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January 30, 2018

John Dunne, Chairman
and Members of the Zoning Board of Appeals
City of Beacon
1 Municipal Plaza
Beacon, NY 12508

Re: Beacon HIP Lofts/Beacon Lofts & Storage

Dear Chairman Dunne and Members of the Zoning Board of Appeals:

At the January 17, 2018 public hearing session, the Zoning Board requested clarification on several items. First, it has requested a clarification of the project-as-a whole under the requested 66-foot variance. Second, the Board has asked how several potential decisions of the Zoning Board (granting a lesser height variance or no variance) might affect the project as a whole.

We believe that the information provided herein supports the 66-foot variance and further documents that the 66-foot variance development plan is the best for the community:

- It replaces an extremely unattractive decaying building (see slides 2-3 in the Beacon Lofts Drawing Handout submitted at the hearing) with a very attractive new building.
- The new building fits into the historic setting (see letter of Walter Wheeler, architectural historian from Hartgen associates submitted at hearing)
- It eliminates the commercial laundry, a heavy water user of roughly 26,000 gpd, by not renewing the lease
- It eliminates construction of an already approved 4 story residential building on the creekbank
- It results in a commitment by the applicant that there would be no further applications for future residential units on the site beyond the 172 contained in the application.



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Existing approvals:

To understand the various project scenarios, it is first necessary to understand the nature of the existing approvals. Beacon Lofts was approved as a mixed-use project with 143 artist Live Work units, 100 units less than the 243 maximum residential density within the LI District.¹ (See approved Site Plan is shown as the 5th “slide” in the “Beacon Lofts” drawing handout from the public hearing.)

The breakdown of the units in the buildings was as follows:

Main Residential Buildings	Status	# Live Work Units	# Stories	Height
Building 10	Existing	22	3	46'-0"
Building 11 with 3rd floor tower	Existing	50	3	67'-0"
Building 16	Existing to be demolished	36	3	46'-0"

Residential Buildings along creek bank	Status	# Live Work Units	# Stories	Height
Building 9A	Approved not yet built	24	4	47'-0"
Building 9	Existing	7	1	16'-0"
Building 9 addition/reconfiguration	(only in 66' variance plan)	2	1	16'-0"

Non-Residential/accessory Buildings	Use	# Live Work Units	# Stories	Height
Building 1-3	residential	4	1	22'-6"
Building 4 (viewed from Front)	(storage/office)	0	3	43'-2"
Building 4 (viewed from parking)	(storage/office)	0	4	57'-8"

¹ The approvals did not prohibit later applications or expansions.



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Non-Residential/accessory Buildings	Use	# Live Work Units	# Stories	Height
Building 4A	(storage)	0	3	41'-0"
Building 7	(fitness/mail)	0	1	16'-0"
Building 12	(studios/gardens)	0	1	25'-9"
Building 18/24/15	(commercial laundry)	0	1	20'-0"

After approvals were obtained, construction began pursuant to the approved plans. The commercial laundry has been very successful. It is, however, a high volume water user, using approximately 26,000 gallons per day.

The development of the 66-foot height variance plan for Building 16:

When the applicant reached the point of preparing for the restoration of Building 16, he was informed that the building was beyond repair, due to extensive roof damage which had impacted the structural stability of the structure. (See Engineer's letter from Mark Day PE submitted in the letter handout at the January 17th meeting.)

This news changed the economic picture for the project in a material way. Demolition and new construction adds materially to the costs of building. The demolition itself is costly, and would cost from \$500,000 to \$600,000 (\$13-15 per SF). The demolition would tend to run higher as much work must be done by hand to preserve the adjoining building and preserve the brick. The construction of a whole new building would also be more expensive than simply restoring an existing building. A new roof for a building of this size can cost a million dollars, and the cost of the roof is the same investment, independent of the height of the building. Overall, the costs of demolition and exterior construction would be expected to run approximately \$3 million.

Looking at the overall project, the applicant explored ways to modify the project in a manner that was good for the community as well as offsetting these unanticipated costs.

Elements of the 66-unit variance plan:

- **Concentrating units in Building 16:** One of the essential elements of the redesign is to add 29 additional units to the total size of the project, and place the additional units in the rebuilt Building 16.
- Since a new building would have to be built anyway, it made sense to put these new units in the new building. Additionally, it made sense to transfer the 24 units (approved but not built) in building 9A by the creek, into Building 16 as well.



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- This eliminated the construction of building 9A, a 4-story building on the Creek. It allowed the building footprint on the site to shrink, and also allowed the site to fully meet its parking requirements on this site.
- The plan also eliminates the 3 building Commercial Laundry. These are non-brick, non-historic additions (shown in slides 2 and 3 of the Beacon Lofts drawing handout). This eliminates ugly and non-contributing structures, and also eliminates a heavy industrial water user. The City Council saw the elimination of this heavy water user as a major contribution to the health safety and welfare of the City, and, because of this, included the HIP Lofts project as exempt from the development moratorium.
- Commitment to no further residential units on the site. The maximum permitted density on this site is 243 units. However, as part of the 66-foot variance plan, the applicant is willing to commit that there would be no more units proposed or built on the property in excess of the 172 units in the proposed 66 foot variance plan.

Why the 66-foot height is necessary:

The main building must be 52 feet tall, rather than 46 feet tall, to accommodate the increased ceiling height:

Building 16 is presently 46 feet tall. However, the building cannot be reconstructed. An essential part of the applicant's purpose in the redesign of Building 16 is to provide higher ceiling units. This accomplishes two purposes. It meets the strong desires of tenants for units with mezzanines, which require a 17-foot floor to ceiling separation. This separation also provides for potential future non-residential use of the space, providing flexibility in the future. These are integral aspects of the applicant's needs. The increased investment in the demolition and new construction must be geared to the type of project that will be successful. Demand in the project has been highest for the mezzanine units. Non-mezzanine units have a higher vacancy rate.

Notably, this height for the main building is only 6-feet higher than the existing 46-foot height of the building. It is generally agreed, and City Planner John Clarke has stated, that the relevant height for comparison purposes is the 46 feet tall existing height rather than the 35 feet limit provided in the zoning law. Most buildings in Groveville Mills are taller than 35 feet. The tallest building in the complex is 67 feet tall (the tower element in building 11).

In examining the nature of the buildings on site, it is clear that the proposed 66-foot building height is not out-of-keeping with the main buildings on the site. The proposed height is within the height envelope established by the Tower on Building 11, as noted by architectural historian Walter Wheeler in the letter dated January 17, 2017 and submitted at the public hearing.



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Height of the main residential buildings in the Groveville Mills project:

The site plan establishes that the core of Groveville Mills is in the 3 main residential buildings of the complex

Main Residential Buildings	Status	Height
Building 10	Existing	46'-0"
Building 11 with 3rd floor tower	Existing	67'-0"
Building 16	Existing to be demolished	46'-0"
Building 16	Proposed Rebuild	66'-0"

Additionally, Building 4, which is in the same general location as the main residential buildings, is 57'-8" tall when viewed from within the core of the site from the parking area between building 11 and building 4.

The Board has asked for the heights of the other buildings in the overall project and they are provided here:

Residential Buildings along creek bank	Status	Height
Building 9A	Approved not yet built	47'-0"
Building 9	Existing	16'-0"
Building 9 addition	(proposed instead of Building 9A only in 66'variance plan)	16'-0"

Non-Residential/accessory Buildings	Status	Height
Building 1-3	Existing	22'-6"
Building 4 (storage/office)	Existing	43'-2"
Building 4 (taken from lower level)	Existing	57'-8"
Building 4A (storage)	Addition (approved, not yet built)	41'-0"
Building 7 (fitness/mail)	Existing	
Building 12 (studios/gardens)	Existing	25'-9"



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Non-Residential/accessory Buildings	Status	Height
Building 18/24/15 (commercial laundry)	Existing	

The height of these accessory and smaller buildings do not affect the immediate setting of the main buildings on the site.

The 4th story addition is small and substantially set back from the main building line, limiting visibility.

The second aspect of the 66-foot height variance is additional 14 feet in height to accommodate a recessed fourth story with 9 residential units. These units are not mezzanine units, but are more conventional height. These units are critical to the benefit sought by the applicant, since they are units with views and privacy, and help to offset the costs of the demolition and reconstruction/elimination of the commercial laundry.

The fourth story adds an interesting architectural element to the building when observed from a distance (see bird's eye view renderings in drawing packet), which will contribute to the overall attractiveness of the historic site. See letter of Walter Wheeler, and letter of SHPO dated January 5, 2018, submitted at the hearing. From the ground level within the site, the fourth story would have limited visibility, since it is recessed back from the main building line.

Relative floor area of Building 16 main building vs. the recessed 4th floor:

Main floors/square footage: 24,068

Recessed fourth floor: 18,088

These figures confirm that the floor area of the fourth story is materially smaller than the rest of the building.

Requests for information about possible scenarios:

The ZBA has asked "what applicant would do" in the event that the 66 foot variance is granted, as compared with what the applicant would do if lesser variances were granted. The applicant has responded to the questions as posed, but emphatically states that the reduced variance scenarios do not adequately meet the applicant's needs, nor does its proposal generate adverse community impacts that must be ameliorated by a minimization of the variance. Variance standards provide that a ZBA consider whether the variance alternative being considered would be the minimum



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necessary and adequate to achieve the benefit to the applicant while preserving the health, safety, and welfare of the neighborhood. However, the law does not require a Zoning Board to “minimize” a variance simply for the sake of minimizing it. The obligation to minimize arises out of a need to offset an impact that would otherwise occur to the health, safety, and welfare of the neighborhood. In this case, the applicant submits that the 66 foot variance does not cause any material detriment to the neighborhood, and will actually improve it, so there is no “obligation” to reduce the variance.

Scenario A: Board approves 66-foot-high variance for building 16 based on plans presented at meeting:

In this scenario:

- building 9A eliminated
- commercial laundry eliminated (no lease renewal)
- Building 12 (Artist’s studios-no residential units) remains in its existing unrestored condition as open space/gardens.
- applicant agrees to limit the total development on this parcel to the 172 units shown on the plan.
- The applicant has already committed to the City that it will make every effort to locate non-residential uses for its adjoining piece of land.

Scenario B: Board approves 52-foot-high variance for building 16, but does not approve the additional height for the 9-unit fourth floor.

This scenario would eliminate the 9 large apartments on the fourth floor. It would thus reduce the number of residential live-work units in the building from 87 to 78. In this scenario, the applicant would have to relocate the 9 units and potentially seek several more units to compensate for the additional costs of constructing a separate building. These additional units would likely be relocated into some form of former Building 9A, within the limits of the previously approved height variance for that building.

This is not a desirable scenario. The construction of building 9A would partially block views of the creek from building 16. The construction of the additional building would take away proposed greenspace and space for parking. It would impose additional costs on the applicant, and potentially reduce rental income, as the 4th floor units are more desirable by tenants.

The commercial laundry would still be eliminated.



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Scenario C: Board approves 46-foot-high variance for building 16.

This scenario does not meet the applicant's needs and is equivalent to the denial of any variance. Under this scenario, the number of units in the building would decrease from the proposed 87 to only 36. This is the same as the proposed number of units when the applicant thought that the building could be restored without demolition. This scenario would allow only a 3 story building with lower floor-to-ceiling separations.

There is no way that this scenario provides a variance which is necessary and adequate to provide the benefit the applicant seeks. Should such a decision be issued and sustained in the event of challenge, the effect on the applicant would be as follows:

- By disallowing the higher floor to ceiling heights, the applicant would have fewer units to rent. They would also be less marketable. There would be a higher vacancy rate.
- The inability to provide higher ceiling heights would also limit the ability to adapt the building to accommodate non-residential uses in the future.
- Because of the limited value, it may not be viable to demolish and rebuild Building 16.
- The applicant would be forced to retain the laundry on the site. The laundry would block some of the windows, further lessening the value of the units in these spaces. This would cause a further loss of rents.
- Applicant would attempt to recoup investment by building the artist studios (non-residential) in Building 12, losing what is now open space and gardens.
- The applicant would build the previously approved building 9A.
- Applicant would look for other sites to construct units without the demolition and reconstruction "penalty" proposed by Building 16.

Applicant could not agree to limit the number of units on the site.

The applicant would further object to such a decision as it does not appear that there is any basis for concluding that the height increase from 46 feet to 52 feet causes any harm to the community.

The Planning Board's recommendation does not provide sufficient support for this decision, as the premise that additions to historic buildings may not be taller than existing nearby structures is not a governing principle, as noted in the opinion of the architectural historian. The Planning Board further failed to consider that SHPO had expressed no concern about the proposed 66 foot



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height, and that the architectural historian had supported it. Further, the Planning Board did not review the details of the variance application, and had not reviewed any of the factors which must be considered by the Zoning Board of Appeals in granting a variance.

Scenario D: Zoning Board denies any variance, taking the position that any reconstruction would have to be 35 feet or less.

Applicant respectfully submits that there is no basis for such a decision. Even the City Planner, who advocated for a 46-foot variance, admitted that the 35 foot height limit is unrealistic and should be inapplicable. There would be no viable way to economically offset the costs to demolish the existing building and rebuild building 16 in this scenario, and the variance would not meet the applicant's needs at all.

Summary:

The documentation herein establishes that only the 66-foot variance allows the applicant to achieve the benefit he seeks.

Under the circumstances of the context of the buildings, the setting, and all the factors presented in the application and at the hearing, we submit that increasing the height of the main building from the existing 46 feet to 66 feet is a reasonable increase, and one which merits the grant of a variance:

- It creates the site plan advantages described above
- It eliminates a heavy water user
- It presents no historic disadvantage (see SHPO letter and letter of architectural historian Walter Wheeler)

While this letter has concentrated on responding to the ZBA's questions regarding variance scenarios, we respectfully refer the Board to all the information introduced at the hearing which establishes that the proposed variance will not have any negative impact on community character, and will in fact improve the present appearance of the complex (see slides 2 and 3 in Beacon Lofts Drawing Handout).



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We look forward to the continued public hearing session on February 21st, and will be happy to respond to any further questions.

Very truly yours,

A handwritten signature in blue ink, appearing to read "JL Van Tuyl".

Jennifer L. Van Tuyl