

## RESOLUTION

### PLANNING BOARD BEACON, NEW YORK

#### GRANTING SUBDIVISION (LOT MERGER) AND SITE PLAN APPROVAL FOR 248 TIORONDA AVENUE

#### PARCEL NOS. 5954-16-993482 & 6054-45-012574

**WHEREAS**, 248 Beacon Holdings LLC (the “Applicant”) submitted an application to the Planning Board for Concept Plan , Subdivision (lot merger) and Site Plan Approvals to construct two multifamily buildings with a total of 64 dwelling units and a separate office building with 25,400 square feet along with a Greenway Trail on two parcels containing 9.18 acres located on property at 248 Tioronda Avenue in the Fishkill Creek Development (“FCD”) District and LWRP area (the “Project” or “Proposed Action”); and

**WHEREAS**, the subject property is located at the intersection of Wolcott Avenue and Tioronda Avenue, between the Fishkill Creek and the Metropolitan Transit Authority (MTA) railroad, and designated on the City tax maps as **Parcel Nos. 5954-16-993482 and 6054-45-012574** (the “Property”); and

**WHEREAS**, the Site was the subject of prior approvals granted by the City Council and the Planning Board for the construction of a 100-unit multifamily residential development with four (4) buildings, a 1,200 s.f. clubhouse, swimming pool and associated parking (“Prior Project”). The Prior Project also included a Greenway Trail and an access easement was granted by the MTA for the Tioronda avenue access drive; and

**WHEREAS**, the Planning Board served as Lead Agency for the environmental review of the Prior Project and a Negative Declaration was adopted on April 8, 2014 along with a determination of the Prior Project’s consistency with the Local Waterfront Revitalization Program (LWRP). The Prior Project then received Concept Plan and Special Permit approvals from the City Council on August 4, 2014, followed by Subdivision (lot consolidation) and Site Plan approvals from the Planning Board on January 13, 2015. The approvals were extended from time to time by the City Council and the Planning Board; and

**WHEREAS**, the City Council adopted zoning amendments in 2017 which resulted in a reduction of the number of dwelling units that would be permitted for the Site. The amendments also eliminated the requirement for a Special Permit in the FCD. Following the adoption of the 2017 amendments, the 100-unit multifamily residential development was no longer a permitted use of the Site; and

**WHEREAS**, the current Project requires Concept Plan approval from the City Council and Site Plan/Subdivision (lot merger) approvals from the Planning Board; and

**WHEREAS**, the Planning Board is the approval authority for the Subdivision (lot merger) and Site Plan pursuant to City of Beacon Code §§195-2 and 223-41.13.G; and

**WHEREAS**, by Resolution on January 22, 2019 the City Council referred the Concept Plan to the Planning Board for report and recommendation and requested that the Planning Board serve as Lead Agency for the environmental review of the Project pursuant to the State Environmental Quality Review Act (SEQRA) and evaluate the application for consistency in accordance with the City’s Local Waterfront Revitalization Program (LWRP); and

**WHEREAS**, by Resolution on January 22, 2019 the City Council referred the Concept Plan to the Dutchess County Planning; and

**WHEREAS**, the subject property is located in the Coastal Management Zone as defined by the City’s LWRP and on June 11, 2019 the Planning Board adopted a Consistency Determination finding the Project is consistent with the Local Waterfront Revitalization Program (“LWRP”); and

**WHEREAS**, development within the Fishkill Creek Development District is governed by Chapter 223, Article IVC of the Code of the City of Beacon (the “City Code”), which requires all Creek development projects to obtain (a) Concept Plan approval by the City Council and (b) Site Plan approval by the Planning Board; and

**WHEREAS**, the Subdivision (lot merger/consolidation) is shown on the following plan, \_\_\_\_\_, dated \_\_\_\_\_, prepared by \_\_\_\_\_; and

**WHEREAS**, the Site Plan is shown on the following drawings, entitled “248 Tioronda Ave, Beacon NY” last revised January 28, 2020, as prepared by Chazen Companies:

<u>Sheet</u>	<u>Title</u>
G001	<i>Title Sheet</i>
C101	<i>Existing Conditions Plan (last rev. 4/30/19)</i>
C130	<i>Site Plan</i>
C140	<i>Grading Plan</i>
C150	<i>Erosion &amp; Sediment Control Plan</i>
C160	<i>Utility Plan</i>
C161	<i>Utility Profiles</i>
C162	<i>Utility Profiles 2</i>
C180	<i>Landscape Plan</i>
C190	<i>Photometric Plan</i>
C200	<i>Vehicle Maneuvering Plan</i>
C530	<i>Site Details</i>
C540	<i>Stormwater Details</i>
C550	<i>Erosion &amp; Sediment Control Details &amp; Notes</i>
C560	<i>Water System Details &amp; Notes</i>
C570	<i>Sanitary Sewer Details &amp; Notes</i>
C580	<i>Landscape Details &amp; Notes; and</i>

**WHEREAS**, site section elevations are shown on the drawings, entitled “248 Tioronda Avenue, Proposed Revisions,” dated January 17, 2019, as prepared by AB Architekten; and

**WHEREAS**, the application also consists of application forms, correspondence, the Environmental Assessment Form (EAF), Coastal Assessment Form and professional studies and reports submitted to the Planning Board; and

**WHEREAS**, the Proposed Action is an Unlisted Action, pursuant to New York State Environmental Quality Review Act, and on June 11, 2019 after hearing public comment and taking a “hard look” at the Environmental Assessment Form and all of the associated materials prepared in connection with the Proposed Action, the Planning Board adopted a Negative Declaration, finding the Proposed Action will not result in any significant adverse environmental impacts; and

**WHEREAS**, on June 11, 2019, the Planning Board adopted a Local Waterfront Revitalization Program (“LWRP”) Consistency Determination, finding that the Concept Plan is entirely consistent with the applicable LWRP policies; and

**WHEREAS**, the Planning Board issued a report to the City Council dated June 12, 2019 issuing a positive recommendation to the Council on the Concept Plan, subject to the Applicant returning to the Planning Board where the Planning Board will review more specific architectural, landscaping, lighting, parking and engineering details as required to complete Site Plan review; and

**WHEREAS**, on November 18, 2019 the City Council adopted a resolution granting Concept Plan approval to construct two multifamily buildings with a total of 64 dwelling units and a separate office building with 25,400 square feet along with a Greenway Trail (“Concept Plan Resolution”); and

**WHEREAS**, on January 14, 2020 the Planning Board opened a public hearing on the application, at which time all those interested were given an opportunity to be heard and the public hearing was closed on January 14, 2020; and

**WHEREAS**, pursuant to the Concept Plan Resolution, the Planning Board has reviewed all structures projecting above the roofline of the buildings, including the stairwell and elevator bulkheads, to ensure that such structures are designed to the minimum dimensions necessary to achieve their intended purpose and the Planning Board explored appropriate screening for all structures projecting above the roofline of the buildings; and

**WHEREAS**, pursuant to the Concept Plan Resolution the Applicant and Planning Board examined whether the Applicant can increase the open space located between the residential buildings and concluded that it is preferable to have a fuller, more unobstructed view from Tioronda Avenue looking east by maintaining the large open vista between the office building (Building 100) and the residential buildings (Building 200 and Building 300), rather than widen the space between the residential buildings (Building 200 and Building 300)

and consequently result in a narrower vista between Building 100 and the residential buildings; and

**WHEREAS**, the Planning Board has reviewed the proposed Site Plan in accordance with City of Beacon Zoning Code §223-16.B concerning impacts to Very Steep Slopes; and

**WHEREAS**, the Planning Board has reviewed the Site Plan against the conditions and standards set forth in Sections 223-41.13.G and 223-41.13.I(15) of the City Code and finds that the proposed Site Plan complies with these sections of the City Code, as set forth below.

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Board has reviewed the proposed Site Plan in accordance with City of Beacon Zoning Code §223-16.B concerning impacts to Very Steep Slopes and finds that the Project avoids construction on Very Steep Slopes, as defined by the City of Beacon Zoning Code, to the extent practicable and further finds that to the extent there are impacts to Very Steep Slopes:

- (1) There is no other suitable alternative area within the lot available for the proposed development. Disturbing a small portion of Very Steep Slopes is necessary for almost any type of reasonable development of the Property.
- (2) The proposed development is the minimum necessary to make reasonable use of the land. Several site design elements have been proposed to further reduce disturbance to the minimum necessary to make reasonable use of the Property, including landbanked parking and retaining walls.
- (3) All feasible construction standards and precautions will be taken to assure that environmental impacts are minimized. Temporary erosion and sediment control (E&SC) measures will be implemented during construction, and permanent E&SC measures are incorporated into the project design. Weekly inspections of the temporary E&SC measures by a qualified professional will be required; and
- (4) The purpose and intent of Section 223-16.B of the Zoning Code are satisfied to the maximum extent feasible. Approximately 55% of the Site consists of slopes of 15% or less. The remaining 45% of the Site consists of slopes 15% or greater. The majority of the development area has been located on the portions of the Site with slopes of 15% or less. Creekside slopes are mostly undisturbed, with the exception of small areas of disturbance necessary for the Greenway Trail installation. A majority of the disturbance to very steep slopes occurs in areas where the slopes appear to be manmade by the previous industrial development and MTA. Thus, the purpose and intent of the Code in preventing erosion, minimizing stormwater runoff, preserving the City's underground water resources, and protecting the City's character and property values, is satisfied by the Project's avoidance of disturbance to Very Steep Slopes, particularly those that are natural and not man-made, to the maximum extent feasible.

**BE IT FURTHER RESOLVED**, that the Planning Board hereby finds that the Site Plan meets the standards and criteria set forth at Sections 223-41.13.G(2) and 223-41.13.I of the City of Beacon Zoning Code.

**BE IT FURTHER RESOLVED**, that the Planning Board hereby grants Preliminary Subdivision (lot merger) Approval to 248 Beacon Holdings LLC, as shown on \_\_\_\_\_.

BE IT FURTHER RESOLVED, that the Planning Board hereby finds that the Final Subdivision Plat will not be substantively changed from the Preliminary Subdivision Plat and hereby determines that a public hearing on the Final Plat is not required.

BE IT FURTHER RESOLVED, that the Planning Board hereby grants Final Subdivision (lot merger) Approval to 248 Beacon Holdings LLC, as shown on \_\_\_\_\_, subject to the conditions and modifications set forth herein.

BE IT FURTHER RESOLVED, that the Planning Board hereby grants Site Plan Approval to construct two multifamily buildings with a total of 64 dwelling units and a separate office building with 25,400 square feet along with a Greenway Trail on two parcels containing 9.18 acres located on property at 248 Tioronda Avenue in the Fishkill Creek Development (“FCD”) District as set forth and detailed on the plans prepared by Chazen Companies, last revised January 28, 2020 and architectural site sections dated January 17, 2019, upon the following conditions:

**A. The following conditions shall be fulfilled prior to the signing of the Final Subdivision Plat by the Chairman of the Planning Board:**

1. All application review fees shall be paid in full.
2. The Applicant shall seek and obtain all required permits and/or approvals from the appropriate agencies for the Project, including but not necessarily limited to approval from the Dutchess County Department of Health, and shall meet all conditions contained in such approvals, as required therein.
3. The comments contained in the City Engineer’s letter to the Planning Board dated February 4, 2020, and all comments in any subsequent letter(s) issued, pertaining to the Subdivision Plat shall be fulfilled to the satisfaction of the City Engineer.
4. The comments contained in the City Planner’s letter to the Planning Board dated February 6, 2020, and all comments in any subsequent letter(s) issued, pertaining to the Subdivision Plat shall be fulfilled to the satisfaction of the City Planner.
5. All existing and proposed easements, as applicable, shall be shown on the Final Subdivision Plat to the satisfaction of the City Engineer and City Attorney.

6. Easement agreements, declarations of restrictive covenants or other appropriate documents corresponding with the easements shown on the Final Subdivision Plat shall be prepared and submitted to the City Attorney for review as to form and shall be recorded in the Dutchess County Clerk's Office simultaneously with the Subdivision Plat, with a copy of the recorded documents submitted to the City Clerk for filing. Such easements, declarations of restrictive covenants or other documents shall include but not be limited to: (i) Stormwater Easement and Maintenance Agreement; (ii) Greenway Trail Easement.
7. The Applicant shall post a performance bond with the City of Beacon for all public improvements. The Applicant's engineer shall prepare a cost estimate for the work and provide to the City Engineer for review.

When the conditions above have been satisfied, six (6) sets of the above referenced plans revised as per the conditions above shall be submitted for endorsement by the Planning Board Chairman. One set of the endorsed plans will be returned to the Applicant, one set will be retained by the City Clerk, one set will be provided to the Planning Board, and one set each will be forwarded to the Building Inspector, City Engineer and City Planner.

**B. The following conditions shall be fulfilled prior to the signing of the Site Plan by the Chairman of the Planning Board:**

1. All application review fees shall be paid in full.
2. The Applicant shall seek and obtain all required permits and/or approvals from the appropriate agencies for the Project, including but not necessarily limited to the Dutchess County Department of Health, and shall meet all conditions contained in such approvals, as required therein.
3. The comments contained in the City Engineer's letter to the Planning Board dated February 4, 2020, and all comments in any subsequent letter(s) issued, shall be fulfilled to the satisfaction of the City Engineer.
4. The comments contained in the City Traffic Engineer's letter to the Planning Board dated April 29, 2019, and all comments in any subsequent letter(s) issued, shall be fulfilled to the satisfaction of the City Traffic Engineer.
5. The comments contained in the City Planner's letter to the Planning Board dated February 6, 2020, and all comments in any subsequent letter(s) issued, shall be fulfilled to the satisfaction of the City Planner.
6. The Applicant shall return to the Planning Board to complete architectural review of the Project and obtain approval thereof

When the conditions above have been satisfied, six (6) sets of the above referenced plans revised as per the conditions above shall be submitted for endorsement by the Planning Board Chairman. One set of the endorsed plans will be returned to the Applicant, one set will be retained by the City Clerk, one set will be provided to the Planning Board, and one set each will be forwarded to the Building Inspector, City Engineer and City Planner.

**C. The following conditions shall be fulfilled prior to the issuance of a Building Permit:**

1. Prior to commencement of any site work for the Project, the Applicant shall fund an escrow account with the City of Beacon for the construction observation and monthly stormwater inspections of the proposed utilities and site improvements in an amount as determined by the City Engineer. The Applicant's engineer shall prepare a cost estimate for review by the City Engineer for determining value of escrow to be established.
2. Pursuant to Section 223-26.E of the Zoning Code, the Applicant shall be responsible for the construction of the twenty-four (24) landbanked parking spaces as shown on the approved site plan referenced herein within six (6) months of the date such spaces may be deemed necessary by the Planning Board. A landbanked parking agreement shall be submitted to the City Attorney for review and approval.
3. Pursuant to Section 223-41.10.A, the Applicant shall submit floor plans which provide a mix of unit types in the same proportion as all other units in the development, subject to approval by the Planning Board. The floor plans should indicate the location of each BMR unit to be provided.
4. The Applicant shall return to the Planning Board for approval of an overall comprehensive signage plan for the Property.

**D. Prior to the issuance of a Certificate of Occupancy, the following condition shall be fulfilled to the satisfaction of the Building Inspector**

1. Based on the current and anticipated future need for park and recreational opportunities in the City of Beacon, as set forth in the analysis provided by BFJ Planning, and the demands of the future population of the Project, the Planning Board hereby finds that additional recreation/parkland should be created as a condition of approval. However, the Planning Board hereby determines that recreation/parkland of adequate size and location cannot be provided on the Project Site. Therefore, that Applicant shall pay a Recreation Fee for the 64 new apartments approved herein as prescribed under Sections 223-25.H(4) and 223-61.A(7) of the Zoning Law, as per the City's Fee Schedule in effect at the time of payment.

2. [*The 2015 Planning Board Subdivision (lot merger) and Site Plan Resolution approving the prior project (“2015 Resolution”) included a condition that the Greenway Trail construction must be completed prior to the issuance of the first Certificate of Occupancy. The Planning Board should consider whether it wants to include any conditions in this resolution regarding the timing of the construction of the Greenway Trail.*]

**E. The following are general conditions which shall be fulfilled:**

1. [*The Planning Board should consider whether the following condition, which was in the 2015 Resolution, should be carried forward to the current project: Construction vehicles shall not access Wolcott Avenue except as authorized by the Building Department. The Wolcott Avenue access shall be gated, with the gate being closed each evening and opened each morning. The Building Department shall have the authority to require the Applicant to hire flagmen, at Applicant’s sole cost and expense, and to implement any other appropriate methods of traffic control, including signage, at said access point and also at Applicant’s sole cost and expense. The use of the Wolcott Avenue access shall be at the sole discretion of the Building Department and can be revoked at any time.*]
2. [*The Planning Board should consider whether any conditions should be imposed regarding the phasing of construction. For example, when during the construction timeline will the Greenway Trail be built, when will the commercial space be built and when will the residential space be built? Does the Planning Board want to consider a condition which would require the Greenway Trail and the commercial space to be completed prior to the issuance of the first residential certificate of occupancy?*]
3. License to enter the City of Beacon right-of-way to construct any access improvements shall be obtained prior to any work in the right-of-way.
4. Pursuant to the USFWS, removal of trees greater than four (4) inches in diameter at the Project Site shall take place between October 1 and March 31 during the bat hibernation period to avoid the removal of trees which may be utilized by Indiana Bats as roosting trees, cut-off lighting shall be used, and no pesticides or herbicides shall be used in any stormwater basins.
5. Access from the Site to Tioronda Avenue shall be limited to exclude right turns in and left turns out. Such traffic routing shall direct all traffic to and from the site to Wolcott Avenue rather than traveling south on Tioronda to local streets.
6. The Project shall comply in all respects with Article IVB, Affordable-Workforce Housing, of the Zoning Law. The Applicant shall be responsible for the payment of any and all fees established by the City Council now or in the future or as otherwise required for the ongoing implementation of the provisions of Article IVB, Affordable-Workforce Housing, of the Zoning Law as said Article applies to the Project.



7. The Building Inspector and the City Engineer shall have the right to direct the Applicant to cause the placement, cleaning and/or repair of sedimentation and erosion control devices wherever and whenever deemed necessary during construction.
8. The Applicant shall be responsible for the payment of all application review costs incurred by the City in its review and approval of this project. Such fees shall be paid by the Applicants within thirty (30) days of each notification by the City that such fees are due. If such fees are not paid within the thirty (30) day period, and an extension therefor has not been granted by the City, this resolution shall be rendered null and void.
4. As used herein, the term "Applicant" shall include the Applicant and the Applicant's heirs, successors and assigns, and where applicable its contractors and employees.
5. If any of the conditions enumerated in this resolution upon which this approval is granted are found to be invalid or unenforceable, then the integrity of this resolution and the remaining conditions shall remain valid and intact.
6. The approval granted by this resolution does not supersede the authority of any other entity.
9. Conditional approval of the Final Subdivision Plat shall expire one hundred eighty (180) days from the date of the adoption of this resolution unless all items in Condition A above have been certified as completed and the Final Plat has been submitted for endorsement by the Planning Board Chairman, or unless a written request for an extension of Final Subdivision Plat Approval is granted. The Planning Board may grant ninety (90) day extensions to said time period.
10. Once the Final Subdivision Plat has been endorsed by the Planning Board Chairman, said plat must be filed in the Dutchess County Clerk's Office within sixty-two (62) days. After said filing, two (2) copies of the Final Plat certified by Dutchess County shall be submitted to the Planning Board Secretary. One (1) certified copy of the Final Plat shall be retained by the Planning Board and the other certified copy shall be transmitted to the City Clerk along with a signed copy of this resolution and proof of recording of the easement documents described above.
11. The Applicant must return for approval from the Planning Board if any changes to the endorsed plans and/or this resolution of approval are subsequently desired other than changes determined to be field changes by the Building Inspector or City Engineer.

