



300 Westage Business Center, Suite 380
Fishkill, New York 12524
T 845 896 2229
F 845 896 3672
cuddyfeder.com

Taylor M. Palmer, Esq.
tpalmer@cuddyfeder.com

January 30, 2018

**VIA HAND DELIVERY
AND E-MAIL**

Mayor Randy Casale
and Members of the City Council
City of Beacon City Hall
1 Municipal Plaza
Beacon, New York 12508

Re: Edgewater –Special Permit Application for Multi-Family Development
Premises: 22 Edgewater Place, Beacon, New York
Tax Parcel IDs: 5954-25-581985, 5955-19-590022, 5954-25-566983 and 5954-25-574979

Dear Mayor Casale and Members of the City Council,

This letter is respectfully submitted on behalf of our client, Scenic Beacon Developments, LLC (the “Applicant”), the Owner of the above-referenced Premises, in furtherance of its Application for a Special Use Permit (the “SUP Application”) for a transit-oriented multi-family development project commonly referred to as Edgewater (hereinafter the “Project” or “Edgewater”).¹ For the reasons set forth herein, we respectfully submit that the record for this SUP Application demonstrates compliance with all applicable Special Permit criteria for the proposed multi-family development.

PROJECT BACKGROUND

The Edgewater Premises is a very special property in the City of Beacon as it is the only property in the City zoned in the RD-1.7 - Designed Residence Zoning District.² Indeed, the Premises was comprehensively planned and the RD-1.7 Zoning and density was designed for the site, given its proximity to the Metro-North Railroad Station and its linkages to Main Street and downtown.

¹ Note: In accordance with the City of Beacon Zoning Code Section 223-18(B)(1), an “[a]pplication for required special permits shall be made to the Planning Board as agent for the City Council...”

² The RD-1.7 Zoning District was recently added to the Zoning Code by Local Law No. 2-2010, specifically for the Premises.

The Applicant proposes to build seven (7) buildings containing 307 multi-family residential units on the Premises (comprised of 96 studios, 115 one-bedroom, 86 two-bedroom and 10 three-bedroom units and common space for residents), as well as Below-Market-Rate units in accordance with the City's Affordable-Workforce Housing Law.

The applicable RD-1.7 Zoning specifically permits 307 units to be constructed on the Premises. The Applicant *is not* proposing to construct any additional density other than what is permitted on the Premises. Nor is the Applicant requesting any relief for parking or building height for the development. The Project has more parking than is required by the Zoning Code for this transit-oriented development. Instead, the Applicant successfully obtained area variances to allow the Project to reduce impervious surfaces by maintaining approximately 60% of the Premises as greenspace, and improving the aesthetics of the project. This is proposed to be accomplished by placing the proposed apartment units in fewer buildings, so as to preserve open space and promote better aesthetics in accordance with the City's Comprehensive Plan and Local Waterfront Revitalization Program ("LWRP") guidelines.³

It is respectfully submitted that the record for this Project and as provided in this SUP Application, demonstrates that the proposed Project fully satisfies the criteria for issuance of a special permit as set forth in Zoning Code § 223-18(B)(1) and for the following reasons the special permit should be granted.

APPLICATION STATUS – PRIOR APPROVALS

Planning Board – Environmental Review & Negative Declaration:

Pursuant to Beacon Zoning Code Section 223-17C, the Schedule of Regulations for Residential Districts, "... multiple dwelling[s] in any RD or RMF District..." are "subject to the special permit approval procedure set forth in §§ 223-18 and 223-19." As this Council is aware, procedurally the Applicant made its initial Application for Site Plan and Preliminary and Final Subdivision Approval to the City of Beacon Planning Board (the "Planning Board") nearly a year ago.⁴ Considered a Type I Action under the New York State Environmental Quality Review Act ("SEQRA"), the Applicant and its consultants met with the City's Planning, Engineering and Legal consultants, and prepared numerous studies and reports to assist the Planning Board in its review as Lead Agency. Through its

³ Note: As we will be discussed further herein, on December 12, 2017 the Planning Board issued a Local Waterfront Revitalization Consistency Determination, which provides in part that the Project is consistent with the policies in the LWRP because it condenses and clusters the footprint of the buildings and impervious surfaces to achieve the clustered effected recommended by the LWRP. **See Exhibit A.**

⁴ The Applicant appeared before the Planning Board on February 15, 2017; March 22, 2017; and April 11, 2017. The first SEQRA Public Hearing was set scheduled for May 9, 2017, with an additional Public Hearings held on July 11, August 8, September 12, October 11, November 14 and December 12, 2017, at which time the SEQRA Public Hearing was closed.

comprehensive environmental review, the Planning Board took the requisite “hard look”⁵ in considering a detailed record including a Stormwater Pollution and Prevention Plan (“SWPPP”), Traffic Impact Study, School Impact Study, Local Waterfront Revitalization Plan Consistency Statement, a Phase 1A Archeological Investigation Report and a Threatened and Endangered Species Habitat Suitability Report, in addition to 100+/- letters of support, as well as public comments from business owners and residents.⁶ Based on the particular facts and circumstances of the case, the Planning Board determined that the Project *will not* have a “significant” adverse impact on the environment and at its December 12, 2017, meeting the Planning Board adopted a Negative Declaration. See **Exhibit C** – Resolution Adopting Negative Declaration and Environmental Findings. Additionally, as will be discussed more fully herein, during the SEQRA review, on December 12, 2017, the Planning Board also adopted a LWRP Consistency Determination, which provides in part that the Project is consistent with the policies in the LWRP because it condenses and clusters the footprint of the buildings and impervious surfaces to achieve the clustered effect recommended by the LWRP. See **Exhibit A** – LWRP Approval Resolution.

Zoning Board of Appeals – Area Variance Review:

Following the completion of the Coordinated Environmental Review of this Project, the Applicant appeared at the Zoning Board of Appeals (“ZBA”) in connection with a request seeking *de minimis* area variances for:

- 1) One half (1/2) story for three (3) of the proposed buildings to permit five (5) stories where 4.5 is permitted (note: this was not a request to exceed the permitted building height – whereas all seven (7) of the proposed buildings comply with the permitted building height of 55.0 ft.));
- 2) The minimum separation between buildings on the same lot where the average distance between the buildings is +/- 25.0 ft., and of the five (5) spaces between

⁵ The “hard look” doctrine requires that, in reviewing an agency’s determination of environmental significance (or the adequacy of a subsequently prepared EIS), a court, once satisfied that the agency has complied with SEQRA’s procedural requirements, will limit its substantive review of the agency’s SEQRA determination to consideration of whether “the agency identified the relevant areas of environmental concern, took a ‘hard look’ at them, and made a ‘reasoned elaboration’ of the basis for its determination.” Gerrard, Ruzow, Weinberg, *Environmental Impact Review In New York* [Matthew Bender 1996] § 4:17, quoting *Jackson v. N.Y.S. Urban Dev. Corp.*, 503 N.Y.S.2d 298 (Ct. of App. 1986).

⁶ To avoid unnecessary repetition, we respectfully incorporate by reference all of our prior submissions and presentations to the Planning Board and Zoning Board of Appeals. Please see the attached Index of Documents, enclosed as **Exhibit B**. This submission summarizes the Applicant’s prior submissions, which more fully address traffic; community character; density; impacts to schools and parking. As to the more-detailed studies and analyses prepared, including detailed analyses pertaining to water, stormwater, sewer and related utilities, we respectfully refer this Board to our past submissions and the reviews by the Board’s consultants that confirm adequate water and sewer, and reduced inflow and infiltration. Copies of the prior correspondence are available at the Council’s request, and are on file with the Building Department.

the buildings, four (4) of them exceed 25.0 ft. of separation. The closest minimum distance is 12.0 ft.;⁷ and

- 3) For the maximum number of units permitted within certain buildings, where a maximum of 36 dwelling units is permitted per building (note: this was not a request to construct more than the number of units permitted by right under zoning).⁸

The ZBA opened the Public Hearing on the Applicant's request for area variances on March 21, 2016, and the Public Hearing was continued until December 19th, at which time the Public Hearing was closed.

The Applicant sought these variances proposing to construct better buildings with less impervious coverage. The Applicant's architect and engineer designed the Project to allow the Project to reduce impervious surfaces and lot coverage by maintaining approximately 60% of the Premises as greenspace, and improving the aesthetics of the Project. The Project accomplishes this by placing the permitted number of units in fewer buildings, which the ZBA recognized in granting the requested area variances that the Project is "... consistent with the policies in the LWRP because it condenses and clusters the footprint of the buildings and impervious surfaces to achieve the clustered effect [identified] by the LWRP". See **Exhibit D** – ZBA Approval Resolution, at page 5. Further, the ZBA also resolved that the variances allow the "Applicant [to] create a better mix of unit types and overall diversity in unit counts to better achieve the goals of the Affordable-Workforce Housing Law." See **Exhibit D**, at page 5.

Ultimately, after carefully executing the balancing test by weighing the five (5) factors for each of the requested variances, as well as considering the public comments during the Public Hearing, the ZBA determined that the benefit of the requested variances clearly outweigh any possible detriment to the health, safety, and welfare of the neighborhood or community by such grant, and granted the requested area variances at its January 17, 2018 meeting. See **Exhibit D**.

Planning Board – Site Plan & Subdivision Review:

At this time, the Applicant is appearing before this Council in connection with the SUP Application, which is on referral from the Planning Board.⁹ The Planning Board is the

⁷ Note: Importantly, as discussed with the Planning Board and ZBA, all of the proposed buildings are accessible to Beacon Fire Department apparatuses, and the buildings include additional fire suppression systems and building materials. Accordingly, the design preserved safety and welfare of the neighborhood, and allows for the most effective pedestrian movements on the Premises.

⁸ Note: As an essential fact, the Premises are located in the RD-1.7 Zoning District, which permits 307 total units to be developed on the Premises. The Applicant is *not* seeking to develop more units than the Zoning Code permits and the variance granted allows no more than 59 units in any one (1) building.

⁹ Zoning Code Section 223-18(B)(1), provides that an "[a]pplication for required special permits shall be made to the Planning Board as agent for the City Council..." and that "[t]he Planning Board shall, upon receiving such application, forward a copy of the application to the City Council for the Council's use..."

approval authority that is reviewing the Applicant's request for Site Plan Approval and Preliminary & Final Subdivision Approval.¹⁰

Currently, the Planning Board has an open Public Hearing regarding the Applicant's Site Plan application for the Project. As provided in the Zoning Code, the Applicant must appear before this Council regarding its SUP Application before returning to the Planning Board where the Site Plan Public Hearing would be continued. Of course, the City Council's approval of the instant SUP Application would not end review of the Project. Indeed, the Planning Board will continue its Site Plan Public Hearing and will also hold a Public Hearing on the proposed application for Preliminary and Final Subdivision Approval in order to merge all four (4) existing lots that are zoned RD-1.7 into a single lot.

The Planning Board has ample authority, under its site plan and subdivision jurisdiction to discuss and further evaluate the Edgewater project as the review moves forward. Accordingly, as will be more fully discussed herein, it is respectfully submitted that the only item for consideration before the City Council regarding the proposed Project is the SUP Application for the multi-family housing development in the RD-1.7 District, pursuant to City of Beacon Zoning Code (the "Zoning Code") § 223-18(B)(1) and the Schedule of Use Regulations for Residential Districts.

THE PROPOSED MULTIFAMILY DEVELOPMENT COMPLIES WITH ZONING; SATISFIES THE SPECIAL PERMIT CRITERIA; AND WILL NOT HAVE A NEGATIVE IMPACT ON THE NEIGHBORHOOD OR ENVIRONMENT

The Proposed Edgewater Multi-Family Development is Permitted in the Zoning Code

In accordance with the Zoning Code's Schedule of Use Regulations for Residential Districts, multi-dwellings are expressly considered "Principal Permitted Uses" in the RD-1.7 District, subject to obtaining Special Permit Approval from the City Council as set forth in set forth in Zoning Code §§ 223-18 and 223-19, concerning special permits and individual standards for the regulation of certain special uses.¹¹

As noted above, Edgewater is unique as it is located on the only area zoned RD-1.7 in the entire City. The zoning was designed to support multi-family housing due to its close proximity to the Metro-North Railroad Station and property's linkage to Main Street and downtown. Multi-family housing conveniently located within walking distance to the train station is supportive of the Smart Growth strategy of transit-oriented development.

¹⁰ Note: As this Council is also aware, the City Council recently adopted changes to the Fishkill Creek Development Zoning District, whereby mixed-use and multi-family developments no longer require a Special Use Permit from the City Council and the Planning Board maintains its authority in reviewing applications for Site Plan approval.

¹¹ Zoning Code Section 223-17C, Schedule of Regulations for Residential Districts, provides that "... multiple dwelling[s] in any RD or RMF District..." are "subject to the special permit approval procedure set forth in §§ 223-18 and 223-19."

According to the New York Court of Appeals, New York's highest court, generally:

a special exception [permit/use] gives permission to use property in a way that is consistent with the zoning ordinance, although not necessarily allowed as of right. The significance of this distinction is that the 'inclusion of the permitted use in the ordinance is tantamount to a legislative finding that the permitted use is in harmony with the general zoning plan and will not adversely affect the neighborhood'...¹²

It is respectfully submitted that the proposed Project complies with the legislatively imposed criteria and will have no adverse impacts on the neighborhood as demonstrated herein and in the record.

The Proposed Project Satisfies the Special Permit Criteria

Pursuant to N.Y. Gen. City Law § 27-b and City of Beacon Zoning Code § 223-18 (the "Special Permit Provisions"), special uses shall be deemed to be principally permitted use in their respective districts, subject to the standards set forth in Zoning Code § 223-18.¹³

In considering the SUP Application, Zoning Code §223-18(B)(1) directs that the City Council shall consider the following standards and conditions:

- (a) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.

¹² Retail Prop. Trust v. Bd. of Zoning Appeals of Town of Hempstead, 98 N.Y.2d 190, 195, 774 N.E.2d 727 (2002) (citing Matter of North Shore Steak House v. Board of Appeals of Inc. Vil. of Thomaston, 30 N.Y.2d 238, 243 (1972) [citations omitted]); see also Nathan v. Bd. of Appeals of Town of Hempstead, 125 A.D.3d 866, 5 N.Y.S.3d 127 (N.Y. App. Div. 2015) (holding that "[a]n applicant for a special exception permit need only show that it has complied with every legislatively imposed condition on the permitted use"); see also Juda Const., Ltd. v. Spencer, 21 A.D.3d 898, 900, 800 N.Y.S.2d 741, 743 (2005) (the Supreme Court, Appellate Division, Second Department held that "[a] use permitted by special exception use permit is a use that has been found by the local legislative body to be appropriate for the zoning district and 'in harmony with the general zoning plan and will not adversely affect the neighborhood'" [citations omitted] and further held that "[t]he [special] permit must be granted if the application satisfies the criteria set forth in the zoning law (citing Matter of Pleasant Val. Home Constr. v. Van Wagner, 41 N.Y.2d 1028, 1029, 395 N.Y.S.2d 631, 363 N.E.2d 1376).

¹³ Note: A copy of the fully executed corrected Special Use Permit Application Form is enclosed as **Exhibit E**.



- (b) The location, nature and height of buildings, walls and fences and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the appropriate development use of adjacent land and buildings.
- (c) Operations in connection with any special use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristic than would be the operations of any permitted use, not requiring a special permit.
- (d) Parking areas will be of adequate size for the particular use and properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

Notably, unlike certain special permit uses such as “hotels”, “hospitals”, “nursing homes” and “artist/live work spaces” (among many others that have specifically individualized standards and regulations applied to them),¹⁴ multi-family dwellings *do not* have these additional individual standards for the City Council to consider. Further, the Special Permit Provisions identify the initiation of a the SEQRA process. However, as identified above, the SEQRA process, which involved a Type I Action and a Coordinated Environmental Review was completed on December 17, 2017, at which time the Planning Board Adopted a Negative Declaration and a LWRP Consistency Determination. Accordingly, further environmental review by the City Council pursuant to SEQRA is not appropriate or required.

It is respectfully submitted that the record for this Project and as provided in this SUP Application, demonstrates that the proposed Project fully satisfies the criteria for issuance of a special permit as set forth in Zoning Code § 223-18(B)(1) and for the following reasons, the special permit should be granted:

- (a) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located;**

The location, size, nature, and intensity of the proposed Project is in harmony with the appropriate and orderly development of the RD-1.7 District. This district was specifically designed to encourage high-density, multi-family development and the Premises is the only property in the entire City zoned RD-1.7 due to its proximity to the Metro-North Railroad Station and its linkages to Main Street and the downtown. Notably, the proposed number of units are consistent with the number of units that can be constructed as-of-right on the large 12.0+/- acre Premises, without variance. However, instead of proposing to build taller structures, or proposing more buildings with a larger overall footprint (which are permitted in the Zoning Code), the Applicant instead chose to obtain variances from the ZBA to employ sustainable development and smart growth mechanisms to preserve open space.¹⁵ Because the proposed number of units are

¹⁴ See Zoning Code Section 223-19.

¹⁵ Note: Sustainable Development, including the encouraging high environmental standards for buildings and infrastructure, is a stated Goal of the 2007 Comprehensive Plan (pg. 6), and was reaffirmed as a Goal in the 2017 Comprehensive Plan Update (pg. 24). See CITY OF BEACON, 2007 COMPREHENSIVE PLAN,

permitted as-of-right, the Project is inherently consistent with the objectives of the Zoning Code, while proposing significantly less lot coverage than the more-intense Tompkins Terrace and Colonial Springs developments on adjacent properties in the surrounding area. See **Exhibit F - Neighborhood Maps**.

The legislative history of the RD-1.7 District reveals that the site was at one time contemplated for much more intensive development than is currently proposed for the Project; approximately 680 units in the transit-oriented development area, as well as high-density in the waterfront area in proximity to the train station. The 2010 City Council Meeting Minutes, during which the adoption of the RD-1.7 District regulations were considered, recognize that more units and more density was considered for Edgewater in the Comprehensive Plan.

Indeed, the 2007 Comprehensive Plan states that one of its Goals is to “encourage housing development at **relatively greater densities** within and adjacent to the...Waterfront/Train Station area” (pg. 7) [emphasis added],¹⁶ with a specific objective being to “[d]evelop an urban design plan for the Waterfront/Train Station area that encourages the **development of high density housing** along Beekman Street” (pg. 13) [emphasis added].¹⁷ The 2007 Comprehensive Plan also provides that “...participants [in the 2006 visioning workshops] also wanted to see **denser residential development around the train station...**” (pg. 44) [emphasis added].¹⁸

The 2017 Comprehensive Plan Update restated the goal of “[e]ncourag[ing] housing development at **relatively greater densities** within and adjacent to the...Waterfront/Train Station area” (pg. 23) [emphasis added].¹⁹ Further, the 2017 Comprehensive Plan Update noted that the vision for the waterfront and train station area is to:

[C]reate a destination that serves as a ‘gateway’ to Beacon, to reclaim the riverfront and to link that riverfront to downtown Beacon. Given the desire to create land use synergies with the resources present at the station area, this plan proposes zoning changes to allow for **sufficient density to support a transit oriented community** focused toward residents, workers, and visitors who seek the convenience of transportation facilities in a walkable community framework. [emphasis added]²⁰

Thus, the City’s comprehensive planning documents and legislative history of the RD-1.7 District affirm that development of the Premises as multi-family housing is consistent with the appropriate and orderly development of the RD-1.7 District.

available at: http://www.cityofbeacon.org/pdf/Beacon_Comprehensive_Master_Plan.pdf; see also CITY OF BEACON, 2017 COMPREHENSIVE PLAN UPDATE, available at:

http://cityofbeacon.org/pdf/Beacon_Comprehensive_Plan_Final-040417.pdf.

¹⁶ CITY OF BEACON, 2007 COMPREHENSIVE PLAN, available at:

http://www.cityofbeacon.org/pdf/Beacon_Comprehensive_Master_Plan.pdf.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ CITY OF BEACON, 2017 COMPREHENSIVE PLAN UPDATE, available at:

http://cityofbeacon.org/pdf/Beacon_Comprehensive_Plan_Final-040417.pdf.

²⁰ *Id.*

Finally, the Project's relation to the streets giving access to it has been thoroughly considered, and the Project includes mitigation measures to ensure that no adverse impacts will occur. As shown in Dutchess County Aerial Access photographs, the Premises have been historically accessed off of Tompkins Terrace, in proximity to Tompkins Avenue and Bank Street, as well as to the south via Branch Street. Indeed, the Applicants met with the City's Engineer and Planner to review the proposed access drives and circulation for the site and the two (2) access points to the site were determined to be the safest given the sight distances from each access point, the location in relation to other streets and the ease of access for emergency vehicles. The Applicant has also been in regular communications with Tompkins Terrace, Inc., the owner of the 190-unit apartment complex known as the Tompkins Terrace Apartment Homes, and the Project will provide improved accessibility to the Metro-North Railroad Station.

Further, the Applicant's Traffic Consultant, Maser Consulting P.A., prepared a Traffic Impact Study ("TIS") for the Planning Board's consideration during the SEQRA review process.²¹ The TIS evaluated potential traffic impacts associated with the proposed Project, which would be accessed from a reconstructed driveway connection to Tompkins Avenue, located between Tompkins Terrace and Bank Street. Additionally, the Project would include an extension at the southern end of the property to Branch Street, providing additional access directly to Bank Street, which connects to West Main Street to the south. Ultimately, the TIS concludes that similar levels of service and delays will be experienced at the area intersections under the future No-Build and Build Conditions. The TIS proves that the Edgewater development's traffic is not expected to cause any significant impact in traffic operating conditions in the vicinity of the site. Further, the proximity to the site to Metro-North makes it likely that actual traffic volumes generated by the Project will be less than what were evaluated in the conservative TIS. The City's Traffic Consultant, Creighton Manning, agreed with the Applicant's TIS and affirmed that overall, any traffic delays caused by the Project are being mitigated to, or better than, No-Build conditions. See **Exhibit G** - Creighton Manning Letter, dated June 26, 2017.

Additionally, concerning the harmony and orderly development of the RD-1.7 District, the policies in the LWRP cite that "... the scenic qualities of Beacon results from the combination of **clustered buildings** (many historic) and wooded hillsides against the backdrop of the Hudson Highlands" (emphasis added).²² The Planning Board determined that the Project that is before this Council is consistent with Policy 25 because it condenses and clusters the footprint of the buildings and impervious surfaces to achieve the clustered effected recommended by the LWRP.²³ The Planning Board adopted the LWRP Consistency Determination by Resolution dated December 12, 2017. See **Exhibit A**.

Therefore, the location and size of the use, nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site

²¹ As identified above, a copy of the +/- 350-page study and the Applicant's Traffic Consultant's supplemental responses to comments that were reviewed during the Coordinated SEQRA Review process are available for this Council's review upon request for the same, and is on file with the Building Department.

²² CITY OF BEACON LOCAL WATERFRONT REVITALIZATION PLAN, Policy 25, last revised April 5, 2012.

²³ CITY OF BEACON LOCAL WATERFRONT REVITALIZATION PLAN, last revised April 5, 2012.

with respect to streets giving access to it are such that the proposed Project is in harmony with the appropriate and orderly development of the RD-1.7 District – especially when taking into account that this is the *only* development that will be located in this District.

(b) The location, nature and height of buildings, walls and fences and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the appropriate development use of adjacent land and buildings;

As discussed above, the Premises was specifically zoned to encourage denser multi-family development in close proximity to the train station, and the Premises is the only land in the entire City zoned RD-1.7. Therefore, the location and multi-family nature of the buildings is in conformance with the Zoning Code. The intent of the Project is to exemplify sustainable development principles by clustering the units into fewer buildings and conserving open space for both residents' enjoyment and visual aesthetics. Regarding the height of the buildings, the 2007 Comprehensive Plan stated that: "given the topography of the site relative to the adjacent surroundings as well as the desire to provide waterfront views from future housing, it is appropriate that development be allowed to reach five [5] stories" (pgs. 110-111).²⁴ The proposed building heights are entirely compliant with the Zoning Code, and the ZBA granted area variances to permit the three (3) buildings that exceed the permitted number of building stories by one-half (1/2) story. See **Exhibit D & Exhibit H** – Site Plan.

Additionally, during the SEQRA and Site Plan Public Hearings at the Planning Board, the Applicant's consultants also significantly modified the Site Plan to satisfy the comments of an adjacent property owner to the south of the Premises, specifically concerning a retaining wall that had been proposed for additional on-site parking. Through modifications to the site development plans, the Applicant addressed this public comment and revised the plan to relocate the land-banked parking on the Premises, as shown in the enclosed Site Plan. See **Exhibit H**. To further address landscaping on the Premises, the Applicant has prepared a Landscaping Plan, which provides additional mitigation measures for adjacent properties. See **Exhibit H** – Site Plan, including Landscaping Plan.

As discussed herein, the proposed Project is less intensive in terms of overall building footprint than the surrounding development, including Tompkins Terrace and Colonial Springs, and creates as much greenspace as possible. Indeed the Project provides convenient access to the train station including improved pedestrian access to and from the Project; upgrading pedestrian facilities along Branch Street, Bank Street and West Main Street and pedestrian striping and signing improvements at the intersect of Bank Street and West Main Street. As cited above, the Project also incorporates the 2017 Comprehensive Plan recommendations to create land use synergies with the resources present at the train station area, focused toward residents, workers and visitors who seek the convenience of transportation facilities in a walkable community framework. Taken together, the site design and building locations maintain significant portions

²⁴ CITY OF BEACON, 2007 COMPREHENSIVE PLAN, *available at*:
http://www.cityofbeacon.org/pdf/Beacon_Comprehensive_Master_Plan.pdf.

of the Premises as green space that ensure that the Project's density and scale is appropriate for the site, and it will not hinder appropriate development of adjacent land or buildings.

(c) Operations in connection with any special use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristic than would be the operations of any permitted use, not requiring a special permit; and

There will be no adverse effects of noise, vibrations, odor, traffic, or impact on public services caused by the proposed Project. As part of the Coordinated SEQRA Environmental Review conducted by the Planning Board as Lead Agency, the Planning Board has confirmed that the entire action will have no potential significant adverse environmental impacts. *See Exhibit C.* The Planning Board also granted a LWRP Consistency Determination, further resolving that the proposed Project is consistent with policies and guidance contained therein. *See Exhibit A.* Finally, the ZBA, in determining to grant the required area variances for the Project, also determined that no adverse effects would arise from the granting of the variances on the surrounding properties or neighborhood. *See Exhibit D.*

(d) Parking areas will be of adequate size for the particular use and properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

The Project has more parking than is required by the Zoning Code for this transit-oriented development, and it is respectfully submitted that the parking areas will be of adequate size for the particular use and properly located and suitably screened from adjoining residential uses. Further, the driveways and access points to the property were laid out so as to achieve maximum safety.

Notably, the Planning Board has approved the Applicant's proposal to land-bank 33 of the required 387 parking spaces for the Premises, which is in recognition of the fact that the Project is most likely over-parked due to proximity to the train station and downtown. According to the Building Department, where land-banked parking has been proposed and required by the Planning Board, to date, none of the land-banked parking has been built-out.

In addition to the proposed parking areas (some of which are located under the proposed buildings to further maintain green space) are generally setback and located away from the property lines, the Applicant has developed detailed landscaping plans that include significant screening of the parking from adjacent properties and views from streets. *See Exhibit H – Site Plan, including Landscaping Plan.* Further, given the topography of the site, a combination of existing wood and meadows, and new plantings and trees also contribute to the parking lot screening.

As discussed above concerning the two (2) entrance exit drives for the Premises, the Applicants met with the City's Engineer and Planner to review the proposed access drives and circulation for the site and the two (2) access points to the site were determined to be the safest given the sight distances from each access point, the location in relation to other streets and the ease of access

for emergency vehicles. The Applicant has also been in regular communications with Tompkins Terrace, Inc., the owner of the 190-unit apartment complex known as the Tompkins Terrace Apartment Homes, and the Project will provide improved accessibility to the Metro-North Railroad Station.

THE PROPOSED PROJECT COMPLIES WITH SEQRA

The Applicant's Special Use Permit Application is considered a Type I action under the State Environmental Quality Review Act ("SEQRA") Regulations, and it has therefore undergone a Coordinated Review with the Planning Board acting as Lead Agency. After a nearly seven (7) month-long SEQRA Public Hearing, the Planning Board, at its December 12, 2017 meeting, confirmed that the proposed Project does not have any potentially significant adverse environmental impacts, and accordingly issued a Negative Declaration. See **Exhibit C**.

CONCLUSION

For all of the reasons discussed above, we respectfully submit that the Application demonstrates that the requested Special Permit meets all of the applicable criteria for approval. Accordingly, we respectfully request that the City Council issue a favorable decision on the SUP Application.

In support of this SUP Application, please find enclosed the following materials:²⁵

- Exhibit A: Planning Board Resolution Adopting Local Waterfront Revitalization Consistency Determination, dated December 12, 2017;
- Exhibit B: Index of Prior Submissions to Planning Board, including:
 - B-1 - Full Environmental Assessment Form;
 - B-2 - June 26, 2017 Cleary Consulting School Impact Study;
 - B-3 - Hartgen September 2017 Phase 1A Archeological Investigation; and
 - B-4 - September 15, 2017 Threatened & Endangered Species Habitat Suitability Assessment Report.
- Exhibit C: Planning Board Resolution Adopting Negative Declaration and Environmental Findings, dated December 12, 2017;
- Exhibit D: Zoning Board of Appeals Approval Resolution dated January 17, 2018;
- Exhibit E: A Copy of the Fully Executed Corrected Special Use Permit Application Form;

²⁵ Note: Pursuant to our communications with the City of Beacon Building Department, five (5) copies of this submission will be delivered to the Building Department, together with an electronic copy of the same.



- Exhibit F: Edgewater Neighborhood Maps, Sheets 1 & 2, prepared by Hudson Land Design Professional Engineering P.C.;
- Exhibit G: Creighton Manning Letter Responding to Traffic Study, dated June 26, 2017; and
- Exhibit H: Copies of the Site Plan, Including the Landscaping Plan and Renderings, prepared by Aryeh Siegel, AIA.

Thank you for your consideration in this matter. We look forward to discussing the Application with the City Council at its next available Work Session Agenda, and we respectfully request that the City Council consider scheduling the Public Hearing on the SUP Application provided that the SEQR process has already been concluded.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Taylor M. Palmer', is written over the typed name.

Taylor M. Palmer, Esq.

cc: Nicholas M. Ward-Willis, Esq., City Attorney
Jennifer L. Gray, Esq., Attorney to the Planning Board
Arthur R. Tully, P.E., City Engineer
Lt. Timothy P. Dexter, Building Inspector
John Clarke, Beacon Planning Consultant
Michael A. Bodendorf, P.E., Hudson Land Design
Thomas E. Cerchiara, P.L.S., TEC Land Surveying
Aryeh J. Siegel, Architect
Cleary Consulting
Scenic Beacon Developments, LLC