

Town of Newburgh  
Plan Commission  
Minutes June 6, 2016

**Members Present:**

David Wills, Bill Bell, Tammy Timmel, Tom Bodkin, Rick Hornbeck, Jason Brown

**Administrative Present:**

Tonya McGuire, Council Liaison; Attorney; Chris Wischer, Legal; Tavi Wydicks, Zoning Administrator

**Members Absent:**

None

**REPORTS:**

**Town Council Liaison:**

None

**Staff:**

Ms. Wydicks stated that in May 2016 there were a total of 10 projects totaling \$216,595.00. 13 permits have been issued in May 2016 with total fees collected of \$525.00.

**Unfinished Business:**

*Master Plan Update Project Status*

Mr. Wischer stated the status is pretty similar to where they left it at the last meeting. Finance Committee and Council are in discussion about finances and priority of projects. There is a meeting with Umbaugh on the first of July where there will be some discussions with the Finance Committee on town finances. Mr. Wischer would like for the status to stay on the agenda for the next meeting to give an update.

Mr. Bodkin asked if the council was aware of the request for a budget item to be included when the budget is done. Mrs. McGuire stated that it has been in the last two budgets and unless they hear from Umbaugh that it can't be done, it should be on next year's budget. Mr. Bodkin stated that they should go out for requests for proposals instead of request for qualifications since there are not that many people that do Master Plans.

**New Business:**

*Withdrawal of Wal-Mart Plat*

Mr. Wischer stated that Wal-Mart is no longer purchasing the property so their proposed development is not going forward. The commission had approved a primary plat back in December 2015. Mr. Wischer & Ms. Wydicks have communicated with the Wal-Mart representatives that the right thing for them to do is to withdraw the plat. An email was received from the engineer Andrew Johnson that stated "Please remove the Plat of Subdivision from the Town of Newburgh Commission queue". Mr. Wischer stated what they would like is a statement from Wal-Mart withdrawing the primary plat so it is not out there anymore. Mr. Wischer has been in contact with Wal-Mart's attorney and he has agreed to write a letter, so a letter from Wal-Mart withdrawing the primary plat is expected to arrive sometime soon.

Mr. Bodkin stated that the zoning and the plat are two separate things and the zoning stays with the use and development commitment. Anyone that buys that land buys it subject to that zoning and commitment. The only way to change the zoning and or the commitment is to come back with a zoning request. Mr. Bodkin stated that the land is zoned as C2 with restrictions.

Mr. Wischer stated it can only be used as C2 in compliance with the use and development commitment, which is tied to a development plan and a site plan. Someone would have to come in and build precisely the same building, develop the parking lot, comply with the landscaping commitments, tree replacement commitments, road improvement commitments and all other commitments made by the user. Any use other than Agricultural, which is grandfathered in, would have to come through this Committee and Council for rezoning.

Mr. Bodkin stated that someone could come in and build precisely the same thing but would have to come back with a new plat and the committee would know that they understood precisely what they had to do. If someone wanted to take it back to residential they would come to the Committee to rezone. The only way to get the use and develop commitment off the land is to rezone it. It can be rezoned as a C2 and the commitments would come off.

The commission agreed that the Wal-Mart Plat Withdrawal should be placed on the agenda for next month and await the formal request for the plat to be withdrawn.

### *Zoning Ordinance Amendment*

Mr. Wischer sent out a revised ordinance last month based upon the discussion at the Plan Commission Meeting last month and the Council meeting that followed. Mr. Wischer removed number one (1) and number (4) under subsection C. Mr. Wischer stated that the next step in this process, if the draft is approved, would be to schedule the public hearing and it be properly noticed.

Ms. Wydicks explained that this issue regarding a C2 property started back in 2013 when they sent a letter to the Wittenbrakers across from the Fire Station that they could not have outside storage based on their zoning. It was advised to the Wittenbrakers at that time to do a rezoning. When they came back requesting a rezoning, it was determined that their use does not fit in any other category but what they are in. This amendment to the zoning ordinance is to try to allow for some outside storage. Mr. Wischer explained that C2 is general commercial, C1 is town core and C3 is neighborhood commercial. He went on to explain that C2 is the only commercial zoning that does not allow for outside storage and there are very few C2 properties in town.

Mr. Brown stated the prohibition on outside storage could be removed completely in that zoning category if there are so few properties zoned C2. Mr. Bodkin stated that in essence that is what this revised draft is doing. This amendment is approving outside storage but is requiring it be behind an opaque privacy fence. The parts requiring the storage to be behind the building and the percentage allowed have been removed. Mr. Wischer stated the prohibition was removed but limitations were added.

Mr. Bodkin stated the public hearing will be on August 1, 2016 on the revised draft for the proposed modifications to the zoning code C2 requirement relating to the general requirement for outside storage at 5:30pm. Mr. Bodkin asked Ms. Wydicks and Mrs. McGuire to ask the Town Council President to put the Zoning Ordinance Amendment on their second August meeting which will be August 24, 2016.

### **Items of Interest to any Plan Commission Member:**

#### *Michaela Anthony's at State and Fourth Street*

Mrs. McGuire brought up the business Michaela Anthony's on State & Fourth Street. The business on Facebook states that it is permanently closed and the owner is no longer living at the residence. Mrs. McGuire stated that if the business is no longer operating that the outside storage should go and the sign should come down. Ms. Wydicks stated that she believes that the property is on her nuisance compliant list but will have to confirm.

Mrs. McGuire stated that they can move forward with requesting that the business sign come down since there is no ongoing business there. Ms. Wydicks stated that they were having an issue with weeds but she has been told by Chief Sprinkle that they have mowed.

Ms. Wydicks explained that when a nuisance complaint is registered they give the property owners notice, they have so many days to correct the situation and if it is not corrected, the town will send out crews to clean up the area. A bill is then sent to the property owners for the cleanup and if that is not paid, then the property will go to lien.

*Barefoot Cottage*

The work is progressing at Barefoot Cottage. Ms. Wydicks stated they received all state defined releases and they are good to go. Mrs. McGuire stated she spoke with the owner and they are looking at moving into the building around September.

**Announcements:**

None

**Petitions and Comments from Citizens Present:**

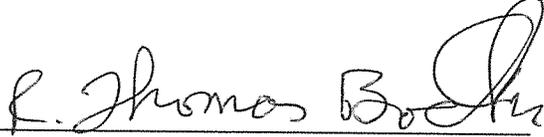
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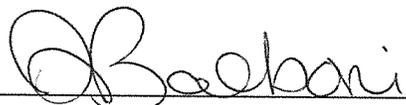
**Adjourn:**

Mr. Wills made a motion to adjourn.

Mrs. McGuire seconded and the motion carried.

Next Meeting will be July 11, 2016 at 5:30 pm.

  
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Chair

  
\_\_\_\_\_  
Recorder