

## **RESOLUTION**

### **PLANNING BOARD BEACON, NEW YORK**

#### **AMENDED FINAL SUBDIVISION PLAT APPROVAL AND AMENDED SITE PLAN APPROVAL FOR WEST END LOFTS**

WHEREAS, the Beacon Planning Board received applications for Amended Final Subdivision Plat Approval and Amended Site Plan Approval from Kearney Realty & Development Group (the “Applicant”) for the construction of three (3) 3-4 story buildings containing a total of 98 apartments, along with associated infrastructure including but not limited to landscaping, stormwater management facilities, lighting, off-street parking areas, retaining walls and a public walkway from Route 9D through the Site to the parcel to the rear of the Site (The View, now or formerly owned by DMS Consolidators, Inc., Parcel ID 5954-26-660924) for the purpose of creating a continuous public walkway between Route 9D and Beekman Street consistent with the purposes and intent of the Linkage Zoning District; and (the “Project” or “Proposed Action”); and

WHEREAS, the subject property is located on Wolcott Avenue within the Linkage Zoning District and designated as Parcels 5954-26-688931 and 5954-26-708967 on the City tax maps and are both currently owned by the City of Beacon; and

WHEREAS, the Applicant is the contract vendee of Lot 688931 and that portion of Lot 708967 and the Beekman Street right-of-way which is proposed to be merged with Lot 688931 and subdivided to create two lots (“Subject Property” or “Site”); and

WHEREAS, on September 12, 2017 the Beacon Planning Board granted Preliminary and Final Subdivision Plat Approval and Site Plan Approval for the above referenced construction as shown on the drawing, entitled, “Preliminary Plat prepared for West End Lofts,” dated January 30, 2017, last revised June 27, 2017, prepared by Insite Engineering, Surveying & Landscape Architecture, P.C., and as shown on drawings entitled, “West End Lofts,” Sheets 1-14, dated March 28, 2017, last revised August 29, 2017, prepared by Insite Engineering, Surveying & Landscape Architecture, P.C., respectively; and

WHEREAS, as part of the Beacon Planning Board’s review of the original Site Plan and Subdivision applications the following actions were undertaken:

- a. The application was referred to the Dutchess County Planning Department pursuant to New York State General Municipal Law and

**Resolution of Amended Final Subdivision Approval  
and Amended Site Plan Approval for West End Lofts**

responses were received dated November 7, 2016 and August 2, 2017;  
and

- b. On November 9, 2016, the Planning Board forwarded the Application to the Architectural Review Subcommittee for review of the proposed buildings; and
- c. The Applicant met with the Architectural Review Subcommittee on December 1, 2016, January 17, 2017, January 24, 2017 and March 1, 2017 to review the architectural plans for the Project and the resulting plans were reviewed by the Planning Board on February 15, 2017 and April 11, 2017; and
- d. The Site Plan was provided to the City of Beacon Fire Department for review; and
- e. On June 13, 2017, the Planning Board opened a public hearing for the purpose of soliciting comments regarding the relevant areas of environmental impact, and the public hearing was closed on August 8, 2017; and
- f. On July 11, 2017, the Planning Board opened a public hearing on the application for Site Plan Approval, at which time all those interested were given an opportunity to be heard and the public hearing was closed on September 12, 2017; and
- g. On August 8, 2017 following the SEQRA public hearing, the Planning Board adopted a Negative Declaration pursuant to the State Environmental Quality Review Act (SEQRA) after taking a “hard look” at each of the relevant areas of environmental concern through review of the Long Environmental Assessment Form and all associated materials prepared in connection with the Proposed Action; and
- h. On September 12, 2017 the Planning Board opened a public hearing on the application for Subdivision Approval, at which time all those interested were given an opportunity to be heard and the public hearing was closed on September 12, 2017; and
- i. On September 12, 2017, the Planning Board issued an LWRP Consistency Determination finding the Project to be consistent with the objectives and policies of the City’s LWRP; and
- j. Pursuant to Section 223-41.21.F of the City Zoning Law the Planning Board granted the Applicant’s request for a modification to the off-street parking requirements to allow three (3) less parking spaces than would otherwise be required and finds that such parking modification is warranted by the Site’s proximity to the Metro North Train Station; and

WHEREAS, the Applicant now seeks minor amendments to the approved Final Subdivision and Site Plan due to recent title work that required two small changes to the

**Resolution of Amended Final Subdivision Approval  
and Amended Site Plan Approval for West End Lofts**

proposed lot lines: (1) a NYSDOT taking along Wolcott Avenue Right-of-Way resulted in a portion of the front property line shifting west by several feet; and (2) due to a right of reverter held by the NYSDOT affecting the northeast corner of the proposed Lot 1 which would be triggered in the event the property is no longer used for certain City purposes, that area consisting of approximately 1,895 square feet is proposed to be removed from the proposed Lot 1 and remain part of the City Hall Parcel (Parcel No. 5954-26-708967) with minimal effect to the Site Plan; and

WHEREAS, in addition the Site Plan has been revised to (1) relocate the handicap parking spaces associated with Building #1 to be adjacent to Building #1 without requiring one to cross a vehicular path, (2) provide additional handicap parking spaces and aisles have been provided for Buildings #1 and #2, and (3) minor revisions to the proposed water and sewer connections; and

WHEREAS, the City and the Applicant are engaged in discussions with NYSDOT regarding a request that the NYSDOT terminate or otherwise waive its right of reverter over the approximate 1,895 square foot affected area at the northeast corner of proposed Lot 1 such that the corner may be used for the Project; and

WHEREAS, discussions with NYSDOT are ongoing at this time and as such there are several alternatives discussed in the conditions of approval herein; and

WHEREAS, the Project will continue to offer 50 affordable artists lofts and 22 below market rate dwelling units in compliance with Article IVB, Affordable-Workforce Housing, of the City's Zoning Law, except to the extent the Applicant intends to seek certain waivers from the City Council pursuant to Section 223-41.10.N of the City Zoning Law, and the remaining 26 units will be offered for rent at market rate, for a total of 98 units overall; and

WHEREAS, the Amended Final Subdivision is shown on the drawing, entitled, "Preliminary Plat prepared for West End Lofts," dated January 30, 2017, last revised January 30, 2018, prepared by Insite Engineering, Surveying & Landscape Architecture, P.C.; and

WHEREAS, the Site Plan is shown on the drawings entitled, "West End Lofts," Sheets 1-14, dated March 28, 2017, last revised January 30, 2018, prepared by Insite Engineering, Surveying & Landscape Architecture, P.C.; and

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

**Resolution of Amended Final Subdivision Approval  
and Amended Site Plan Approval for West End Lofts**

WHEREAS, the application was referred to the Dutchess County Planning Department pursuant to New York State General Municipal Law; and

WHEREAS, on February 14, 2018, prior to opening the Site Plan and Subdivision public hearings, the Planning Board acting in its continuing role as Lead Agency adopted a Negative Declaration pursuant to the State Environmental Quality Review Act (SEQRA) after taking a “hard look” at each of the relevant areas of environmental concern through review of the Environmental Assessment Form and all associated materials prepared in connection with the Proposed Action and finding that the minor amendments to the approved plans do not create any significant adverse environmental impact; and

WHEREAS, on February 14, 2018, the Planning Board opened a public hearing on the application for Amended Site Plan Approval and Amended Final Subdivision Approval, at which time all those interested were given an opportunity to be heard and the public hearing was closed on February 14, 2018; and

WHEREAS, the Planning Board is fully familiar with the Project and has reviewed the Project relative to all applicable provisions of the City Code.

NOW THEREFORE BE IT RESOLVED, that the Planning Board hereby confirms that the Amended Site Plan and Amended Final Subdivision remain consistent with the objectives and policies of the City’s LWRP for the reasons set forth in the Planning Board’s LWRP Consistency Determination, adopted September 12, 2017; and

BE IT FURTHER RESOLVED, that the Planning Board hereby grants Amended Final Subdivision Plat Approval and Amended Site Plan Approval to the Project, as shown on the application materials enumerated above, subject to the conditions and modifications set forth herein.

BE IT FURTHER RESOLVED, that pursuant to Section 223-41.21.F of the City Zoning Law the Planning Board hereby affirms its September 12, 2017 approval of the Applicant’s request for a modification to the off-street parking requirements to allow three (3) less parking spaces than would otherwise be required and affirms its finding that such parking modification is warranted by the Site’s proximity to the Metro North Train Station; and

BE IT FURTHER RESOLVED, that the Amended Site Plan and Amended Final Subdivision Approvals set forth herein, as shown on the application materials enumerated above, are subject to the following conditions and modifications:

**Resolution of Amended Final Subdivision Approval  
and Amended Site Plan Approval for West End Lofts**

**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, 2018, 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 9, 2018, 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. In the event NYSDOT waives or otherwise terminates its right of reverter over the northeast corner described herein as consisting of approximately 1,895 square feet, the Final Subdivision Plat shall be revised to relocate the proposed lot line to allow the northeast corner to be included in proposed Lot 1.
6. Prior to the submission of the Subdivision Plat for signature by the Chair, in the event NYS DOT does not permit any portion of the northeast corner to be improved as shown on the Site Plan, the Final Subdivision Plat shall be revised to remove reference to a Proposed License Improvement Area at the northeast corner.

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.

**Resolution of Amended Final Subdivision Approval  
and Amended Site Plan Approval for West End Lofts**

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

1. The comments contained in the City Engineer's letter to the Planning Board dated February 4, 2018 and all comments in any subsequent letter(s) issued, shall be fulfilled to the satisfaction of the City Engineer.
2. The comments contained in the City Planner's letter to the Planning Board dated February 9, 2018, and all comments in any subsequent letter(s) issued, shall be fulfilled to the satisfaction of the City Planner.
3. The Applicant shall fund an escrow account with the City of Beacon for the monthly stormwater inspections in an amount as determined by the City Engineer.
4. Revision of Site Plan to include note stating that Applicant is responsible for the planting and maintenance of the 8 foot wide strip of lawn along the sidewalk on the east side of Beekman Street.
5. The Applicant shall submit renderings of the proposed retaining wall adjacent to City Hall property and any other information requested by the Planning Board for review and approval by the Planning Board.
6. In the event NYSDOT waives or otherwise terminates its right of reverter over the northeast corner described herein as consisting of approximately 1,895 square feet, the Final Site Plan shall be revised to relocate the proposed lot line to allow the northeast corner to be included in proposed Lot 1 and northeast corner shall be improved with the walkway, landscaping and other improvements as shown on the Final Site Plan.
7. In the event NYS DOT does not waive or otherwise terminate its right of reverter, but allows the northeast corner to be improved as shown on the Site Plan, the improvements proposed for the northeast corner shall be installed subject to the approval of a License, Easement or other similar approval by the Beacon City Council.
8. In the event NYS DOT does not permit any portion of the northeast corner to be improved as shown on the Site Plan, the improvements proposed for the northeast corner shall be relocated onto proposed Lot 1, as shown on the "Alternate Plan" depicted at the bottom of Sheet SP-1, Layout and Landscape

**Resolution of Amended Final Subdivision Approval  
and Amended Site Plan Approval for West End Lofts**

Plan.

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. Prior to the issuance of a Building Permit, the following conditions shall be fulfilled to the satisfaction of the Building Inspector:**

1. The Applicant shall submit in recordable form satisfactory to the City Attorney for review and acceptance by the City Council all easements required for the Project, including but not limited to:
  - a. An easement for public use of the proposed walkway connecting the walkway on Parcel ID 5954-26-660924 (The View) to Route 9D (Wolcott Avenue) in recordable form satisfactory. Maintenance of the walkway, including snow removal, resurfacing, lighting infrastructure and other improvements necessary to keep the walkway in good repair and available to the public at all times, shall be the responsibility of the Applicant.
  - b. A proposed temporary construction easement for the portion of Parcel ID 5954-26-708967 (City Hall property) between the existing City Hall parking lot and the proposed northern property line of Parcel ID 5954-26-688931, as shown on the Subdivision Plat.
  - c. All easements shown on the Subdivision Plat to be retained by the City of Beacon, including but not limited to a 30' wide utility easement over proposed Lot 2, 20' wide drainage easement over proposed Lot 2 and 20' wide sewer easement over proposed Lot 2.
  - d. Stormwater Management Maintenance Agreement & Access Easement binding on all subsequent landowners to ensure the long-term maintenance of all proposed stormwater practices. The Stormwater Management Maintenance Agreement & Access Easement shall be prepared in accordance with Section 190-9 of the City Code in a form

**Resolution of Amended Final Subdivision Approval  
and Amended Site Plan Approval for West End Lofts**

acceptable to the City Attorney and shall be recorded in the Dutchess County Clerk's Office.

- e. If necessary based on the location of the wall and stairwell for the public walkway, the Applicant shall submit a temporary construction easement for review by the City Attorney evidencing the right to access Parcel ID 5954-26-660924 (The View) for construction purposes. (Acceptance of such easement by the City Council is not required).
- f. All necessary cross easements for utility, drainage and access between proposed Lot 1 and proposed Lot 2. (Acceptance of such easement by the City Council is not required).

Thereafter, the Applicant shall submit written evidence certifying that such easements have been duly recorded in the Dutchess County Clerk's Office.

- 2. The Applicant shall submit a Construction Management Plan for review and approval of the Building Inspector, Highway Superintendent and City Engineer.
- 3. The Applicant shall submit plans for the public pathway signage for review and approval by the Planning Board.
- 4. The Applicant shall seek approval from NYSDOT as part of the necessary Highway Work Permit for installation of a crosswalk across Route 9D (Wolcott Avenue) at the Site entrance.

**D. Prior to the issuance of the first Certificate of Occupancy, the following conditions 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 as prescribed under Sections 223-25.H(4) and 223-61.A(7) of the Zoning Law. Notwithstanding the preceding sentence, the Planning Board further determines that the pedestrian walkway, to be maintained by the Applicant, will partially address the need for additional recreation/parkland within the



**Resolution of Amended Final Subdivision Approval  
and Amended Site Plan Approval for West End Lofts**

City. Upon construction of the pedestrian walkway and connection to the adjacent the pedestrian walkway approved as part of the Planning Board's Site Plan Approval for "The View" (now or formerly owned by DMS Consolidators, Inc., Parcel ID 5954-26-660924) there shall be a 25% reduction in the payment of total Recreation Fees for the Project.

The Planning Board hereby requires that, prior to the issuance of the Certificate of Occupancy for the building, the Applicant shall pay a Recreation Fee for the number of new dwelling units in the building in accordance with 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, with the Applicant being given a 25% credit, if applicable, based on the location of the pedestrian walkway, toward the amount then owed.

2. The deed for the Subject Property, and the certificate of occupancy and rental agreement, as appropriate, for each dwelling unit that fulfills the requirements of Article IVB, Affordable-Workforce Housing, of the Zoning Law shall contain language, satisfactory to the City Attorney in form and substance, which states that the subject dwelling is a below-market-rate unit as defined in Article IVB of the Zoning chapter of the Code of the City of Beacon, New York, and is subject to all applicable restrictions and limitations as set forth therein, as amended from time to time, taking into consideration any waivers granted by the City Council pursuant to Section 223-41.10.N of the Zoning Law .
3. Approval by the New York State Department of Transportation of signal timing modifications and complete implementation of same, as described in the Traffic Impact Study prepared and revised by Maser Consulting, P.A., or as determined necessary by NYSDOT, at the following intersections:
  - a. Wolcott Avenue (NYS Route 9D)/Verplanck Avenue – AM Peak Hour
  - b. Wolcott Avenue (NYS Route 9D)/Beekman Street – AM and PM Peak Hours

The Applicant's NYSDOT Highway Work Permit Application shall also include a request for coordination with the nearby traffic signals at the Interstate 84 ramps to the north.

4. The Applicant shall submit a Monitoring Program/Protocol for the study of the following intersections post-occupancy:

**Resolution of Amended Final Subdivision Approval  
and Amended Site Plan Approval for West End Lofts**

- a. Wolcott Avenue(NYS Route 9D)/Tompkins Avenue
- b. Beekman Street/West Main Street

The Monitoring Program/Protocol shall be subject to the review and acceptance of the City's Traffic Consultant (Creighton Manning) and shall require monitoring of the intersections within six (6) months after substantial occupation of the Project, as determined by the Building Inspector, to determine whether a signal is warranted. If a signal is warranted, the Applicant shall contribute a fair share toward the cost of the installation of a signal at the intersection(s) based on the level of traffic generated by the Project for that intersection(s).

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

1. No tree removal shall take place except between October 31 and March 31.
2. In the event NYS DOT waives or otherwise terminates its right of reverter over the northeast corner described herein as consisting of approximately 1,895 square feet after signature of the Plat by the Chair or after the filing of the Plat in the Dutchess County Clerk's Office and, as a result, the Applicant seeks to relocate the lot line generally to its originally proposed location such that the northeast corner is included in proposed Lot 1, the Planning Board hereby waives jurisdiction over review and approval of such resubdivision, but the Applicant shall prepare a Resubdivision Plat for signature by the Chair indicating the Planning Board's waiver of jurisdiction, and for filing in the Dutchess County Clerk's Office.
3. Compliance with Article IVB, Affordable-Workforce Housing, of the City's Zoning Law, except to the extent waiver(s) are granted by the City Council pursuant to Section 223-41.10.N of the City Zoning Law.
4. 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.
5. This approval is conditioned upon compliance with all of the mitigation measures specified in the Applicant's Environmental Assessment Form and related application documents. The Applicant shall be responsible for the funding and/or implementation of all such identified mitigation measures.

**Resolution of Amended Final Subdivision Approval  
and Amended Site Plan Approval for West End Lofts**

Where the terms of this resolution may be inconsistent with the EAF, the terms of this resolution shall be controlling.

6. 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.
3. As used herein, the term “Applicant” shall include Kearney Realty & Development Group, and its heirs, successors and assigns, and where applicable its contractors and employees.
4. 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.
5. The approvals granted by this resolution do not supersede the authority of any other entity.
6. 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.
7. 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 termination and easement documents described in Condition A.3, above.

**Resolution of Amended Final Subdivision Approval  
and Amended Site Plan Approval for West End Lofts**

8. 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.

Resolution Adopted: February 14, 2018  
Beacon, New York

\_\_\_\_\_  
John Gunn, Chairman

\_\_\_\_\_  
Date

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_:

Gary Barrack

Voting: \_\_\_\_

Jill Reynolds

Voting: \_\_\_\_

David Burke

Voting: \_\_\_\_

Randall Williams

Voting: \_\_\_\_

Patrick Lambert

Voting: \_\_\_\_

John Gunn, Chairman

Voting: \_\_\_\_

Rick Muscat

Voting: \_\_\_\_