Lisa Daily, Chairperson
Omar E. Balbuena-Palma, Secretary
123 Grand Street, Newburgh, New York 12550
Phone: (845) 569-7380 Fax: (845) 569-9700

PLANNING BOARD MEETING

The City of Newburgh Planning Board meeting was held on Tuesday, November 19, 2019
at the Activity Center, 401 Washington Street, Newburgh, NY 12550

Members Present:	Lisa Daily, Chairperson Alicia Ware Duane Ware Sarah Hooff Michael Kelly
Absent:	Heather Moore
Also Present:	Erin Cousins, NBHD Stabilization Coordinator Chad Wade, Assistant City Engineer (arrived at 7:50 p.m.) Jeremy Kaufman, Assistant Corporation Counsel Omar Balbuena-Palma, Secretary

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

The Chairperson announced that Lauren Capul recently resigned. She thanked Ms. Capul for her service and wished her the best of luck.

The Assistant Corporation Counsel announced that the City Planner was at the City Council meeting. In her stead, Erin Cousins, NBHD Stabilization Coordinator, would represent the Planning & Development Department.

APPROVAL OF MINUTES

Ms. Ware moved to approve the minutes of the October 2019 board meeting.
Mr. Kelly seconded the motion.
The motion passed unanimously.

PUBLIC HEARING

Index No. 2019-09

Applicant: Rural Ulster Preservation Company ("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 Surveyor gave a brief review of the project and said they intend to move the lot line at 37 & 39 Dubois Street one (1) foot north to create two (2) equal lots. He said the plat was revised to remove unnecessary detail per the City Engineer's comment letter.

The Coordinator read the City Planner comment letter and highlighted the following:

- Additional detail is required on EAF question E.1. (d);
- Clarification is required on EAF question E.2. (o);
- Applicant has submitted an application to the Architectural Review Commission and SHPO for review and comment.

The Assistant Corporation Counsel said the City Engineer forwarded a comment letter for consideration. The comment letter cites no major concerns on the preliminary plat. He said the Planning Board declared its intent for Lead Agency at the October 15, 2019 meeting. He said notices were mailed to interested/involved agencies for comment. A consent letter from New York State Homes and Community Renewal was received on November 15, 2019. He said the New York State Department of Environmental Conservation ("NYSDEC") indicated the presence of state-listed animals near the project site. He said the Applicant contracted the services of CHA Consulting, Inc. to evaluate the potential impact of the Phase II project relative to those state-listed animals and forwarded the findings to the NYSDEC. He said at this time, the Planning Board could declare itself Lead Agency and open/close the public hearing, but should not make a SEQRA determination at this time.

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

The Chairperson opened the public hearing for comment.

There was no one present for or against the application.

The Chairperson closed the public hearing.

The Project Architect asked if a vote may be taken on the application.

The Assistant Corporation Counsel said without a formal determination by NYSDEC on the impact of the project on the nearby wildlife, the Board should not take any SEQRA action. He said the application should be tabled until the next Board meeting, pending receipt of a follow-up response from NYSDEC.

The Application was tabled and the Applicant was informed to appear at the next Planning Board meeting on December 17, 2019.

OLD BUSINESS

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 a brief review 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 with a turn lane into Broad Street; and
- Revised site plan per City Staff comment letters.

The Coordinator read the City Planner comment letter. She highlighted the following:
- Addition of the pedestrian access to the east side of Water Street improves access to the Hudson River Waterfront in a manner sufficient to meet the scope of the change proposed;
- Site work is no longer planned along the Hudson River waterfront. The Board should determine whether a change of use will impact the Hudson River.
- FEAF questions E.2. (h)(ii-iii), E.2. (o), E.3. (e) and E.3. (h) were answered “yes” but because there is no exterior construction activity proposed no further action is required;
- If the scope of the project changes, the FEAF questions should be reexamined.

The Assistant Corporation Counsel said the Conservation Advisory Council (“CAC”) forwarded a revised comment letter for consideration.

The Assistant City Engineer said the Applicant submitted a revised site plan per §300-87 of the City Code. He said the Planning Board should review the site plan and determine if the missing items should be waived.

The Assistant Corporation Counsel said at the previous meeting on October 15, 2019, the Planning Board held a public hearing. He said the Board may could move forward with a vote on the application.

Ms. Hooff said she was not present at the October 15, 2019 meeting and asked if the only change to the building would be converting 700 sq. ft. into office space.

The Project Engineer agreed and clarified that 725 sq. ft. of the building will be used as a professional office.

Ms. Hooff asked why is there a proposal to add a turn lane on Water Street if the parking lot was removed from the project.

The Project Engineer said the turn lane is not required but is proposed due to traffic safety concerns in/around the project site.

The Assistant City Engineer said the objective of the New York State Department of Transportation is to keep traffic moving consistently. He said if there is no designated turn lane, traffic could become congested. He said because the Applicant is proposing to add parking spaces on Water Street, a state owned road, one of the conditions for receiving a DOT work permit could be to add a turn lane on the road into Broad Street.

Ms. Hooff asked for a clarification on public access to the waterfront. She said the proposal is to modify the building within the Local Waterfront Revitalization Program but they are not proposing public access to the waterfront.

The Project Engineer said the property at 272 Water Street does not have frontage on, or access to, the Hudson River and cannot provide a walkway on the river front itself.

Ms. Hooff asked if access through the property to the Regal Bag building is going to be eliminated.

The Project Engineer said the existing pedestrian bridge will not be closed off since it is the only way to access Water Street.

Ms. Hooff said she is concerned with the expansion/reduction of the scope of the project because to the public it appears as a strategic way to bypass the requirement of public access to the waterfront.

The Project Engineer said they are not creating a new addition to the building and they only seek to change the use of the existing building.

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

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

Ms. Ware moved 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.

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

<u>Index No. 2019-08</u>

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 submitted a response letter to the Board for consideration (which was made part of the record).

The Assistant Corporation Counsel said the Applicant last appeared before the Planning Board on October 15, 2019. He said at that time, the Planning Board tabled the application pending a decision on the Area Variance application by the Zoning Board of Appeals. He said the Zoning Board of Appeals approved the application on October 22, 2019. The Applicant is now before the Planning Board requesting Site Plan approval. He said the action is considered an unlisted action under SEQRA and the Planning Board may vote on the application at tonight's meeting.

The Coordinator said the Applicant has satisfied the City Planner's previous comments and there are no new comments on the application.

The Assistant City Engineer said minor edits are required on the site plan, in addition to requiring submission of a signed and sealed survey. He said the revisions are not major.

Ms. Ware said at the previous meeting on October 15, 2019, the Board discussed a concern that the Pastor was using the building to hold services and other meetings despite not having Site Plan approval or a valid Certificate of Occupancy ("CO"). She said at the time, the Board asked the Applicant directly if the building was being used. The Pastor's response was that it was not being used. Ms. Ware said she has a renewed concern and asked the Pastor if the building has been utilized for services or meetings since the last meeting.

The Applicant said they did not have a meeting last Sunday or the week before that. He said he recently performed a service across the street for a conference

Ms. Ware said she and her husband, Mr. Ware, received a phone call last weekend from a friend, who is known to them for a number of years. She said the friend called her husband for assistance in resolving a boiler issue at 313 Fullerton Avenue, because they needed heat in anticipation of a service that Sunday.

The Applicant said the call was for a heating issue, and not related to a Sunday service. He said it gets cold and he does not want the pipes bursting.

Ms. Ware said the phone call she received raises a huge concern to her because the Board already discussed this concern at the previous meeting with the Applicant. She said the Applicant re-affirmed her concerns. She asked when the last time the building at 313 Fullerton was used.

The Applicant admitted that he utilized the building approximately two (2) weeks ago for a meeting/service.

Ms. Ware clarified the meeting took place after the October Planning Board meeting and after the Applicant said he was not going to use the building. She said she is concerned because the Applicant did not comply with the Planning Board's request.

The Applicant said he did meet with people at the site, but it was to discuss plans for the future. He said he had to meet with a few members to discuss their current situation.

The Chairperson asked if the building had a CO.

The Applicant said the building has the original CO from when the building was purchased.

The Chairperson clarified the old CO is for a Professional Office. She said the CO is so that the building may be occupied, she said that constructing the building is one thing but utilizing the building is a separate matter. She said this is disingenuous to her.

The Applicant said he has really not been utilizing the building.

The Applicant said he has not really been using the building, but he has used the building across the street. He said they did meet at 313 Fullerton Avenue but it was to speak about the plans moving forward. He said the issue with the boiler was a concern because he did not want any plumbing issues that could potentially freeze the pipes.

Mr. Ware confirmed there is a provision in the Information Report that requires property owners to ensure a licensed City of Newburgh plumber must do any plumbing work.

The Applicant said he definitely had a licensed person arrive to address the boiler issue. He said the person had knowledge of the boiler and had dealt with the previous owner.

Mr. Kelly confirmed the Site Plan application was submitted in September and asked for a clarification on the property owner.

The Assistant Corporation Counsel clarified that "St. Mark's Holy Tabernacle Inc." is the record owner of the property.

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

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

Ms. Ware moved 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.

Mr. Kelly seconded the motion.

The motion was denied 2-3 via roll call vote, as the decision lacked an affirmative vote of a majority (4 votes) of all of the members of the Board with the voting results as follows:

Ms. Daily	Voting for the application
Ms. Hooff	Voting for the application
Mr. Kelly	Voting against the application
Mr. Ware	Voting against the application
Ms. Ware	Voting against the application
Ms. Moore	Absent

NEW BUSINESS

Index No. 2019-11

Applicant: Newburgh Commercial Development Corp.
Owner: Newburgh Commercial Development Corp.
Location: 639 Broadway f.k.a. 625-637 Broadway

SITE PLAN Application to renovate two existing structures for retail, office space and manufacturing.

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

Victor Cappelletti on behalf of Newburgh Commercial Development Corp. appeared with Mark Day and Derek Day, Engineers from M.A. Day Engineering P.C.

Derek Day gave a brief overview of the project and highlighted the following:

- 2.4 acre parcel in Commercial District;
- Two (2) existing structures to be renovated;
- Proposing mixed uses for the front building (offices, print shop);
- Rear building to be rebuilt for the Graft Cider business;
- Proposing 110 parking spaces on site.

The Assistant City Engineer said a separate signed and sealed survey must be submitted for City records prior to approval. He said the survey should show the location of all existing conditions, including any outfalls located along the Quassaick Creek. He said the Applicant should review §300-87 of the City Code and include only the portions deemed relevant on the site plan. He said the proposed parking area should comply with §300-68 of the City Code and be brought into conformity to the extent practical. He said additional landscaping should be added to the south side of the building and construction details included for all proposed improvements on the site plan. He said a note should also be added indicating the requirement of a floodplain development permit. He said the deed associated with the property should be provided for review.

Mr. Cappelletti said he will e-mail a survey of the property along with the deed for consideration.

The Assistant City Engineer said protective measures should be added to the existing pedestrian bridge and a New York State licensed P.E. should perform an evaluation certifying the structure is sound enough to carry the anticipated pedestrian load. He asked if cars will be allowed to cross the bridge.

Mr. Cappelletti said no cars will be allowed on the bridge.

The Assistant City Engineer said bollards should be installed to prevent vehicles from attempting to use the bridge for access across the creek. He said an evaluation should also be done on the existing retaining walls. He said the Graft Cider business is subject to compliance with the City's Industrial Pretreatment Program and the Applicant needs to design and install a monitoring manhole in accordance with §248-37 of the City Code. He said the locations and size of the existing or proposed water/sewer services should be shown on the site plan with the appropriate calculations provided for review as part of the Building Permit application.

Mark Day said they are going to be paving already existing pavement.

The Assistant City Engineer said a sediment control plan must be submitted and a snow storage area should be noted on the plan. He said a note should also be added stating no dumping in the creek is allowed.

Mr. Cappelletti said he will not dump anything in the creek.

The Assistant City Engineer said the Applicant is providing a seating area that allows a view of the creek.

Mr. Cappelletti clarified he is not fencing the property.

The Coordinator read the City Planner comment letter. She highlighted the following:

- The project is an unlisted action under SEQRA and is not subject to GML§239 review by Orange County;
- Proposed action is subject to review by the CAC for adjacency to the Quassaick Creek;
- Applicant should consider using targeted green infrastructure techniques to pre-treat any discharges;
- Additional details are requested for EAF questions D.2. (n) and E.1. (h);

- Applicant must apply and receive a Flood Plain permit.

The Assistant Corporation Counsel confirmed the action is an unlisted action pursuant to SEQRA and does not meet the threshold to be considered a Type 1 action. He said the application must be referred to the CAC for comment and the Board should determine if they would like to schedule a public hearing.

The Chairperson asked if outdoor seating is proposed.

Mr. Cappelletti confirmed there will be outdoor seating for the Graft Cider business.

Ms. Hooff said any proposed lighting should be under 3,000 Kelvin. She said the temperature difference does not affect the brightness of the light.

Mr. Cappelletti said he'll add the details to the site plan. He said he has the original streetlamps in the basement of the building and they may be added to the site plan.

The Assistant City Engineer said at the Workshop they mentioned utilizing pervious asphalt; he asked if that was still the intent. He said it must be considered as an aspect of the Waterfront Protection Overlay.

The Chairperson said the Board prefers pervious asphalt.

Mr. Cappelletti said the center courtyard will probably be made out of pavers.

The Assistant City Engineer asked if pervious asphalt will be used for the parking lot.

Mr. Cappelletti asked if a catch basin is required if pervious asphalt is used.

The Assistant City Engineer said he should discuss the utilization of pervious asphalt with his engineer.

The Chairperson asked if the Board wanted to schedule a public hearing.

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

The Application was tabled and the Applicant was informed to revise the site plan and appear at the next Planning Board meeting on December 17, 2019.

Index No. 2019-12

Applicant: Greenheart Holdings LLC
Owner: Greenheart Holdings LLC
Location: 58 Carson Avenue

SITE PLAN Application to extend the basement use into a second unit (Two-family dwelling within a preexisting building).

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

DISCUSSION BY THE BOARD

Anthony Williams from Greenheart Holdings LLC and Pedro A. Montes Denizard appeared before the Board.

Mr. Williams said the intent is to renovate the existing building and change the use from a single-family dwelling into a two-family dwelling. He said they are intending to replace the existing bathroom and kitchen in the basement and utilize it as a separate unit. He said they submitted an Area Variance application to the Zoning Board of Appeals and received approval on October 22, 2019. He said they are now requesting Site Plan approval from the Planning Board.

The Chairperson asked if they are proposing to change the footprint of the building.

Mr. Williams clarified they are not going to change or increase the footprint of the building.

The Chairperson confirmed the work will be on the interior.

The Coordinator read the City Planner comment letter. She highlighted the following:

- The property is located in the Low Density Residential Zone;
- Two-family dwelling is allowed pending Site Plan approval from the Planning Board;
- Project is considered a Type II action pursuant to SEQRA and not subject to review by the CAC or GML §239 review.
- Minor clarification on the SEAF to clarify the property lies in the East End Historic District.

The Assistant City Engineer said they have no comments on the application and recommended waiving the site plan requirements. He said the Applicant should provide a standard survey of the lot for site plan approval.

The Assistant Corporation Counsel confirmed the action is considered a Type II action pursuant to SEQRA and said the Board may schedule a public hearing, waive the site plan requirements and vote on the application.

Mr. Kelly asked if the basement meets the egress requirements.

Mr. Williams said they must provide at least two (2) exits from the basement as part of the Building Permit application.

The Assistant Corporation Counsel said the Building Department will review the plan to ensure the project complies with the Building Code. He said it is up to the Board to determine whether to approve the site plan application for a two-family dwelling.

The Chairperson asked if the Board wanted to schedule a public hearing.

Ms. Ware moved to waive the public hearing.

Mr. Kelly seconded the motion.
The motion passed unanimously.

Mr. Kelly moved to declare the application a Type II action under SEQRA
Ms. Hooff 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. Hooff moved to approve the Site Plan application.
Mr. Kelly seconded the motion.
The motion passed unanimously via roll-call vote.

With no further business to discuss, the meeting was adjourned at 8:40 p.m.

Respectfully submitted,

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