

*Draft: Monday, July 30, 2012 — 5:01 PM*

**RESOLUTION OF APPROVAL**

**FINAL SITE PLAN**

**ARB**

*SECOND AMENDED*

**FOR**

**MNP INSTITUTIONAL SUPPLY CO., LLC & J J & H OF WALDEN,  
INC. [FCB PROPERTIES]**

*PROJECT # 2007-18*

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**Nature of Application**

MNP Institutional Supply Co., LLC & J J & H of Walden, Inc. [FCB Properties] has applied for approval of a Second Amended Site Plan (said amendments proposing partial use of the building for bank purposes, the addition of a bank drive-through window and the further reduction in the size of the approved building) in relation to the property identified herein earlier approved for expansion of an existing retail store and for approval of architectural renderings by the Planning Board sitting as the Architectural Review Board.

**Property Involved**

The property affected by this resolution is shown on the Tax Maps of the Town of Newburgh as parcel(s) 80-5-10, 80-5-11.1, and 80-5-15.21

## **Zoning District**

The property affected by this resolution is located in the B zoning district of the Town of Newburgh.

## **Plans**

The Site Plan materials considered consist of the following:

1. Completed application form and Environmental Assessment Form.
2. Plans prepared for MNP Institutional Supply Co., LLC & J J & H of Walden, Inc. [FCB Properties] as follows:

<i><u>Author</u></i>	<i><u>Title</u></i>	<i><u>Last Revision Date</u></i>
Vincent J. Doce Associates	Map of Existing Conditions	July 20, 2012
Vincent J. Doce Associates	Site Plan	July 20, 2012
Vincent J. Doce Associates	Grading & Utility Plan	July 20, 2012
Vincent J. Doce Associates	Lighting Plan	July 20, 2012
Vincent J. Doce Associates	Erosion & Sediment Control Plan	July 20, 2012
Vincent J. Doce Associates	Detail Sheet	July 20, 2012
Vincent J. Doce Associates	Detail Sheet	July 20, 2012
Rosenblum A.I.A.	Elevation Plan	July 23, 2012

## **History**

### *DATE OF APPLICATION*

The original application was filed with the Planning Board on June 7, 2007. Preliminary site plan approval was granted on February 17, 2011 and final site plan approval on March 3, 2011. Amended site plan approval was granted on March 15, 2012. This application for second amended approval was submitted in

July of 2012.

PUBLIC HEARING

A public hearing on this application was waived.

SEQRA

Type of Action:

This matter constitutes an unlisted action under the State Environmental Quality Review Act.

Lead Agency:

The Town of Newburgh Planning Board is the lead agency in regard to this action. The Planning Board's status as lead agency was first established in 2001 and was reaffirmed on June 21, 2007.

Declaration of Significance:

A negative declaration was issued on June 21, 2007.

**GML 239 Referral**

This application has been referred to the Orange County Planning Department for review and report. The Planning Department has reported that this matter is one for local determination, there being no significant inter-municipal or countywide considerations found to exist.

**Findings**

The Planning Board has determined that approval of this Second Amended Site Plan will substantially serve the public convenience, safety and welfare; and will not otherwise be unduly detrimental to the public health, safety, comfort convenience or welfare, subject to compliance in full with conditions hereinafter imposed pursuant to Section 185-57 (H).

The Planning Board has further determined, in its capacity as Architectural Review Board, that the renderings submitted and approved on August 2, 2012

are architecturally appropriate and blend into the existing character of the neighborhood. Said renderings are hereby approved. A copy of said renderings, signed by the Chair simultaneously with this resolution are on file in the Building Inspector's office. No building permit nor certificate of occupancy shall be issued except for structures consistent with these renderings.

The Planning Board adheres to its earlier determination that strict compliance with the Town of Newburgh Design Guidelines prohibition upon parking in the front yard should be waived here. The lot in question is presently improved (enlargement of the building is proposed) and thus application of this prohibition is nearly impossible here. Moreover, landscaping providing screening is part of the proposal and serves to achieve the objectives of the design guidelines; here, the protection of the views from public roadways. Therefore, the Planning Board hereby modifies application of the design guidelines to this applicant so as to allow parking in the front yard because the public interest will be protected and the development is otherwise in keeping with the general spirit and intent of the design guidelines.

### **Resolution of Approval**

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to approve this Second Amended Site Plan as said proposal is depicted on the plans identified above and to grant revised ARB approval, all upon the conditions outlined below, and the Chairperson (or his designee) is authorized to sign the plans upon satisfaction of those conditions below noted to be conditions precedent to such signing.

### **Specific Conditions**

1. The plans shall not be signed until receipt of a letter from BC Planning, LLC certifying that the plans have been modified in accordance with his memo of \_\_\_\_\_.
2. The plans shall not be signed until receipt of a letter from the

Planning Board Engineer certifying that the plans have been modified in accordance with his memo of July 27, 2012.

3. Except as hereby modified, all conditions attached to the original (and first amended) grant of site plan approval are to remain in effect and this approval is subject to, and conditioned upon satisfaction of same as if those conditions were set forth herein at length.
4. Notwithstanding the foregoing, condition #7 of the original resolution of site plan approval, which condition required delivery to the town of a drainage easement, is now released as unnecessary.
5. Similarly, condition #13 of the original resolution of site plan approval, which condition required delivery to the town of an offer of dedication, is now released inasmuch as said dedication has now been fully accomplished.
6. The application has not been reviewed for operation as a *mini-mall*. No operation for that use shall be permitted unless the application fully complies with the bulk table requirements applicable to that use.

Architectural Review Board Approval

7. No building permit shall be issued authorizing construction of structures inconsistent with the architectural renderings submitted to, and approved by, the Architectural Review Board as part of this approval, nor shall any certificate of occupancy be issued for any structures constructed except in conformance with such renderings. Karen Arent, the Town's Landscape Architect, shall review the building plans when submitted to the Building Department in order to insure compliance with the ap-

proved architectural renderings. Karen Arent, the Town's Landscape Architect, shall also inspect the work before a certificate of occupancy is issued to insure compliance with the approved architectural renderings.

#### Financial Security

8. All financial security and inspection fee requirements of the earlier resolution of approval remain in effect. In addition, this approval is conditioned upon the applicant executing a stormwater control facility maintenance agreement as required by Section 157-11(K) of the Code of the Town of Newburgh in order to ensure the long term maintenance and proper operation of the stormwater facilities shown on the plans. The plans shall not be signed until that agreement has been executed. Stormwater Improvement Security & Inspection Fee.

#### Outdoor Fixtures & Amenities

9. This site plan approval allows construction of only that which is shown on the plans identified above. No outdoor amenities or accessory structures or outdoor fixtures—including but not limited to exterior walls, mechanical units, dumpsters, etc.—may be constructed, placed or erected except as shown on the approved site plan. Architectural drawings shall carry a certification that what is shown thereon is fully consistent with the approved site plan.

### **General Conditions**

This approval is conditioned upon the applicant submitting all necessary copies of the plans to be signed, including mylars when required, to the Town of Newburgh Building Department. A full set of the plans to be signed shall simultaneously be submitted to BC Planning, LLC, the Planning Board's planning con-

sultant. The plans shall not be signed until BC Planning, LLC has reported to the Chair that all conditions of this resolution required to be satisfied before the plans can be signed have, in fact, been satisfied.

This approval is further conditioned upon the applicant delivering (prior to signing of the plans) proof, in writing, that all fees—engineering, planning, legal and otherwise—in regard to this project have been fully paid. The applicant shall also be required to deliver proof that all required Public Improvement, Erosion Control and Landscaping inspection fees and escrow have been deposited with the Town. The plans shall not be signed until proof, satisfactory to the Chair, has been presented showing that all fees have been paid and escrow deposits made.

Approval of the final site plan shall, pursuant to Section 185-58 (E) of the Zoning Ordinance, be valid for two years from the date this resolution is filed in the office of the Town Clerk, after which time this approval shall be null and void unless a building permit has been issued. If no building permit has been issued within that time, the plan must be resubmitted to the Planning Board for approval.

A FAILURE to comply with the general condition immediately above in a timely manner shall result, without further action, in a lapsing of this approval.

In Favor \_\_\_\_\_ Against \_\_\_\_\_ Abstain \_\_\_\_\_ Absent \_\_\_\_\_

Dated: \_\_\_\_\_

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JOHN P. EWASUTYN, CHAIRPERSON  
TOWN OF NEWBURGH PLANNING BOARD

