COMMON COUNCIL COMMITTEE MEETING
PLANNING, ECONOMIC DEVELOPMENT AND LAND USE COMMITTEE
Cathy M. Fahey, Chair

DATE: Monday, July 29, 2019
PLACE: City Court Room 209 – 2nd Fl. City Hall
TIME: 5:30 PM

TOPICS OF DISCUSSION:
ORDINANCE NUMBER 10.51.19 AS AMENDED

AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) IN RELATION TO INCENTIVES FOR DEVELOPERS TO USE ENERGY EFFICIENT AND LOW IMPACT DESIGNS

RESOLUTION NUMBER 55.72.19R (MC)

RESOLUTION OF THE COMMON COUNCIL CONFIRMING THE APPOINTMENT OF ADRIANA LE BLAN AS A MEMBER OF THE BOARD OF ZONING APPEALS

RESOLUTION NUMBER 56.72.19R (MC)

RESOLUTION OF THE COMMON COUNCIL ENCOURAGING THE CITY OF ALBANY’S PLANNING BOARD TO REQUIRE THAT A FULL ENVIRONMENTAL IMPACT STATEMENT BE PRODUCED AS SET FORTH UNDER NEW YORK’S STATE ENVIRONMENT QUALITY REVIEW ACT FOR THE PROPOSED DEVELOPMENT PROJECT AT 563 NEW SCOTLAND AVENUE

PUBLIC COMMENT PERIOD: Yes
Council Member Doesschate introduced the following:

ORDINANCE NUMBER 10.51.19 (As amended)

AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) IN RELATION TO INCENTIVES FOR DEVELOPERS TO USE ENERGY EFFICIENT AND LOW IMPACT DESIGNS

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Paragraph (b) (LOW IMPACT DEVELOPMENT) of subdivision (4)(INCENTIVES) of subsection (A) (DIMENSIONAL STANDARDS) of section 375-4 of Chapter 375 (DEVELOPMENT STANDARDS) of the Code of the City of Albany (Unified Sustainable Development Ordinance) is hereby amended to read as follows:

(b) LOW IMPACT DEVELOPMENT

New development or redevelopment of a site that incorporates a blue (water retaining) roof, or a green (vegetated) roof, or other building or site features that are designed so that off-site flow of the first one inch of rainfall during the first 24 hours after rainfall ends is reduced by at least 50 percent shall receive the following benefits:

(i) The project may reduce any required building setback from any zoning district other than a residential zoning district by 20 percent (provided that the required reduction in off-site water flow is still achieved); and

(ii) The project may increase the maximum height of any primary building (or part of a primary building) located more than 100 feet from a Residential zoning district other than the R-M Districts by one story.

(iii) The Low-Impact Development incentives detailed above shall be suspended and not available for new development or redevelopment applications submitted between June 30, 2019 and June 30, 2020.

Section 2. This ordinance shall take effect immediately, provided, however, that the changes shall only apply to development and redevelopment applications submitted after June 30, 2019.

APPROVED AS TO FORM
April 25, 2019
ORDINANCE NUMBER: 10.51.19 (As Amended)

SPONSOR(S): Doesschate

TITLE: AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) IN RELATION TO INCENTIVES FOR DEVELOPERS TO USE ENERGY EFFICIENT AND LOW IMPACT DESIGNS

GENERAL PURPOSE OF LEGISLATION: (1) To suspend the application of the USDO incentive that allows developers to increase the height of the primary building on a site by one story if the developer incorporates into design plans a green roof or other building or site features that are designed so that off-site flow of the first one inch of rainfall during the first 24 hours after rainfall ends is reduced by at least 50 percent shall receive the following benefits. Such suspension shall be in effect for any development applications submitted from June 30, 2019 to June 30, 2020; and (2) to completely eliminate the incentive that allows developers to increase the height of the primary buildings on a site by one story if the developer incorporates a blue roof into designs.

NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW: In the proposed 300+ page draft changes to the USDO, the administration recommended suspending the low impact incentive through December 31, 2019 because this has been far and away the most utilized incentive and the administration wants both to test the effectiveness of the other incentives contained in the USDO and make the low-impact incentive more robust. This legislation took the administration’s proposed language and increased the suspension time to June 30, 2020. By introducing it as a stand alone amendment, it will ensure this important measure is adopted as soon as possible to stem the permanent adverse impact and unintended consequences of this provision can have on the City.

The administration has subsequently amended its proposed suspension of this incentive to eliminate the blue roof incentive all together and to suspend the green roof incentive through June 30, 2020 to allow the administration sufficient time to study the effectiveness of the affordable housing incentive and possible improvements to the green roof incentive (such as potential design standards, and its potential benefits.

The routine increase of many developments by a full story in predominantly residential areas has caused great consternation amongst residents since it is inconsistent with the overall design and utilization plan intended when the USDO was adopted in exchange for little to no benefit to the public and the sustainability of the City. The current USDO has certain protections
for water retention for developments that duplicate the benefits intended by this provision while enabling developers to build much taller than expected buildings near residential properties.

The Sustainability Advisory Committee’s initial report included recommendations that all new developments be required to employ energy efficient and sustainable technology. The inclusion of these types of features should be the norm and not entitle developers to increase the height of buildings beyond what the City determined to be appropriate building heights and setbacks in its overall zoning plan. We agree that this provision should be suspended as soon as possible and studied for its efficacy.

The current 300+ page 6 month amendments proposed by the administration amount to a substantial rewrite of this document and have taken almost 2 years to be proposed. Considering the comprehensiveness of those changes and the renumbering (and changed citations) throughout the document, it is likely that the actual review and adoption by the various individuals and bodies is likely to take at least another three to six months. In the meantime, the green roof incentive should be suspended immediately and the blue roof incentive eliminated so as to not exacerbate the long term impact of this questionable provision considering that the administration agrees the blue roof incentive should be eliminated and the green roof incentive studied to determine design standards or more robust requirements that will yield a greater benefit to residents and the city.

The legislation has been amended to be consistent with the revised proposed provisions in the USDO comprehensive amendments.

**TIME FRAME FOR PASSAGE:** As soon as possible.

**SPECIFICS OF BIDDING OR OTHER PROCUREMENT PROCESS:** N/A

**SPECIFICS OF REAL PROPERTY SALE OR ACQUISITION:** N/A

**FISCAL IMPACTS:** None.
Council Member Conti introduced the following:

Resolution Number 55.72.19R (MC)

RESOLUTION OF THE COMMON COUNCIL CONFIRMING THE APPOINTMENT OF ADRIANA LE BLAN AS A MEMBER OF THE BOARD OF ZONING APPEALS

WHEREAS, the Mayor of the City of Albany has, pursuant to the provisions of Section 301(c)(1) of the City Charter appointed Adriana Le Blan as a member of the Board of Zoning Appeals.

NOW, THEREFORE, BE IT RESOLVED, that Adriana Le Blan be confirmed as a member of the Board of Zoning Appeals for a term of three (3) years, ending December 31st, 2021.
TO: Danielle Gilesspi

FROM: Jared Pellerin, Research Counsel

DATE: July 8, 2019

MESSAGE OF NECESSITY

FOR EMERGENCY LEGISLATION NOT LISTED ON THE PRINTED AGENDA
(MAJORITY CONSENT REQUIRED): I certify that the attached pieces of legislation require immediate attention and cannot wait for introduction at the next regularly scheduled Common Council meeting of August 5, 2019. I ask for placement on the agenda for introduction at the meeting of July 15, 2019 by majority consent.

Reason for requesting majority consent:

Per City Charter Ms. Le Blan’s appointment must be acted within 45 days of July 8, 2019.
Council Members Igoe, Flynn, and Hoey offered the following:

RESOLUTION NUMBER 56.72.19R(MC)

RESOLUTION OF THE COMMON COUNCIL ENCOURAGING THE CITY OF ALBANY’S PLANNING BOARD TO REQUIRE THAT A FULL ENVIRONMENTAL IMPACT STATEMENT BE PRODUCED AS SET FORTH UNDER NEW YORK’S STATE ENVIRONMENT QUALITY REVIEW ACT FOR THE PROPOSED DEVELOPMENT PROJECT AT 563 NEW SCOTLAND AVENUE

WHEREAS, New York State’s Environmental Quality Review Act (SEQR) requires all state and local government agencies to consider environmental impacts equally with social and economic factors during discretionary decision making; and

WHEREAS, in an action that is determined to not have significant adverse environmental impacts (Type II), a negative declaration is prepared, but if the action is determined to have potentially significant adverse environmental impacts, a Type I Action is most appropriate, and an “Environmental Impact Statement (EIS)” is typically prepared in addition to the required scoping document to thoroughly consider and analyze all of the anticipated significant adverse environmental impacts; and

WHEREAS, the SEQR process uses the EIS to examine ways to avoid or reduce adverse environmental impacts related to a proposed action and encourages communication between government agencies, project sponsors and the general project; and

WHEREAS, under SEQR § 617.4(b)(5), an activity must be classified as a Type I action when it involves the construction of 200 new residential units in a city, town or village having a population of 150,000 persons or less; and

WHEREAS, the application for 563 New Scotland states it will develop 192 units which falls below the threshold of a Type I action; and

WHEREAS, SEQR also requires that the lead agency consider, “reasonably related … cumulative impacts, including other simultaneous or subsequent actions” and

WHEREAS, construction is currently underway for another 110 residential units at 363 Ontario Street, whose close proximity to 563 New Scotland Avenue, makes for a total of 302 new units, having a significant, cumulative impact on the environmental and structural resources of the city; and

WHEREAS, the cumulative impacts of 563 New Scotland and 363 Ontario Street make for a strong justification for an EIS to be produced so as to ensure that the environmental and structural resources of the area are suitable to sustain such an influx of use; and

THEREFORE, BE IT RESOLVED that the Common Council for the City of Albany encourages the City’s Planning Board to require a full environmental impact statement be
produced, as set forth under New York’s State Environmental Quality Review Act, for the proposed development project at 563 New Scotland Avenue.
Albany Common Council
Memorandum in Support of Legislation

**Ordinance Number:** 56.72.19R(MC)

**Sponsor(s):** Council Members Igoe, Hoey and Flynn

**Title:**

RESOLUTION OF THE COMMON COUNCIL ENCOURAGING THE CITY of ALBANY’S PLANNING BOARD TO REQUIRE THAT A FULL ENVIRONMENTAL IMPACT STATEMENT BE PRODUCED AS SET FORTH UNDER NEW YORK’S STATE ENVIRONMENT QUALITY REVIEW ACT FOR THE PROPOSED DEVELOPMENT PROJECT AT 563 NEW SCOTLAND AVENUE

**Purpose:** To encourage the City’s Planning Board to require the developer, who is proposing the action at 563 New Scotland Avenue, to produce a full environmental impact statement under New York’s State Environmental Quality Review Act.

**Justification:** A Type I action under SEQR means that it is more likely to have significant adverse impacts on the environment than other classifications of actions. The proposed development at 563 New Scotland Avenue, in the City of Albany, will create 192 new residential units and in the process will require the demolition of two large apartment buildings, a large office building and the subsequent demolition of an additional retail building. This development project in conjunction with the current project that is under way at 363 Ontario Street would trigger the cumulative impact provisions of SEQR due to their close proximity to one another geographically within the city as well as their combined unit total exceeding the 200 unit threshold of a Type I action. Requiring the developer to produce a full Environmental Impact Study would allow for a full analysis of the range of potentially significant adverse impacts and provide for a clearer understanding of how such impacts may be minimized.

**Existing Law:** 6 NYCRR § 617.1

**Fiscal Impact:** N/A

**Effective Date:** Upon passage of the legislation.