

MEMORANDUM

TO: Mayor Kyriacou, Beacon City Council

CC: Anthony Ruggiero, Nicholas Ward-Willis, John Clarke

FROM: Dan Aymar-Blair, City Councilmember Ward 4

DATE: Friday, March 6, 2020

RE: Public benefit requirements for building height special permits in the CMS District

BACKGROUND

The current version of the ‘Proposed Local Law To Amend Chapter 223, Section 41.18.E(7) of The Code Of The City Of Beacon’ requires proposed development projects to include special public benefit for the Planning Board or City Council (when a proposed building is in or adjacent to the Historic District and Landmark Overlay Zone) to approve a building height special permit. It reads:

“All such building height special permits shall also require a specific public benefit as determined by the City Council or Planning Board, such as additional below-market-rate housing above what would be otherwise mandated in Article IVB, commercial uses included on an upper floor, additional parking spaces available for general public use, green building or renewable energy features beyond what is required by code, or the construction and/or maintenance of public plaza space, or green space.”

The intent of this section of the proposed local law partly satisfies public demand for more affordable housing, commercial space, and sustainable building. That is, the language reflects the values of our community, specifically feedback we heard in the development forums.

Faculty from Pace University Land Use Law Center affirm that we are on the right path. Pace faculty stated that the best means for municipalities to exact public benefits from new development are through precise criteria written into special use permits, site plan approvals, and other opportunities where municipal boards vote on a project. They also held that the more precisely the law sets forth the public benefit criteria, the better for all parties.

This proposal for a *public benefit scoring rubric* seeks to provide this precision where the current draft local law says “as determined by the City Council or Planning Board”. The rubric also

provides flexibility, simplicity, and predictability for city officials, special use permit applicants, and the public.

PUBLIC BENEFIT SCORING RUBRIC

A ‘Public Benefit Scoring Rubric’ provides clear direction on what the City of Beacon considers a public benefit for this special permit. The categories of public benefit in the law are unchanged:

- Additional below-market-rate housing above what would be otherwise mandated in Article IVB
- Commercial uses included on upper floors
- Additional parking spaces available for general public use
- Green building or renewable energy features beyond what is required by code
- Construction and/or maintenance of public plaza space, or green space

Proposals are judged to meet the City’s public benefit threshold by attaining a minimum score based on the size of the lot.

Lot Size	Examples	Minimum Public Benefit Score
≤ 5,000 sq. ft.	208 Main Street	3 points
≤ 10,000 sq. ft.	226 Main Street	5 points
> 10,000 sq. ft.	344 Main Street	7 points

Up to 4 points are attainable in each category. How to achieve a score in each category is easily understood and clearly laid out in a table format. Applicants may select any number of building features and/or uses from the table to achieve their minimum score.

This approach accounts for necessary flexibility, simplicity, and predictability:

- Flexibility: Every lot is unique, with its own character, context, and dimensions. The scoring rubric gives applicants options that best fit their project while still meeting the public’s expectations.
- Simplicity: A menu of public benefits organized by category and score makes it easy for applicants to identify a suite of solutions for their project.
- Predictability for Applicants: From day one, applicants will have all of the information they need to design public benefits into their project. The scoring rubric alleviates the burden of lengthy and sometimes costly negotiations.
- Predictability for the City: A common standard is applied to all projects and, thus, questions of fairness are less likely to arise, as could happen with the current language.

The following is a draft public benefit scoring rubric.

Public Benefit	Applicability	1-Point Requirement	2-Point Requirement	3-Point Requirement	4-Point Requirement
Additional below-market-rate housing	Buildings without a requirement (<10)	+1	+2	+3	+4
	Buildings with a requirement (10+)	+10%	+20%	+30%	+40%
Commercial uses included on an upper floor	All buildings	20% of total upper floor square footage	40% of total upper floor square footage	60% of total upper floor square footage	80% of total upper floor square footage
Additional parking spaces available for general public use	All buildings	2	4	6	8
Green building features	All buildings	Low-cost	Medium-cost	Large-cost	Significant cost
Renewable energy features	All buildings	25% of building's projected usage	50% of building's projected usage	75% of building's projected usage	100% of building's projected usage
Construction and/or maintenance of public plaza space or green space	All buildings	Board's discretion: Points may be given for creativity, community use, maintenance, etc.			
Other	All buildings	Board's discretion: Other public benefits may include exceptional architectural features visible from the street, public art, etc.			

CONSIDERATIONS

- Values in the grid may need to be refined as we apply them to real-world examples. (See Appendix A)
- Green building features will require some examples.
- Public plazas and green spaces are difficult to quantify and could instead be scored cumulatively based on features, use, and access.
- The City Planner, John Clarke, gave several points of feedback most of which has been used to strengthen the proposal. John provided the lot size ranges, but held that such thresholds could be considered arbitrary. Thresholds may exist elsewhere in the city code, but this warrants discussion.

Appendix A - Scenarios

Small Project

Requirement: 3 points

On a narrow lot between two buildings, Project S is constrained in multiple ways. This 6-unit residential proposal has no space to give for parking and parks. Fortunately, because Project S will be taller than the adjacent buildings, solar panels can be installed to generate 25% of the building's projected electricity usage. (1 point) To fulfill the remaining requirement, the applicant replaces the fourth floor apartment with office space (1 point) and incorporates an authentic architectural artefact to the facade of the building. (1 point)

Medium Project

Requirement: 5 points

Project M is on a corner lot and was always intended to include one floor of commercial space (2 points). Recognizing the prominence of the corner to tourists and locals alike, the applicant adds a decent-sized pollinator and rain garden on the corner (2 points) centered around a tall sculpture from a famous local artist (1 point).

Large Project

Requirement: 7 points

On a lot loaned to a community food-insecurity project for five years, Project L occupies a full city block and is required to include 2 affordable housing units. By building up to four floors, the applicant frees up some ground space for achieving their public benefits. The applicant makes two parking spaces available for general use (1 point) and paves the parking lot with pervious paving blocks (3 points). The south end of the lot includes space for four large garden beds, compost, and beekeeping to be managed by the community project (2 points). The applicant adds one unit of affordable housing (1 point) to satisfy their public benefit requirement.