PO Box 1151
Newburgh, NY 12551
(845) 568-2558
greaternewburghpartnerhip.org

City of Newburgh Zoning Code Revisions
Leadership and Advisory Task Force Meeting
October 22, 2013 6:00pm
St. Luke's Cornwall Hospital, Drake Conference Room

In attendance for City of Newburgh:

Judy Kennedy, Mayor; James Laughter, Interim City Manager; Michelle Kelson, Corporation Counsel; Ian MacDougall, City Planner; Steve Hunter, Building Inspector

In attendance for City of Newburgh Advisory Committee:

Chuck Thomas, Waterfront Advisory Committee; Deirdre Glenn, Armory Unity Center; Tiombe Tallie Carter, Newburgh Professional Business Association

In attendance for Orange County:

Kate Schmidt, Orange County Planning Department

In attendance for AKRF:

Nina Peek, Project Manager and Sr. Technical Director; Peter Feroe, Project Planner

In attendance for Greater Newburgh Partnership:

Sue Sullivan, Executive Director;* Marcy Handler, Director of Administration & Grants**

Absent:

Regina Angelo, Deputy Mayor; Joanne Lugo, Chairperson; Doug Hovey, Independent Living; Rev. Byron Williams, Newburgh Christian Ministerial Fellowship, Peter Gonzalez, Latinos Unidos; Allan Atzrott, Greater Newburgh Partnership; Philip Howard, Board of Education, Newburgh Enlarged School District; Nancy Proyect, Orange County Citizen's Foundation; Elizabeth Evans, Assistant to the City Manager;** Peter Smith, Quassaick Creek Watershed Committee; Joshua Smith, Industrial Development Agency;

*Ex-Officio
**Support Staff

The meeting opened with a discussion of dates to cover the remaining text. Tuesday, November 5th is Election Day and City Hall is closed. No City employees will be working that day so that meeting will be moved to Wednesday, November 6th at 4:00 with the final November meeting on Tuesday, November 19th at 6:00. Both of these meeting will be

facilitated with maps and internet access as the group moves into discussion of form based code.

Ms. Peek addressed a rumor regarding the perception that AKRF was re-writing the Future Land Use Plan and making changes to the approved Future Land Use Map, which is not accurate. In the 10 months that the group has been meeting, the scope of this project has been clearly defined as codifying the recommendations in the Future Land Use Plan and Map into zoning text. It was re-iterated that the Future Land Use Plan provides maps of land uses, but not zoning districts – and could not be implemented until the zoning text and zoning map were revised and adopted. For this assignment, AKRF is tasked with revising the zoning text and zoning map to codify the Future Land Use Plan. AKRF is not tasked with, nor are they undertaking, an update to the adopted Future Land Use Plan and Map.

. Mr. Feroe then moved to the next agenda item. As the group had previously finished the site plan and special permit sections, the discussion would move again to the administrative procedures as the group learned at the last meeting (10.8) that Mr. Slaughter had specific ideas that might guide the text differently than proposed.

Mr. Slaughter stated that he was only looking at an internal administrative process on how to process applications and setting up a budgetary position in 2015 that was strictly administrative having nothing to do with zoning. However, the group expressed confusion, noting that the administrative portion of the zoning code details how an application is processed, from the time it walks in the door to when it is referred to a Board and ultimately to when a building permit is issued. As this process is currently in the Zoning Code and is needed to provide Applicant's with a clear understanding of the process, the new process needs to be written into the code.

Mayor Kennedy questioned why the City Council would legislate the procedure for processing applications. Ms. Peek and Ms. Glenn both advised that it is already law spelled out in the current code. Mr. Feroe added that the procedures, including fees, criteria for review and approval, and application timelines, are codified in order to provide transparency and fairness to all Applicants, and to provide clear expectations to Applicants looking to build within the City.
Processing applications through the Code Enforcement Bureau was also recommended by the Pace University Center for Land Use in their recommendations to streamline the application process. Mr. Slaughter is considering ultimately moving that responsibility to the Planning and Development Department, but agreed to keep the current proposed text, which processes applications through the Code Enforcement Officer. Mayor Kennedy questioned whether the City could easily make adjustments if they found in a year the process doesn't work. Ms. Peek noted that zoning code is meant to be a living document, subject to amendment periodically. Ms. Kelson noted that amending the zoning requires an action of the City Council and recommended that the group establish a policy now
Mr. MacDougall indicated from what Mr. Slaughter had said that a zoning code amendment could be expected in 2015, which is not a normal occurrence, as it is cumbersome to legislate and will take place at the same time that the new zoning code is implemented. Any potential amendment items expected in 2015 or 2016 should be addressed in this document and the streamlining recommendations need to be incorporated as well.

The group indicated that this document was far more business friendly. Businesses, individuals, and homeowners have to be able to use this document, know what the process is, and know what to do.

Ms. Sullivan stated that the City Council had approved both the Pace streamlining recommendations and the Future Land Use Plan. Since the purpose of the zoning text re-

write is to codify the recommendations in those City-approved plans, the administrative procedures within the new code should reflect the work the City Council and the many stakeholders in the City of Newburgh have already done. Ms Kelson agreed that leaving the applications and permits processes within Code Compliance under a gatekeeper in that department will work. The group agreed that the Administrative procedures within the draft zoning text are appropriate and further the goals of the Streamlining and Future Land Use Plans and that any future changes that are proposed to the processing of Applications should not change the codified procedures.

The group then returned to the escrow and fees section. As many of the details were technical in nature, Ms. Peek and Ms. Kelson agreed to work out those details, in consultation with the City Engineer, and present any changes to the group.

The group moved on to the special use permit section that the group was provided several weeks ago. The group reviewed the criteria for review and approval of Special Use Permits and agreed that the criteria listed in the draft text, including the relevant planning documents, was appropriate. The group agreed that special use permits should be allowed a single 6-month renewal if the Applicant has not pulled a Building Permit within 12 months of the initial approval.

During the Special Use Permit discussion, a question was raised by Mr. MacDougal regarding the Waterbody Protection Overlay and what waterbodies it protected. Mr. Feroe reminded the group that the WPO includes the Gidneytown and Quassaick creeks, as well as the ponds, lakes and streams that are within those systems. The Hudson River was also included in the WPO, but Mr. Feroe stated that a revision to this will be addressed in two weeks when we move into the form based code and the waterfront district discussion. The purpose of the overlay is to protect the creeks, ponds, and streambeds. It was acknowledged that 100’ from the highest water mark won’t always fit, but that it was the most appropriate distance to use in the text.

A question about noise from loudspeakers was posed within the Special Use Permit discussion and how the zoning text should refer to noise regulations. Ms. Kelson said the City had recently purchased decibel readers and the City revised the noise ordinance, which should be referenced within the Special use Permit criteria.

Planning Board referrals of Special Use Permits to the ARC are not going to be mandatory. The ARC makes aesthetic judgments not land use decisions, therefore the nature of the Special Use is not appropriate for the ARC to base judgment on. For the same reasons, referrals from the ZBA to the ARC for use variances should not be mandatory.

Mr. MacDougall revisited the discussion on conditions at the beginning of the special use section and expressed concern that it difficult to confirm whether some conditions of site plan approval have been met, for example, storm water, especially when conditions are hard to measure. Mr. Hunter assured that he does currently perform field verifications to ensure that conditions of site plan approval have been incorporated into the site construction and that he can also engage the City Engineer to verify that certain conditions are met.

The group then turned to the Zoning Board of Appeals section and reviewed the text that was submitted to the group several weeks prior. The group agreed that the criteria for use and area variances in the draft were appropriate. With regards to application procedures, the group decided that 90 days was an appropriate amount of time within which applications for variances should be filed.

With regard to the number and format of Applications, it was decided that the zoning text should state that Applications should be submitted in the number and format required by

the Boards as provided in a policy document adopted by the individual Boards, to be made available by the Code Enforcement Officer when applications are filed. That way, when the Boards are ready to accept or require electronic submissions, a code amendment is not necessary.

With regards to mandatory referrals of variances to the NYS Parks Commission, it was noted that this provision was a relic of the current Code. Ms. Schmidt stated that referrals are already mandatory to the County in cases when Applications have potential impacts to parks. Therefore, mandatory referral to NYS Parks would not be necessary and should be deleted from the text.

With regards to noticing applications for variance, Ms. Kelson stated that the radius used to identify potentially impacted property owners for mailed notifications should be consistent for all applications. 500 feet was determined to be the most appropriate radius. The group also decided that the code should not require signs to be posted for any applications in advance of the public hearing as they could create a visual nuisance and that the urban form of most of the City would not allow for easy posting. Finally, it was clarified by Ms. Kelson that the notifications sent to the newspaper and adjacent property owners was the same notice and that the Code should not require that two separate notices be sent.

Ms. Kelson recommended that the current section in the Code allowing the ZBA, on its own motion, to reopen a hearing should be kept. This allows the ZBA to correct any potential errors without making the Applicant wait a year before reapplication.

The next section for discussion was: definitions, for land use control, and environmental standards. This section includes definitions (not previously discussed), explains how the code works, and what's in it. As the group has had this section for more than a month, Mr. Feroe moved right into the specific questions that AKRF had for the group on this section, instead of walking through each paragraph. The group confirmed that there were no uses that should be prohibited under all circumstances and that should not be allowed to be continued as nonconforming uses. The group also agreed that 18 months was the appropriate amount of time after which a discontinued nonconforming use would not be allowed to be re-established. Ms. Kelson and Mr. Hunter agreed to look at the nonconforming use and structure section (beginning at 300-62) and provide any technical comments.

The change of use section was briefly discussed and will be revisited under the form based code section. Mr. Slaughter is interested in adaptive use and reuse. He was advised that the group will be discussing - change of uses requiring full site plan review at the next meeting, including what level of Board review will be required. . The intention is to be business friendly.

Ms. Peek announced the importance of the homework. A chart reflecting the Schedule of Use requirements and Bulk & Area Table was provided to the Advisory Group in advance of the meeting. AKRF spent a lot of time reflecting on what is here now and what the City is looking for in terms of lot size, height, and parking from the discussions that have taken place since January. The chart reflects an urban environment in terms of lot size, setbacks and off-street parking requirements. The draft use table proposes extremely important recommendations regarding what uses require site plan approval and what uses can be allowed as of right without site plan and Planning Board review. Ms. Peek asked the group to please look, think about the content, and get comments from the constituency they represent. The group will begin the next meeting with a discussion of these charts. As these charts are the items that will be consulted most frequently by City residents, it is critical that they accurately reflect the intention of the group.

The next meeting is scheduled for November 6th, 2013 in the Large Nurse's Conference Room at St. Luke's Cornwall Hospital at 4:00 pm.