

**TOWN OF GREENBURGH  
PLANNING BOARD MINUTES  
TOWN HALL – GREENBURGH – NEW YORK  
Wednesday – July 18, 2018**

The Work Session of the Planning Board of the Town of Greenburgh was held on Wednesday, July 18, 2018, in the auditorium of the Greenburgh Town Hall, 177 Hillside Avenue, Greenburgh, New York, and began at 8:00 pm.

**1. ROLL CALL**

Present: Chairperson Walter Simon, Hugh Schwartz, Kirit Desai, Mohamed Ayoub, Chet Watson and Thomas Hay (Alternate – Voting Member)

Absent: Michael Golden and Viola Taliaferrow

Staff: Aaron Schmidt, Deputy Commissioner, CD&C  
David Fried, Esq., 1<sup>st</sup> Deputy Town Attorney  
Garrett Duquesne, AICP, Commissioner, CD&C

*Chairperson Simon noted that alternate Planning Board member Mr. Thomas Hay was present for this meeting, and would be a voting member in place of Mr. Michael Golden.*

**2. APPROVAL OF MINUTES**

**a. June 20, 2018 Work Session Minutes**

Chairperson Simon asked Planning Board members if there were any comments to the draft Planning Board minutes of June 20, 2018. There were no comments. On a motion made by Mr. Schwartz and seconded by Mr. Watson, the Planning Board unanimously voted to approve the June 20, 2018 minutes, as written.

**3. CORRESPONDENCE**

**a. Case No. PB 17-16** 609 Saw Mill Petroleum LLC – 607 Saw Mill River Rd. (P.O. Elmsford, N.Y.) – Preliminary Subdivision 1<sup>st</sup> Extension Request

Chairperson Simon provided an overview of the applicant's first extension request of the Preliminary Subdivision approval in connection with this project, noting that the applicant currently is working with the NYSDOT and Westchester County Department of Health to finalize the subdivision plat. There were no additional comments. On a motion made by Mr. Hay and seconded by Mr. Ayoub, the Planning Board unanimously voted to grant a 180-day extension of the preliminary subdivision approval for Case No. PB 17-16, 609 Saw Mill Petroleum LLC, valid through February 7, 2019.

**4. OLD BUSINESS**

**a. Case No. PB 17-31** Lenis – 195 Gibson Avenue (P.O. White Plains, N.Y.) – Planning Board Steep Slope Permit

A work session to discuss the decision of a Planning Board steep slope permit application involving a proposal to complete re-grading activities within the rear yard portion of the subject property, in order to provide for a more useable yard space. The applicant also is proposing to remove and replace an existing 660 sq. ft. patio area, to rebuild retaining walls on the east side of the house, to construct a new masonry retaining wall in the rear yard, to install a new footing drain at the rear of the residence to alleviate basement water issues, and to install stormwater infiltrators in the east side yard to manage stormwater runoff on-site. An existing, on-site garage, which is in poor condition, is proposed to be renovated at a later date. The applicant proposes 4,675 sq. ft. of disturbance on 15-25% slopes (STEEP SLOPES), 541 sq. ft. of disturbance on 25-35% slopes (VERY STEEP SLOPES) and 57 sq. ft. of disturbance on 35%+ slopes (EXCESSIVELY STEEP SLOPES). The project requires approximately 400 cubic yards of cut and 0 cubic yards of imported fill. The properties consist of approximately 19,180 sq. ft. and are situated on the south side of Gibson Avenue approximately 130 feet from the intersection of Downing Drive East and Gibson Avenue. The properties are located in the R-10 One-Family Residence District, and are designated on the tax map of the Town of Greenburgh as Parcel ID's: 8.10-10-9 & 17.

Chairperson Simon noted that a draft decision had been circulated by staff for the Board's consideration, and asked if there were any comments. Chairperson Simon identified that, as part of the public hearing held on this project, the Planning Board requested that the stormwater management design be reviewed, based on concerns raised by a neighboring property owner related to flooding. Mr. Simon reported that the Town Engineer was asked to review stormwater calculations for the project, and that a memorandum was received

from the Town Engineer advising that the proposal exceeded the Town's stormwater management requirements, resulting in a likely improvement over existing conditions. On a motion made by Mr. Schwartz and seconded by Mr. Ayoub, the Planning Board unanimously voted to approve the Planning Board steep slope permit for this project.

**b. Case No. PB 18-10 Quintero Subdivision – 20 Terrace Street (P.O. White Plains, N.Y.) – Preliminary Subdivision**

A work session to discuss the decision of a preliminary subdivision application involving the proposed subdivision of one (1) existing lot, approximately 11,250 sq. ft. in size, into two (2) buildable lots, for the purpose of constructing one (1) new single-family residence. This project was granted Preliminary Subdivision approval on April 21, 2011, under case number PB 10-08, which expired on October 18, 2011. Proposed Lot 1 would equal approximately 6,250 sq. ft., with an existing one-family residence to remain. Proposed Lot 2 would total 5,000 sq. ft., and would be improved with one (1) new, single-family residence. One new curb cut is required along Terrace Street. The applicant proposes the removal of two (2) regulated trees from within the Town's right-of-way, requiring a permit from the Town Highway Superintendent. A preliminary Landscape Plan has been submitted, which provides for the planting of two (2) Flowering Dogwood trees, seven (7) Prairie Fire Crabapple trees, five (5) White Pine trees, six (6) Juniper trees, and two (2) American Holly bushes. The project involves approximately 1,400 sq. ft. of disturbance. The project requires approximately 185 cubic yards of cut and 0 cubic yards of fill. The property consists of approximately 11,250 sq. ft. and is situated on the west side of Terrace Street, at the intersection of Dobbs Ferry Road and Terrace Street. The property is located in the R-5 One-Family Residence District, and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.10-6-1.

Chairperson Simon noted that a draft decision had been circulated by staff for the Board's consideration, and asked if there were any comments. Chairperson Simon noted condition 4.3, and Section 11, of the draft decision. On a motion made by Mr. Desai and seconded by Mr. Ayoub, the Planning Board unanimously voted to grant Preliminary Subdivision approval for this project.

**c. Case No. PB 16-01 Taxter Road Subdivision (REC Development & Consulting Corp.), Taxter Road, (P.O. Irvington, N.Y.) – Planning Board Steep Slope Permit and Wetland/Watercourse Permit – 1<sup>st</sup> Extension Request**

A work session to discuss the extension or renewal of a recently expired Planning Board steep slope permit and wetland/watercourse permit, in connection with a project involving 27,655 sq. ft. of disturbance on 15-25% slopes (STEEP SLOPES), 1,015 sq. ft. of disturbance on 25-35% slopes (VERY STEEP SLOPES), and 11,570 sq. ft. of disturbance within the 41,460 sq. ft. of regulated wetland/watercourse buffer area on the project site. The property consists of 5.22 acres and is situated on the south side of Taxter Road approximately 1800 feet from Mulligan Lane. The property is located in an R-40 One Family Residential District and designated on the tax map of the Town of Greenburgh as Parcel ID: 7.370-188-73.1, 7.370-188-73.2, 7.370-188-73.3, 7.370-188-73.4 and 7.370-188-73.5. The steep slope and wetland/watercourse permits were most recently approved on April 21, 2016 for two (2) years.

Chairperson Simon asked for the current status of the project, and a review of any open violations associated with the subject property. Mr. Raymond Tartaglione, of REC Development and Consulting, explained that the Building Department had issued violations for: (1) an unregistered truck left on-site, which has since been removed; (2) a portable toilet on site that had been knocked over, which has since been either uprighted or removed from the site; and, (3) a few other violations which are in the process of being remediated. Chairperson Simon identified that, based on the notice of violation, it appears that all items must be cured by July 21, 2018. Mr. Tartaglione responded that it is his belief that all violations could be rectified by such date. Mr. Hay asked about the other violations, specifically a trench that had been dug which may still be open. Mr. Schmidt responded that he had discussed this issue with the Building Inspector, who confirmed that trenches were dug along Taxter Road. Mr. Schmidt advised that the Building Inspector was unsure as to whether or not the open trenches had been filled or covered appropriately. Mr. Tartaglione stated that the trenches were dug by Con Edison and that he had reached out to Con Edison with regard to this issue.

Mr. Tartaglione provided a history of the project, noting that, in July 2017, his partner walked off the job. He stated that he currently is in a dispute over retainers with one of the lot purchasers. Mr. Tartaglione identified that Mr. Timothy Cronin, P.E., of Cronin Engineering, has been hired to oversee the project. He stated that he currently is taking bids in order to complete the roadway so that the two lot purchasers could

begin to develop their properties. He said that he had just recently learned that the Planning Board permits had lapsed, and has therefore sought the necessary extensions.

Chairperson Simon asked if the original bond for the project was in the name of the former contractor, Scavo Contracting. Mr. Tartaglione responded that Scavo Contracting was not able to stay on with the project, and that he currently was taking bids for a new contractor. Mr. Fried advised that, when a new contractor is retained, the bonds would need to be updated. Mr. Schwartz asked if the Planning Board steep slope permit and wetland/watercourse permit impacted all four (4) subdivided lots. Mr. Schmidt responded that he believed they did. Mr. Schwartz asked how many of the lots had been sold. Mr. Fried advised that two (2) of the four (4) lots have been sold. Mr. Schwartz asked if the permits for the sold properties should now be separated from the original approval. Mr. Fried stated that the permits cover all four (4) lots, and advised that once the lots associated with a subdivision are sold, the owner (successor in interest) accepts the rights. Mr. Schwartz asked if there were bonds related to each lot. Mr. Schmidt stated that the bond was related to public improvements (roadways, utilities, infrastructure, etc.).

Mr. Schwartz expressed concerns over the safety of the site, and asked what has been holding up the project. Mr. Tartaglione replied that, currently, the project is being held up by the lapsed permits. He noted that he has two (2) bids for contractors, and that if the permits are granted extensions, he will hire a contractor and continue site work related to the public improvements. Mr. Schwartz asked what is holding up the development of the two (2) lots that have already been purchased. Mr. Fried identified that the homes associated with those two lots cannot be developed until the completion of the roadway and utility work. Mr. Tartaglione noted that he believes the roadway could be completed within thirty (30) days of the start of construction, once the permits have been extended.

Mr. Fried asked Clifford Davis, Esq., the attorney for the purchaser of lot two (2), if he had any objection to the extension of the Planning Board issued permits. Mr. Davis stated that he has no objection to the extension of the permits, but noted that the roadway needs to be completed before his client may obtain a building permit. He added that he would like the correct party identified on the performance bond. Chairperson Simon stated that the bond must be updated and corrected as necessary. Mr. Tartaglione noted that the bonding company has stated that the bond is valid. Mr. Fried recommended that the Planning Board extend the two (2) permits for a period of one year, retroactive to April 21, 2018, conditioned upon the bonds being provided to the satisfaction of the Town Attorney's office and the curing of all violations to the satisfaction of the Building Inspector, within the timeframe allotted.

Mr. Bashir Alobeid, purchaser of lot 3, stated that he is at the mercy of Mr. Tartaglione, and needs the proposed roadway completed in order to build his home. Mr. Davis requested that a firm deadline be set forth in the extension letter for the roadway work. Mr. Fried stated that the Planning Board does not have the jurisdiction to require the work to be completed within a specific timeframe. He added that the performance bond is set to expire in April 2019, as set forth in the Planning Board Letter of Final Subdivision Approval. Mr. Davis questioned how Mr. Tartaglione could be held responsible without a conditioned timeframe being connected to the bond. Mr. Schmidt noted that the bond is set to expire at the same time as the extension, at which time the Town Attorney could make a decision on whether or not the bond would be canceled.

On a motion made by Mr. Schwartz and seconded by Mr. Hay, the Planning Board unanimously voted to grant extensions of the Planning Board steep slope and wetland/watercourse permits for a period of one year, retroactive to the original expiration date, and now valid through April 21, 2019, conditioned upon the bonds being provided to the satisfaction of the Town Attorney's office, and conditioned upon all open violations being cured within the timeframe required by the Town Building Inspector.

## **5. NEW BUSINESS**

### **a. Case No. TB 18-10 Urban Renewal Rezoning, (Proposed R-5/LTF and R-5/LMF Districts) – *Zoning Map and Zoning Text Amendments (Referral from Town Board)***

A work session to discuss a zoning map and zoning text amendment to add newly created zoning districts (R-5/LMF and R-5/LTF) to the Town's Zoning Map and Zoning Ordinance. The Town of Greenburgh Comprehensive Plan contains policies associated with the planned removal and replacement of the UR – Urban Renewal District. The existing UR District contains over 300 individual parcels that have been identified as appropriate for the proposed R-5/LMF One-Family/Limited Multi-Family Residence and the R-

5/LTF One-Family/Limited Two-Family Residence Districts. The Urban Renewal District was created in 1957, and in total, contains approximately 132 acres of land with a mix of residential, commercial and governmental uses.

Commissioner Garrett Duquesne, Department of Community Development and Conservation, provided an overview of the UR District and the proposed amendments. He noted that Urban Renewal was a federal program created by Congress with the passage of the Housing Act of 1949. The bill was meant to provide central cities with funding to “clear slums and remove blight”; \$53 million dollars of funding was provided. Commissioner Duquesne identified interstate construction and construction of federal buildings in Albany and rebuilding of office towers and malls in White Plains as projects implemented through Urban Renewal regionally. He noted that the Town of Greenburgh had an Urban Renewal Commission during this period. Nationally, after initial widespread support, the program became unpopular and was discontinued in 1973. Mr. Duquesne noted that, in the Town of Greenburgh, the UR District replaced a combination of R-5 and DS zoned properties. He reported that, today, the UR District is comprised of 338 total lots, 229 single-family (68%), 43 legal two-family (13%), and 66 lots (20%) made up of government, multi-family, parking, religious, and vacant uses. Commissioner Duquesne described the boundaries of the UR District. He noted that the Comprehensive Plan for the Town of Greenburgh has a policy identifying the need to rezone lands within the UR District. Commissioner Duquesne stated that the rezoning for the UR District would take place in three (3) phases. Phase I, which has already been completed, was the rezoning of the MSH-62 senior housing area. Phase II consists of the current proposal, to rezone the residential areas of the district. Phase III would be the rezoning of the properties situated along Tarrytown Road (Route 119). He noted that the high-rise apartments, currently located within the UR District, are not part of this proposal. He stated that the proposed districts are consistent with the Comprehensive Plan; future land use plan and related policies.

Commissioner Duquesne gave an overview of the existing uses within the UR District, as well as the proposed R-5/LMF and R-5/LTF Districts. He noted that the R-5/LTF is a proposed R-5 zone with lawfully existing, or approved, two (2) family residences, as permitted uses at the time of the adoption of the local law. Mr. Schwartz asked if there were any concerns related to attempts to construct two (2) family homes prior to the enactment of the local law. Commissioner Duquesne replied he did not believe that proposals of this nature are imminent. Mr. Schwartz suggested the use of a moratorium on two (2) family homes until the adoption of the local law could be considered. Commissioner Duquesne noted the limited potential for too many two (2) family homes, since off-street parking challenges would ensue, particularly with snow ordinances which restrict on-street parking during certain times of the year. Commissioner Duquesne noted one issue related to a series of three (3), two (2) family townhomes located along Warren Avenue. He stated that, based on the two (2) proposed zoning classifications, this property would be better suited to be classified as R-5/LMF, instead of R-5/LTF, as the existing townhomes would be a legal use within that district. The Planning Board asked that further research be conducted to confirm this suggested modification.

Commissioner Duquesne stated that letters were sent to all property owners within the UR District, and that many residents contacted the Department of Community Development and Conservation for clarification. He noted that there were no objections issued for the proposal and gave an overview of the questions and concerns raised by residents in the UR District. Mr. Schwartz asked if the newly proposed zone was a mirror of the R-5 zone. Commissioner Duquesne noted that the UR District does not have impervious surface requirements and that the rear yard setback is different in the two zones. Mr. Schwartz stated that any non-conforming property should be classified as “legal non-conforming” to avoid title issues. Commissioner Duquesne stated that he would look into that, as well as, impervious surface coverage and rear yard setbacks. Mr. Watson stated that the areas affected tend to be areas made up of, predominantly, lower income areas. He questioned whether, based on this fact, displacement of residents could happen with future redevelopment. Commissioner Duquesne stated that there was nothing in the code that required multi-family uses to be removed, and in fact, the current proposal would allow lawful rebuilding of multi-family properties. Mr. Schwartz suggested staff research areas of the Town where multi-family residences or two (2) family residences may make sense in the long term. Commissioner Duquesne replied that the areas of Town where multi-family developments are best suited are generally downtown areas, and walkable areas that were close to business centers. Mr. Watson asked that research be conducted on other communities that have gone through a similar rezoning exercise.

**6. ITEMS FOR PUBLIC HEARING & PUBLIC DISCUSSION (ITEMS WILL START NO SOONER THAN 8:45 P.M.)**

*Full transcripts of the items on for public hearing and public discussion are available through the Department of Community Development and Conservation.*

**a. Case No. PB 18-12 Prestige Tae Kwon Do, LLC, 590 Central Park Avenue South (P.O. Scarsdale, N.Y.) – Special Permit (Fully Enclosed Commercial Recreation Facility)**

A public hearing to discuss a special permit (fully enclosed commercial recreation facility) application, pursuant to Section 285-29.1(B)(5.1)(b)([1]) of the Zoning Ordinance of the Town of Greenburgh, involving the proposed conversion of 2,685 sq. ft. of vacant space (formerly Allstate Insurance and Westchester Vacuum's) to a Kang's Martial Arts studio. The property consists of approximately 46,174 sq. ft. (1.06 acres), and is situated on the east side of Central Park Avenue South (NYS Route 100) approximately 70 ft. from the intersection of Old Army Road and Central Park Avenue South. The property is located in the CA Central Avenue Mixed-Use Impact District, and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.471-346-21.

*On a motion made by Mr. Watson and seconded by Mr. Desai, the Planning Board unanimously voted to classify the project as a "Type II" action, under SEQRA. On a motion made by Mr. Schwartz and seconded by Mr. Watson, the Planning Board unanimously voted to close the public hearing on the project. Thereafter, in a work session following the public hearing, on a motion made by Mr. Schwartz and seconded by Mr. Hay, the Planning Board unanimously voted to approve the special permit associated with this project.*

**b. Case No. PB 17-37 Rojas Subdivision, 16 Montana Place (P.O. White Plains, N.Y.) – Preliminary Subdivision**

A public hearing to discuss a subdivision application involving a proposed lot line change. The applicant is proposing to transfer a 0.41 acre (17,855 sq. ft.) portion of tax lot 8.80-42-51 (16 Montana Place) to tax lot 8.80-42-25 (102 Russell Street). Tax lot 8.80-42-51 (16 Montana Place) is proposed to become 16,575 sq. ft. (0.36 acres) and tax lot 8.80-42-25 (102 Russell Street) is proposed to become 34,550 sq. ft. (0.79 acres), as part of the project. There is no physical development proposed as part of this application. Each of the two lots are fully developed with two-story single-family residences and related amenities. Currently, the property at 16 Montana Place consists of approximately 34,430 sq. ft., and is situated on the east side of Montana Place, approximately 370 ft. from the intersection of Greenvale Circle and Montana Place. It is located in the PUD Planned Unit Development District, and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.80-42-51. The property at 102 Russell Street currently consists of approximately 16,695 sq. ft., is situated on the north side of Russell Street, approximately 360 ft. from the intersection of Fulton Street and Russell Street, is located in the R-7.5 One-Family Residence District, and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.80-42-25. If approved, tax lot 8.80-42-25 (102 Russell Street) would be located in both the PUD and R-7.5 Districts.

*On a motion made by Mr. Watson and seconded by Mr. Ayoub, the Planning Board unanimously voted to classify the project as an "Unlisted" action, under SEQRA. On a motion made by Mr. Schwartz and seconded by Mr. Ayoub, the Planning Board unanimously voted to adopt a Negative Declaration in connection with this project, under SEQRA. On a motion made by Mr. Desai and seconded by Mr. Ayoub, the Planning Board unanimously voted to close the public hearing, and to keep the written record open through July 25, 2018.*

**7. ESTABLISH DATE FOR NEXT MEETING**

The next regularly scheduled meeting of the Greenburgh Planning Board will be held on Wednesday, August 1, 2018 and will begin at 8:00 pm in the Greenburgh Town Hall Auditorium.

**9. ADJOURNMENT**

The July 18, 2018 work session of the Town of Greenburgh Planning Board was adjourned at 10:15 pm.

Respectfully submitted,

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Aaron Schmidt  
Deputy Commissioner,  
Department of Community Development and Conservation