

**Official Minutes  
City of Niagara Falls Planning Board  
June 27<sup>th</sup>, 2023**

A regular meeting of the City of Niagara Falls Planning Board was held on Tuesday, June 27, 2023 at 5:00 p.m. in Council Chambers, City Hall, 745 Main Street, Niagara Falls, N.Y.

**CALL TO ORDER & ROLL CALL**

**BOARD MEMBERS PRESENT:**

Tony Palmer  
Charles MacDougall  
John Spanbauer  
Shurron Cowart  
Joyce Williams

**STAFF PRESENT:**

Kevin Forma, Director of Planning  
Michael Pesarchick, Planner II

**BOARD MEMBERS EXCUSED:**

Ryan Dallavia  
Timothy Polka  
Beverly Callen  
Ken Nossavage

**SPEAKERS:**

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF AGENDA – FOR THIS MEETING**

A motion to approve the agenda was made by **Ms. Williams** and seconded by **Mr. MacDougall**.

**MOTION: MAJORITY APPROVED**

**PUBLIC PARTICIPATION –**

**Mr. Palmer** asked if there was anyone in the audience wishing to speak on anything other than action agenda items.

**Jockline Pryor** stated that she wanted to inform the Planning Board that she would deliver a check for \$500.00 for the property located at 426 Ferry Ave.

**Ms. Pryor** stated that she has previously addressed the Planning Board and the City Council regarding this property. Ms. Pryor stated that she sent a letter to the Legal Department and spoke with the Economic Development Dept. who advised her to speak with the Legal Department.

**Ms. Pryor** stated that she maintained the property for over seven years.

**Ms. Pryor** stated that she worked with a program called the South End Initiative under previous administration.

**Ms. Pryor** stated that the owner of the property was believed to be Canadian but could not be found. **Ms. Pryor** states that she was told that the taxes were done (paid) and the Owners kept-up property but **Ms. Pryor** stated that that was not the case.

**Ms. Pryor** states that the second owner was a resident living in the LaSalle but she has not seen anyone in the seven years that she has maintained the property.

After **Ms. Pryor** stated a second time that she would submit a check, **Ms. Williams** asked her if she would submit that check with an application.

**Ms. Pryor** stated she had already submitted an application with the South End Initiative a long time ago. **Ms. Pryor** stated that the community loves what she has done for the property and is prepared to help with petitions.

**Ms. Pryor** stated that she would complete an application for an additional property behind her home but this situation with 426 Ferry Ave. has been going on for years with the City Administration and the Law Department.

### **APPROVAL OF MINUTES FROM - June 14<sup>th</sup>, 2023**

A motion to approve the meeting minutes with corrections was made by **Mr. Spanbauer** and seconded by **Ms. Cowart**.

Corrections: Mr. Spanbauer made two comments that were credited to Mr. MacDougal.

**MOTION: MAJORITY APPROVED**

### **PUBLIC HEARING**

**Mr. Palmer** opened the Public Hearing regarding the zoning for the addition of a High Energy Overlay at 2450 Buffalo Avenue, at the request of the applicant, Tim DeAugustino, on behalf of the owner, U.S. Data Technologies Group, Ltd. at 5:15 pm.

**Mr. John Bartolomei** introduced himself as the attorney, representing U.S. Data Technology.

**Mr. Bartolomei** reported that U.S. Data Technology hired an independent monitor for sound. The results of the recent tests indicate that the sound is much lower than what we agreed with the maximum decibels delivered. They are happy about being in compliance.

**Mr. Spanbauer** stated that when **Mr. Bartolomei** first came in they put up the sound barrier and now there are walls that are code.

**Mr. Spanbauer** asked how much of a sound difference the newly constructed sound walls made, and if **Mr. Bartolomei** had that information.

**Mr. Bartolomei** explained that he could provide estimates. After putting up the plastic barrier, the sound would be 75 to 85 decibels. Now that the actual sound barrier was built that has fallen to 60 or below. The recent tests were done by independent companies; Great Lakes Environmental, got some readings in the forties. What the Planning Board agreed to as a maximum was 65 decibels. If the company goes above the maximum there will be serious penalties. The hired company will continuously monitor the site.

**Mr. Spanbauer** stated that the application was submitted under protest and without prejudice and asked what is meant by “without prejudice”.

**Mr. Bartolomei** replied that the law wasn't really settled on time. He explained that you don't want to be bound by what you're submitting and we want to reserve all of your arguments without prejudice to any other position we may take that's inconsistent from this application. This was only done until the law regarding the application was actually submitted.

**Mr. Palmer** closed the Public Hearing at 5:19 p.m.

#### **ACTION ITEMS:**

1. **Public Hearing:** for the purpose of scheduling a public hearing for the Level II Site Plan Approval for the project at 1605 Ferry Avenue, S.B.L. # 159.32-2-19, at the request of the applicant Long Associates Architects, PLLC, on behalf of the owner NeighborWorks Community Partners. Applicant seeks to renovate existing structure into 34 apartments and construct a 3-story structure running 16<sup>th</sup> Street for residential and office space

**Mr. Palmer** suggested July 19, 2023, to give the Planning Board time to get the notice to the newspaper. **Mr. Pesarchick** stated that would give the Board time to get the needed documents.

**Mr. Spanbauer** asked if the Board would get the comments by July 19, 2023.

**Mr. Forma** stated that they would get the comments.

**Mr. Palmer** confirmed that the hearing would take place at the Board's July 19, 2023, scheduled meeting at 6:00 pm.

**Mr. Palmer** moved to Old Business.

#### **OLD BUSINESS:**

**Mr. Forma** stated that the applicants for 333 1<sup>st</sup> Street came to the Board last month with a site plan that was approved but are returning to the Board with revisions to the design.

**Mr. Forma** asked for the opinion of the Board on the item on whether or not the applicants needed to come back before the Board to talk about the revisions. He said that, essentially, certain components of the building were shrunk for budgetary items.

**Mr. Forma** explained that on the first page of the document you can see the top elevation that was approved. The bottom elevation reflected the change.

**Mr. Spanbauer** asked **Mr. Forma** to refresh his memory of the project.

**Mr. Forma** reminded the Board that the project was proposed by Community Services for Every1 to provide low-income housing for individuals leaving domestic abuse as well as workforce housing. **Mr. Forma** presented documents comparing the original design and the modified design.

**Mr. Forma** explained that on the south elevation the applicant removed some of the larger balconies. They switched out the windows for budgetary purposes. They've moved the stairwell in a little bit, this shrinks the size of the apartments. The balconies on First Street will not be included.

**Ms. Cowart** asked if the building would have the same number of units.

**Mr. Pesarchick** stated that the building would lose five units.

**Mr. Spanbauer** clarified that they were basically reducing square footage for budgetary concerns.

**Mr. Forma** stated that his initial recommendation to them was to wait to see if any other changes were needed; they have an 18 month approval.

**Mr. Forma** asked if they should come back before the Board.

**Mr. Palmer** stated that they should come back because the Board would have to approve the changes. The changes will change the original Site Plan.

**Mr. Palmer** stated that it may be easier if they resubmit the Site Plan as opposed to giving the Board the revisions. The Board would vote on the Site Plan.

**Mr. Palmer** stated that he did not think the Board needed to vote because it would be heard on the regular scheduled meeting.

### **NEW BUSINESS:**

**July 5 Meeting:** Discuss scheduled meeting on July 5 and determine if a quorum will be reached.

**Mr. Spanbauer** asked if there were any agenda items for July 5, 2023.

**Mr. Forma** stated that there were no agenda items.

**Mr. Palmer** called for a motion to cancel the upcoming meeting due to a lack of items.

A motion to cancel the July 5, 2023, Planning Board meeting was made by **Ms. Williams** and seconded by **Ms. Cowart**.

TONY PALMER	YES
JOHN SPANBAUER	YES
CHARLES MACDOUGALL	YES
SCHURRON COWART	YES
JOYCE WILLIAMS	YES

**MOTION: APPROVED**

#### **PLANNING REPORT / COMMUNICATIONS:**

**Mr. Forma** stated that he and **Mr. Pesarchick** had a conversation about the prior director's decisions, particularly when it came into contact with the Tim Hortons that's going in on Niagara Falls Boulevard.

**Mr. Forma** stated that he wanted to make the Board aware some of those items. In the Tim Hortons case, the previous director, made the decision to have the applicant do a Level I Site Plan Review.

**Mr. Forma** stated that he felt this was an error judgment when it came to Tim Hortons based off previous Site Plans. **Mr. Forma** stated that the structure was considered but not the parking lot. The site had nothing on it. It was not like they were renovating a new building. **Mr. Forma** believes that it should have been a Level II.

**Mr. Palmer** agreed that it should have been a Level II.

**Mr. Forma** stated that in terms of Goodwill, which did come before the Board, for a small loading dock outside the facility, it was declared a Level II. **Mr. Forma** stated that it should have been a Level I.

**Mr. Forma** stated that he wanted to make the Board aware that moving for they would do a different assessment.

**Mr. Palmer** stated that was something that would have been taken into account from DOT. It would have been a big factor, location.

**Mr. Forma** mentioned the Planning Board bylaws.

**Mr. Spanbauer** explained that at time, the Board would leave the bylaws exactly the way they were and would look at them this year. **Mr. Forma** sent **Mr. Spanbauer** information from a couple of other municipalities.

**Mr. Palmer** stated that the three committee members were going to look at everything and submit changes for next year.

**Mr. Forma** stated that he was the secretary to the Historic Preservation Commission. He informed the Board that the City now does have back their Certified Local Government status from NYS SHPO.

**Mr. Forma** informed the Board that there were two vacancies in the Historic Preservation Commission. Mr. Forma asked if anybody knows anybody who might be interested in historic preservation please let them know.

**Mr. Spanbauer** asked if we lost our recognitions because we weren't an active.

**Mr. Forma** explained that it was due to issues with building permits that were being issued on historic properties without going before the Historic Preservation Board. We have been constantly working with Code Enforcement to better communicate between our department and their department so that more are being referred to the Historic Preservation Commission.

**Mr. Bartolomei** asked if the Board would vote on the approval of the U.S. Data Technology application.

**Mr. Palmer** explained that they would vote on July 19.

**Mr. Forma** stated that the Planning Department will prepare the recommendation for the Board to vote at the next meeting for the High Energy Overlay.

**Mr. Palmer** explained that if the Board hadn't held the meeting today, then the applicant would be looking at possibly September before the Board could take action. The meeting today would allow the City Council to move on the action before they go to recess in August.

## **ADJOURNMENT**

Motion to adjourn was made by **Mr. MacDougall** and second by **Ms. Williams**.