

Olean Planning Board Public Hearing Minutes

Monday, July 22, 2019

Council Chambers

Olean Municipal Building

**6:30 p.m. CDS Housing (SP #04-19)
422 East State Street**

Attendance:

Chairman: Tom Barnes
Members: Chris Chapman
Mary Fay
Gabrielle Kyser
Craig Polson
Mark Sabella

Applicant(s): Ray Wetherbee, CDS Housing
Michael Keith, PE (Hunt)
Corey Auerbach, Attorney (Barclay Damon)

Staff: Keri Stephen, Comm. Dev. Program Coordinator
Kathleen Monroe, Sr. Acct. Clerk Typist

Citizen(s): Nick Pirrcio, WPIG
Paul Petruzzi, 305, 307, 310 & 312 E. Henley St.; 136 & 137 Fulton St.
Sally Jadowski, 1103 Buffalo St.
Dennis Waltrich, 117 Fulton St.
Grace Petruzzi, 305, 307 & 311 East Henley St.
Justus Derx, 116 Fulton St.
Harold Bell, 124 Fulton St.
Adele Sawaya, 122 Fulton St.
Marge Henkel, 910 West Henley St.
Deborah Kolasinski, 108 North 8th St.
Sandy Maurouard, 413 & 417 East State St.
Nate Smith, 1214 Irving Parkway
Mike Capozzi, 109 South Clinton St.

Recognizing a quorum, Chairman Tom Barnes opened the public hearing at 6:30 p.m. and Ms. Stephen read the legal notice of public hearing that was published in the Olean Times Herald on July 12, 2019.

Mr. Barnes explained the public hearing process and advised the Planning Board's role is to enforce the City Zoning Ordinance. He suggested questions, comments and issues on the project remain relevant to said Ordinance. Mr. Barnes then asked if there were any questions or comments from the Board or those in attendance. He explained a copy of the full site plan and project description are available for viewing in the City Clerk's Office.

Mr. Dennis Waltrich expressed his concerns regarding parking lot lighting bleeding into his residence in the evenings and drainage at the site. Mr. Auerbach referred to the landscaping plan and advised the proposed landscaping will act as a buffer and light screen between the facility and adjacent properties. He indicated curbing will be installed which will direct the stormwater into a central catch basin through the underground stormwater retention facility to be treated for quality and quantity per New York State's stormwater requirements. Mr. Auerbach explained the treated stormwater will be discharged into the Olean Creek in an amount less than the preconstruction condition, which is a requirement of the State Pollution Discharge Elimination System (SPDES) permit.

Mr. Barnes advised a Storm Water Pollutant Prevention Plan (SWPPP) was prepared and submitted by the applicant that was reviewed and approved by DPW Director Ring.

Mr. Paul Petruzzi advised he owns multiple rental units in the City including two properties located on Fulton Street, one of which he is currently renovating. He explained he has two children with autism and understands the needs of persons with developmental disabilities. Mr. Petruzzi noted he is a criminal defense attorney residing in Davie, Florida and he feels the project is contrary to what Olean is all about. He indicated East State Street is approximately twenty five feet higher in elevation than at the bottom of Fulton Street. Mr. Petruzzi suggested the storm runoff will end up in the basement of the properties on Fulton Street. He indicated the proposed site has been vacant for many years and the nature of the runoff will be significantly altered due to oil and gas leakage from vehicle traffic at the site. Mr. Petruzzi suggested the Board is making a decision on the property that may affect future generations after CDS Housing ceases to exist and the property changes hands.

Mr. Petruzzi explained the applicant stated 10% of the units will be set aside for special needs residents; however, the Olean Times Herald reported that number to be eight. He advised 10% of 46 units should be four or five special needs units, not eight.

Mr. Petruzzi questioned the square footage of the one bedroom and two bedroom units considering the size of the property, and noted in his opinion it seems as though the company will be warehousing residents into small units. Mr. Petruzzi indicated 22 one-bedroom units and 24 two-bedroom units at maximum occupancy may possibly total 140 people living at the facility. He commented CDS Housing and its investors are only out to make a profit with a money making opportunity, and cannot discriminate against a tenant who is receiving government assistance based on a disability which includes drug addiction.

Mr. Petruzzi questioned who will be managing the facility and what the criteria will be for potential tenants. He urged the Board to consider the extra burden on the existing overextended storm drains.

Mr. Petruzzi indicated there is no reason why East State Street cannot be egress and ingress. He expressed concern for the property values of the homes on Fulton Street after the project is completed.

Mr. Petruzzi advised according to the City tax rolls the property is assessed at less than \$60,000 which is contrary to \$200,000 listed on Zillow. He indicated CDS Housing's non-profit status will cause the parcel to be removed from the tax rolls and increase the tax burden on City tax payers.

Mr. Petruzzi noted he is under the assumption a Payment In Lieu of Taxes (PILOT) is being negotiated, which is typically considerably less than property taxes.

He advised the Planning Board at its previous meeting declared a Negative Declaration on the project agreeing the project will have a negative impact on the neighborhood and questioned why a project would be approved that negatively impacts the community. Mr. Petruzzi urged the Board not to approve the project.

Mr. Auerbach advised a Negative Declaration of the NYSEQRA does not indicate a negative impact on the community. He explained as most are aware a Negative Declaration means there will not be at least one potentially significant impact on the community.

Mr. Auerbach advised the height elevation of East State Street is in fact fourteen feet. He reiterated the stormwater will be collected on-site and advised a SWPPP has been submitted to and approved by the City and a permit will be issued by the New York State Department of Environmental Conservation (NYSDEC) under the State Pollution Discharge Elimination System (SPDES) permit for construction activities where in the applicant is required and has demonstrated that it will not eliminate stormwater in a amount greater than preconstruction condition.

Mr. Auerbach advised the quality and nature of the stormwater will be different due to the fact it will be the first time the stormwater will be treated pursuant to the NYDEC's stringent stormwater quality standards in a stormwater retention facility before it is discharged east of the walking trail into the Olean Creek.

He indicated Mr. Petruzzi's concern the tenants may increase the use of the walking trail and population of the neighborhood are reasons why the property is an ideal location for this adaptive re-use project.

Mr. Auerbach advised there will be on-site management operating the facility. He indicated the plan has vastly been improved by the input of the Board and City Departments. Mr. Auerbach explained the plan initially submitted to the City included two-way egress onto East State Street which was met with legitimate concerns regarding pedestrian safety and driver visibility which have been addressed in the revised Site Plan for ingress only from East State Street and egress and ingress on Fulton Street. He indicated that based upon the traffic engineer review, there would be no significant decrease in the level of service and advised the trip generation analysis was updated to encourage a safe flow of traffic.

Ms. Stephen indicated the Fire Department's two main reasons for "ingress only" on East State Street were pedestrian and fire safety. She explained if a fire was to occur, fire trucks would enter the site off East State Street requiring unobstructed access to the water connections located on the west side of the

building. Ms. Stephen further explained the building currently abuts the sidewalk obstructing the view of drivers exiting the facility which creates a pedestrian safety issue.

Mr. Auerbach advised an additional fire hydrant has been added to the site plan on the southeast corner to provide for fire access as recommended by the City.

Mr. Barnes asked the applicant to explain the results of the Hunt Engineering GAP Study, and Mr. Auerbach explained based upon the trip generation analysis, the results show 24 vehicle trips during the morning peak hours and 29 during the afternoon peak hours. He explained the breakdown after the modification to 'ingress only' would change traffic patterns, specifically vehicles that would be required to exit onto Fulton Street. Mr. Auerbach advised that based on the traffic modeling pursuant to the generally accepted standards in the engineering industry, 25% of vehicles in the a.m. peak hour will be entering using Fulton Street, and 75% will be entering from East State Street. He indicated that in the a.m. peak hour they anticipate five vehicles entering and nineteen exiting onto Fulton Street, and in the p.m. peak hour nineteen entering and ten exiting the site onto Fulton Street. Mr. Auerbach advised the modified plan initially included eliminating left turns onto East State Street, and as a result of the GAP study it indicated there would not be a sufficient gap in traffic to make a safe left turn out of the site.

Mr. Petruzzi indicated drivers currently use Fulton Street as a short cut to avoid the roundabouts, and questioned the validity of the traffic study and what assumptions it was based upon.

Mr. Auerbach advised that a New York State licensed professional engineer utilizing the industry standard analysis for trip generation, which is the Institute of Traffic Engineer's trip generation modeling, ran the analysis based upon the type of use and the number of units, and prepared a report that identified the number of trips that can be anticipated at the peak hour.

Ms. Stephen advised the Traffic Study was prepared by Pittsford Traffic & Radar, LLC on behalf of the applicant, which was reviewed and approved by DPW Director Ring.

Ms. Sally Jadowski expressed her concern that drivers exiting the site may turn right and travel the wrong way on Fulton Street. She explained many cars inadvertently drive north to access East State Street making it a safety issue and difficult for the required one-way traffic on the street.

Mr. Barnes explained that drivers going the wrong way on Fulton Street is a policing issue and does not fall within the purview of the Planning Board. He advised the applicant would be required to install "Left Turn Only" Code compliant signage on Fulton Street as a condition on the project, if it were to be approved.

Mr. Nate Smith advised he and his family are the owners of the proposed project site and explained he would like to correct to some of the points brought up this evening concerning the 422 East State Street property. He explained the City of Olean's assessment for the property is valued at \$190,000 for which he has paid all tax liabilities and years of upkeep on the building. Mr. Smith noted he lives in the City, is a Common Council member, owns and operates two businesses in the City and could sell the property to multiple types of business such as a truck depot, a grocery store or a factory. He indicated he researched CDS Housing's current developments and found them to be well maintained and feels the project will not

be an eyesore in the residential neighborhood. Mr. Smith advised Olean is spending hundreds of thousands of dollars per year repairing and updating its aging water and sewer mains. He explained the City shouldn't stop progress and currently invites business opportunities to the area. Mr. Smith indicated the development will be an aesthetically pleasing addition to the area.

Ms. Grace Petruzzi expressed concern that the project will increase the criminal and promiscuous behavior the neighborhood currently is experiencing. She indicated flooding of the neighborhood is also a concern of hers.

Mr. Auerbach suggested neighbors should contact the police to report any suspected criminal activity which may occur in any area of the City. Mr. Barnes advised neighborhood crime is beyond the scope of the project being reviewed tonight.

Ms. Sally Maurouard questioned if the property will remain zoned residential if CDS Housing decides to leave the area. Ms. Stephen advised the property is currently zoned General Commercial and the project is a permitted use under Site Plan review and will remain zoned General Commercial if the project is approved.

Mr. Sabella indicated when developers work with New York State on a tax credit project, multiple regulations and inspections are required to ensure the property is being maintained, the facility is housing qualified tenants and all requirements are met.

Ms. Sally Jadowski questioned the hours the property manager would be on-site, and Mr. Wetherbee advised CDS Housing will hire a professional management company to professionally manage the facility with an on-site office for the property manager Monday through Friday during regular business hours, including a 24-hour emergency call line. He suggested residents contact CDS Housing's Management Office for operational issues that may need to be addressed.

Mr. Mike Capozzi commented that non-profit CDS Housing and its investors intend to make a profit wherein tenants may be brought into the City instead of caring for local residents. He questioned the amount Mr. Smith originally paid for the building, and Mr. Smith advised the purchase price of the building is a matter of public record and may be found on the County Treasurer's website.

Mr. Wetherbee advised CDS Housing is a New York State certified non-profit organization and no project based Section 8 Assistance is planned for the building although they may accept tenants that receive Section 8 Assistance.

Mr. Petruzzi question the amount of rent that may be charged, and Mr. Auerbach responded the amount of rent charged is not relevant to the Site Plan review process. Mr. Barnes advised taxes, financing and revenues are not relevant to the City Zoning Ordinance, and are not being considered in the approval process.

Mr. Harold Bell questioned if criminal history background checks will be run on potential tenants, and Mr. Auerbach responded potential tenants will undergo a review process that includes a criminal background check that will be included in the analysis process for potential tenants.

Mr. Auerbach explained the proposed multi-family housing project is permitted under the City of Olean's Zoning Ordinance, and the applicant would be happy to answer any questions relating to the Site Plan procedures, review and approval.

Ms. Adele Sawaya questioned whether the tenants would be current residents of Olean, and Mr. Auerbach responded some of the tenants will likely be current residents of Olean. He advised the facility may service people who are already living in the Olean community and receiving supportive services. Mr. Auerbach explained there are Federal laws that restrict the facility from discriminating who can reside in the facility.

In response to Ms. Sawaya's question, Mr. Auerbach advised CDS Housing does not relocate individuals. He explained that CDS Housing provides housing and supportive services for people who may require them and meet the eligibility criteria.

Mr. Justus Derx expressed concern over the proposed lighting, and Mr. Barnes advised the proposed lighting would be shielded and directed downward as a condition of the site plan, if approved, and it is currently included in the site plan.

Mr. Derx indicated the stormwater drainage is currently an issue in the area, and requested that the stormwater system work properly. Mr. Auerbach reiterated the applicant, as part of the development process, has designed and engineered a stormwater detention facility in compliance with NYSDEC's strict quality and quantity regulations. He explained the applicant cannot allow water to leave the facility at a greater volume than the preconstruction condition. Mr. Auerbach reiterated a SWPPP was prepared and submitted to the City, which was reviewed and approved by DPW Director Ring. He explained the stormwater will be collected, detained and treated to ensure the water exiting will be of the quality acceptable to the NYSDEC, and the flow of the water will be no greater than what leaves the site in its preconstruction condition.

Mr. Barnes indicated the properties that lie at the bottom of Fulton Street will benefit significantly from the addition of the stormwater retention facility.

Ms. Marge Henkel expressed concern regarding the security of the footpath, and Mr. Auerbach advised the photometric plan demonstrates that the applicant has achieved a level of lighting that both provides for the safety of its residents and also is sensitive in context to the neighborhood. He indicated the applicant will not provide lighting directly on the footpath.

Ms. Debra Kolasinski questioned if the nonprofit status of CDS Housing will remove the property from the tax rolls. Mr. Barnes advised the tax situation of the property is outside the scope of the project being discussed.

Mr. Wetherbee explained even though CDS Housing is a non-profit, it will be working with investors to purchase the property that will not be exempt from taxes. Mr. Auerbach indicated the project as it is proposed will not be taken off the tax rolls. Ms. Stephen reiterated property taxes are not within the purview of the Planning Board and will not be discussed further this evening. She explained the negotiated terms of a PILOT would be between the City and the applicant and should that request be made, it will be a matter of public record.

Mr. Petruzzi noted DPW Director Ring reviewed and approved the Traffic Study, and questioned if anyone actually visited the site and counted cars. Mr. Auerbach reiterated that NYS Professional Engineers prepared the study.

Mr. Petruzzi asked what the Board had to lose from denying the project. Mr. Barnes advised the role of the Board is to ensure that projects brought before the Board are consistent with the City's Zoning Ordinance.

Ms. Jadowski noted she holds nothing against the Planning Board members, and respects the job it is doing.

Mr. Auerbach advised the applicant has complied with the requirements under City of Olean law for entitlement to the requested approval for which the project strictly complies with the Zoning Ordinance and no variances are required for the project. He further advised the applicant submitted extensive documentation prepared by licensed engineers and other professionals that have been reviewed and approved by the City and the Planning Board has concluded with a Negative Declaration pursuant to NYSEQRA requirements.

Mr. Barnes asked three times if there were any further questions or comments from the Board or those in attendance. Absent any further questions or comments, Mr. Barnes entertained a motion to declare the public hearing closed. A motion was made by Chris Chapman, seconded by Mary Fay to close the public hearing at 8:10 p.m. Voice vote, ayes all. Motion carried.