Kelly asked if the Board does not have a response from the Building Department, how the Board was allowed to interpret the non-response.

The Assistant Corporation Counsel said the lack of a response may not be used against the Applicant.

Mr. Kelly asked for the maximum duration of a Special Use Permit that the Board may issue.

The Assistant Corporation Counsel said there isn't a "maximum duration" that is codified anywhere. However, a permanent Special Use Permit would defeat the purpose of that type of permit. The maximum length of time he recommends the Board to consider is two (2) years.

The Owner said he is looking to fill the vacant building as soon as he can but he says it may take him a couple months.

Mr. Kelly said he is open to extending the permit for six (6) months.

Ms. Ware said she is open to extending the permit for six (6) to nine (9) months. She said that should be sufficient time for the Applicant to obtain a new tenant. She said this length of time would also give the Board a clear picture if the Owner is abiding by the terms of the permit.

Ms. Capul said she is relatively new to the Board but she is open to extending the permit as well.

Mr. Kelly moved to extend the Special Use Permit for six (6) months.
Ms. Ware seconded the motion.
The motion passed unanimously via roll-call vote.

With no further business to discuss, the meeting was adjourned at 9:00 p.m.

Respectfully submitted,

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