

**Beacon City Planning Board**  
March 8, 2011

A Planning Board meeting was held on Tuesday, March 8, 2011 in the Municipal Center courtroom. The meeting commenced at 7:00 p.m. with Acting Chairman Spring Attaway, Members Rick Muscat, John Gunn and Elizabeth Strianese; and Alternate Members Naomi Sachs and Hank Dutch in attendance. Also in attendance were Building Inspector Tim Dexter, City Engineer John Russo (in for Art Tully), City Planner Sarah Brown (in for David Stolman), and City Attorney Nick Ward-Willis. Chairman Jay Sheers was excused; Member Randall Williams was absent.

Mr. Gunn made a motion to approve the minutes of the February 8, 2011 meeting as submitted, seconded by Ms. Sachs. All voted in favor. Motion carried.

**ITEM NO. 1 CONTINUE PUBLIC HEARING ON APPLICATION FOR SUBDIVISION, 171 UNION STREET, (5 LOTS), SUBMITTED BY LORI JOSEPH BUILDERS**

Ms. Attaway announced this public hearing remained open in part to review the possibility of relocating or combining a driveway as discussed at the last meeting. The applicant was represented by Dan Koehler of Hudson Land Design. Mr. Russo reported City Planner David Stolman and City Engineer Art Tully visited the site and felt there was no reason to change or combine driveways as suggested.

Alan Flynn, 160 Union Street, asked who would own or be responsible for the yard drains. Mr. Russo explained they will be privately owned with easements across the lots with drainage systems, and a maintenance agreement will be put into place after review and approval by the City Attorney. The easements are only 10 ft. wide because it is a private drainage system. Mr. Russo confirmed the acreage of disturbance includes work that will be done in the City's right-of-way. Mr. Flynn asked if the Building Department could provide a timeframe for rock removal because his wife and another neighbor work nights. He also asked if any test pits had been dug on the site. Mr. Koehler reported the only on-site digging was for the installation of under-drain pipes, and in that specific location they went approximately 6 ft. deep without hitting rock. Ms. Attaway advised Mr. Flynn to contact the City if any disturbance takes place outside normal work hours as permitted by City Code. Mr. Flynn could not understand how there could be less than an acre of disturbance with this project. Mr. Koehler explained the road cut will be 7-8 ft. wide, with a total site disturbance calculation of 39,000 sq. ft.

Meg Rasmussen, 48 Vail Avenue, reported she and her husband are both landscape architects who have visited the site several times. They saw the nature of the landscape, talked to the owner about the spring-fed pool, and identified plants that only exist in damp areas. She feels drainage problems and water issues existed on the site until the owner "landscaped" them away. Ms. Rasmussen was disappointed that the project will be approved in spite of an increase in runoff once contained on site. She felt the additional volume will add to the City's system which is at its peak during storm events, and then eventually into the Fishkill Creek. She feared the owner would be

pushing his problems from private property into the existing ecosystem and landscape. Ms. Rasmussen was disturbed because these small incremental projects create a cumulative effect for flooding and felt this project should not be approved.

Alan Flynn, 160 Union Street, asked if the City uses NWI maps to determine Army Corp jurisdiction of wetlands. Mr. Russo explained those maps are used as a guideline to show wetlands that may be located on a particular site. Discussion took place regarding on site water, seepage, drainage, and the conveyance system that drains into a catch basin on Judson Street. Mr. Flynn reiterated his concern that a site inspection was not done until the property had been disturbed, and that a qualified biologist did not visit the site.

Ms. Strianese said the board looks closely at property that may be developed and they try to control density as much as possible within code limits. The board consultants advise them on site runoff issues however felt it unfortunate the site wasn't looked at prior to disturbance. Ms. Strianese deferred to the consultants' expertise and advisement that the builder is doing whatever is necessary to create buildable lots.

Ms. Sachs remained uncomfortable even though the City's consultants advise otherwise. She felt it is a challenging site that has been surrounded with misinformation and various issues; and although a property can be legally divided, it may not necessarily be appropriate. Ms. Sachs was uncomfortable with the number of lots, and in particular had concern for the stability of the gabion wall. She noted there are more mature trees on site than identified on the plan.

Mr. Gunn said water issues are evident in most applications before the board, and believed they need to rely on their experts. Density is a zoning issue, and if engineering proves that lots are viable, then a project can be approved. He felt that although sometimes a project is intellectually troubling, the board has limited purview.

Mr. Dutch had concern for discharge from the sump pump pipe located on the church's property. Mr. Russo explained they already have an existing sump pump to handle water that comes from the basement of the house and the applicant will extend and tie that pipe into the City's drainage system. Mr. Dutch had reservations on how the site was initially approached because it was excavated before application was made. He feels the property is too small and preferred to see fewer than five lots.

Ms. Sachs was concerned that the rain gardens would not be properly maintained by individual homeowners. Mr. Koehler explained the DEC encourages the use of water gardens and green infrastructure methods. Specific directions for maintenance will be provided in the deed and lack of maintenance will be a violation of subdivision approval. Mr. Russo confirmed the DEC is strongly pushing utilization of rain gardens.

Mr. Flynn asked to see details of the agreement between the applicant and the church, specifically whether the trench would remain or be graded over. Mr. Russo explained water that currently goes into the trench will be cut off, piped around, and

directed to the catch basin. The inlet pipe will remain and a grate will be placed over it for protection. Mr. Flynn believed water is coming out of the soil where the ground floor elevation of Lot #4 and the first floor elevation of Lot #3 are shown. He feels Mother Nature will prevail over engineered management practices. Mr. Koehler stood by the drainage plan prepared for this property and believed there would be no problems. Mr. Flynn asked why they did not make Lot #3 a detention pond. Mr. Koehler explained a detention pond is unnecessary and is not required for this subdivision. Mr. Russo confirmed that a detention pond is not required by the DEC.

Mr. Koehler reported his client had originally found a buyer for the property who backed out of the purchase due to the condition of the pool. The pool did not meet code, had no fencing, was not fed in a normal manner, and had no filtration system. Mr. Joseph consulted the City which resulted in a site visit by the City Engineer. Mr. Koehler said he was also on site to document what was done at the time. During the demolition of the pool, they fixed pipes that were found to be in a state of disrepair. He explained that activity had nothing to do with preparing for a subdivision.

Mr. Dutch expressed concern with possible wetlands on the property and for the appearance that the owner stepped around that to create five new lots. Mr. Koehler reported the CAC visited the site and also concluded the property was not in a wetland area. Additionally, he said the Army Corp of Engineers determinations wetlands based on three criteria – hydrology, soil, and vegetation. Mr. Koehler reported they researched the property by that criteria and determined that it is not considered wetlands. When the pool was filled, a line led into an overflow pit near the bottom of the pool, ran through a pipe toward the DiDominicus property, and into a catch basin on Judson Street. A dye test performed and viewed by the City Engineer's office confirmed that direction of flow. Mr. Koehler said this project will add four catch basins and 600 feet of 18-inch pipe to the City's infrastructure.

Ms. Attaway understood concerns of board members but explained the existing zoning regulations allow subdivision of the property. Overall, the board has dealt with several properties that had drainage concerns and many times development has improved conditions.

There were no further comments and Mr. Gunn made a motion to close the public hearing, seconded by Ms. Strianese. All voted in favor. Motion carried.

Ms. Attaway made a motion to issue a negative SEQRA declaration for the proposed subdivision, seconded by Ms. Strianese. On roll call Ms. Attaway, Mr. Gunn, Ms. Strianese, Mr. Dutch, and Mr. Muscat voted in favor of the motion; Ms. Sachs voted against the motion. Motion carried 5-1.

Ms. Brown explained the EAF should be revised to indicate rock outcroppings exist on site. Additionally the plan proposes planting Forsythia bushes between lots however it is recommended that a species of evergreen be incorporated to provide more adequate screening.

Mr. Russo asked how access to the private on-site drainage system would be obtained over Lot #3 and Lot #5. Mr. Koehler explained they are proposing a blanket easement for those two lots; he did not add metes and bounds for the easement in case the driveway for Lot #5 was altered. Mr. Russo explained metes and bounds must be provided on the plan and suggested means of ingress and egress be shown as well. Mr. Russo advised the board to require bonding for the new water service that will serve the Chuisano property and that work be completed prior to the issuance of the first building permit for the project. He asked if the seepage pit in the southwest corner of Lot #3 would be tied into the proposed private drainage system or removed. Mr. Koehler explained that portion of the under drainage will be removed after yard drains are installed. Mr. Russo said maintenance information for the rain gardens must be included in the deeds for Lots #1, #3, and #5. A note should be added to the plans stating that prior to the issuance of a building permit the Building Department will inspect the existing house to confirm that there are no existing stormwater connections to the City's sanitary sewer system. Additionally, the applicant's engineer must provide a letter certifying that there are no connections of roof leaders or sumps from the existing dwelling to the City's sanitary sewer system. A note must be added to the plan confirming that there are no such cross connections.

Mr. Russo recommended they remove the pipe that exits into the existing catch basin on the northwest side of Judson Street, and that they seal the catch basin with concrete and brick. Items outlined in the agreement with the church should be added to the plan, and the plat must be updated to show current ownership and tax map numbers of all adjacent properties. Mr. Russo asked for details on the design of each pump station, and that all easements and maintenance agreements be submitted to the City Attorney for review and approval. Lastly, the applicant will need to obtain Dutchess County Health Department approval for filing of the plans.

After some consideration, Ms. Strianese made a motion to grant preliminary subdivision approval subject to the applicant fulfilling all comments as presented, seconded by Mr. Gunn. All voted in favor. Motion carried.

**ITEM NO. 2 PUBLIC HEARING ON APPLICATION TO AMEND SITE PLAN APPROVAL, BUILDING ADDITION, 74 DENNINGS AVENUE, SUBMITTED BY TIGA REAL ESTATE, LLC**

Ms. Attaway introduced the public hearing and advised the applicant that they would consider architectural review at the same time. Architect Al Cappelli explained his client, Tiga Real Estate, a commercial-market jewelry manufacturer, is seeking approval to expand their operation at 74 Dennings Avenue. Last summer they came before the board and reviewed several options to determine the best placement for the addition. Due to the setback and position of the existing building, everyone concluded that a rear addition would be best although side and rear yard variances would be required. Subsequently they went to the Zoning Board of Appeals and were granted variances to allow the addition's footprint of 20 ft. x 58 ft. as initially proposed. Mr. Cappelli presented elevation drawings of the existing building with and without the proposed addition. The existing building is a heavy timber pre-engineered structure with

a metal skin that will be redone with new façade to match the proposed addition. Mr. Cappelli explained more parking is needed due to the intensity and usage of the building, additional workers, and square footage. Therefore they are proposing five additional spaces on the north side of the parking lot that are not required by zoning.

Cynthia Griffin, 66 Dennings Avenue, asked what type of buffer would be put into place to protect the adjacent residential properties. Mr. Cappelli explained the structure will be 1-1/2 stories high, and showed her the proposed landscaping plan. There will heavy landscape on the residential side to minimize headlights from shining onto the property.

City Planner Sara Brown asked that all landscaping be maintained in a healthy growing condition and all exterior lighting be directed so as not to cause objectionable glare to neighboring streets and properties. A note should be added listing variances granted by the Zoning Board of Appeals. Lastly, she suggested utilizing a different evergreen species since the site already contains several White Pines.

Mr. Russo advised the applicant to update the plan to include a note referencing the variances granted. The erosion control plan must be updated to ensure compliance with current NYSDEC requirements and submitted for review. Additionally as with all applications, stormwater connections must be certified in writing and inspected by the Building Department.

Ms. Strianese suggested incorporating a variety of plantings into the landscape. Ms. Sachs asked that they avoid the use of White Pines and suggested using Spruce. She asked that the plan include contour lines for landscaping as well.

There were no further comments and Mr. Gunn made a motion to close the public hearing, seconded by Ms. Sachs. All voted in favor. Motion carried. After some consideration, Mr. Gunn made a motion to grant Conditional Site Plan Approval subject to the applicant fulfilling all consultant comments and returning with revised plans, seconded by Ms. Sachs. All voted in favor. Motion carried. Mr. Gunn made a motion to issue a negative SEQRA declaration for the proposed site plan amendment, seconded by Ms. Strianese. All voted in favor. Motion carried.

### **Architectural Review**

#### **74 Dennings Avenue: Building Addition, submitted by Tiga Real Estate, LLC**

Mr. Cappelli presented colored renderings of the existing and proposed building elevations for review. The three tiered building will have a concrete block appearance on the lower level and stucco on the upper level. Materials include a lower band of sandstone colored concrete 12" x 24" face-block to emulate a cast stone, buff colored split-face concrete block, and horizontal alternate color band made of split-rib concrete block. Solar panels and a system to recycle rainwater will be installed. The silver galvanized roof will be carried on to the addition. The walk up attic area, similar to a Cape Code style house, will be used for storage. Mr. Cappelli explained they tried to pick up residential elements by adding gables and dormers to the building. After

reviewing the proposed color scheme, Mr. Gunn made a motion to approve the proposed building design as presented, seconded by Ms. Sachs. All voted in favor. Motion carried.

**ITEM NO. 3 REVIEW APPLICATION FOR SITE PLAN APPROVAL, EXPAND FOOD SERVICE TAKE-OUT INTO RESTAURANT WITH SEATING, 242-244 MAIN STREET, SUBMITTED BY ELBERT GAITHER**

Aryeh Siegel described his client's proposal for the building at 242-244 Main Street which consists of two storefronts on the street level and a one-bedroom apartment on the second level. Currently Gates Fish & Fries is a take-out food service that occupies the storefront at 244 Main Street. The business is doing well and the owner is seeking approval to expand into the adjacent 242 Main Street to create a restaurant with seating. Mr. Siegel explained the restaurant and apartment use requires a total of 18 off-street parking spaces by zoning. The adjacent lot was previously subdivided and Site Plan Approval is in place that includes a number of easements and deed restrictions. Therefore, the subject lot only has two off-street parking spaces located to the rear of the building. Concerns were raised with regard to the 11 ft. right-of-way access to the parking area which is not located on the applicant's property. Mr. Siegel believed the entire lot was covered when the subdivision, easements and deed restrictions were originally put into place, however said he will look into it further.

Mr. Russo asked if there was an enclosure for the existing trash receptacle area located behind the building. If not, he advised that one be provided and details of the enclosure added to the plan. Additionally, the plans should locate existing roof and sump pump drains, including a letter of verification that they are not tied into the City's sanitary sewer system. A note should be added granting the Building Department access to verify where roof leaders and sump pump drain.

Mr. Siegel respectfully requested the board consider issuing a positive recommendation for the Zoning Board of Appeals with regard to parking. He explained the applicant can only provide two off-street parking spaces however a municipal lot is located only one block away and parking is available along Main Street.

Ms. Sachs asked if the handicap space located to the rear of the building could be accessed through the building. Mr. Siegel confirmed access could be gained through the building. After considering the request, Mr. Gunn made a motion to forward a favorable recommendation to the Zoning Board of Appeals, seconded by Ms. Strianese. All voted in favor. Motion carried.

Mr. Gunn made a motion to set a public hearing for the next available meeting after the applicant has gone before the Zoning Board of Appeals, seconded by Ms. Strianese. All voted in favor. Motion carried.

## **Miscellaneous Business**

### **City Council Request: Review City Code for Escrow Fees**

City Attorney Nick Ward-Willis explained the City Council will be holding a public hearing to amend the City Code relative to Planning Board escrow monies. The section of code currently outlining specific dollar amounts now listed under the zoning ordinance will be moved into the City's fee schedule that will then get adopted by resolution. Mr. Dexter explained the manner in which fees are collected will be revised and certain fees will be increased to be in line with surrounding municipalities.

Ms. Attaway had concern that they would be approving rates and City Attorney Nick-Ward Willis explained the board is only reviewing the concept of moving specific fees from the zoning ordinance into the City's fee schedule area. Mr. Dexter explained the proposed change includes a fee for Architectural Review if the Chairman deems it necessary. This will only be used when there is a significant need for advice from counsel, the engineer, or planner which should be very infrequent. Mr. Dexter also explained the City Council will be looking at increasing fees and changing how collection takes place. After considering information presented, Ms. Sachs made a motion to support the amendment as presented, seconded by Ms. Strianese. All voted in favor. Motion carried.

There was no further business to discuss and Mr. Gunn made a motion to adjourn the meeting, seconded by Ms. Sachs. All voted in favor. Motion carried. The meeting adjourned at 8:20 p.m.