



COURTROOM
1 MUNICIPAL PLAZA
BEACON, NY 12508
AND LIVE VIA ZOOM

Mayor Lee Kyriacou
Councilmember Amber Grant, At Large
Councilmember Paloma Wake, At Large
Councilmember Molly Rhodes, Ward 1
Councilmember Jeff Domanski, Ward 2
Councilmember Pam Wetherbee, Ward 3
Councilmember Dan Aymar-Blair, Ward 4
City Administrator Chris White

**November 25, 2024
7:00 PM
City Council Agenda**

Roll Call

Workshop Agenda Items

1. [Appointment of Kristine Marino to the Position of Principal Account Clerk](#)
2. [Appointment of Jennifer McGuire to the Position of Senior Account Clerk Typist](#)
3. [Proposed Amendments to the 2024 Budget](#)
4. [Fishkill Avenue Concepts Committee Progress Update](#)
5. [Proposed 2025 City Council Calendar](#)
6. [Proposed Local Law Concerning Parking Restrictions](#)
7. [Request for Authorization to Issue a Certificate of Occupancy for the 248 Tioronda Avenue Project](#)

Announcement of Next Meeting: December 2, 2024 at 7:00 p.m.

Executive Session

[Executive Session: Personnel](#)

City of Beacon City Council Agenda
11/25/2024

Title:

Appointment of Kristine Marino to the Position of Principal Account Clerk

ATTACHMENTS

Director of Finance Memorandum Regarding the Appointment of Kristine Marino to the Position of Principal Account Clerk

Memorandum

Finance Department



TO: Chris White, City Administrator

FROM: Susan Tucker, Director of Finance

RE: Request for Promotion

DATE: 11/21/24

Chris,

I respectfully request that the City Council consider the promotion for Kristine Marino from her current position of Senior Account Clerk Typist to the position of Principal Account Clerk. Kristine has been an employee of the City for 11 years. She holds a Bachelor's degree and is currently eligible for a reclassification to Principal Account Clerk with Dutchess County Department of Human Resources ("Civil Service").

Kristine has a tremendous work ethic and has been an invaluable part of the Finance Department's staff. She has been able to resolve complex issues of the utility billing system and administers the tax collection including In-Rem agreements for the City. In addition, she trains new staff and supervises the clerk at the front window and any problems and/or questions that arise from residents, customers, and City employees.

The promotion of Kristine to the title of Principal Account Clerk will allow her to take on additional responsibilities in the new role, which helps the City move forward improving and streamlining our practices and upgrading our utility billing system.

Thank you for your consideration.

City of Beacon City Council Agenda
11/25/2024

Title:

Appointment of Jennifer McGuire to the Position of Senior Account Clerk Typist

ATTACHMENTS

Director of Finance Memorandum Regarding the Appointment of Jennifer McGuire to the Position of Senior Account Clerk Typist

Memorandum
Finance Department



TO: Chris White, City Administrator

FROM: Susan Tucker, Director of Finance

RE: Request for Promotion

DATE: 11/21/24

Chris,

I respectfully request that the City Council consider the promotion for Jennifer McGuire from her current position of Account Clerk Typist to the position of Senior Account Clerk Typist. Jennifer has been an employee of the City for a year and half, she holds a Bachelor's degree and is currently reachable on the eligible list for Senior Account Clerk Typist with Dutchess County Department of Human Resources ("Civil Service").

Jennifer, while having only been the City a short-time has brought her many years of financial expertise to our department. She has handled her roles seamlessly, with a great attitude and work ethic.

The promotion of Jennifer to the title of Senior Account Clerk Typist will compensate her for the complexity of the position and the voluminous workload. This promotion will help the Finance Department and the City forward as we try to improve our practices and streamline our procurement system.

Thank you for your consideration.

City of Beacon City Council Agenda
11/25/2024

Title:

Proposed Amendments to the 2024 Budget

ATTACHMENTS

[Director of Finance Memorandum Regarding Proposed Amendments to the 2024 Budget](#)

City of Beacon
Council Budget Amendments
December 2, 2024 Meeting

1. Amend the 2024 General Fund Central Communications budget to cover the new telephone installation at the DPW building. Below is the proposed budget amendment:

TRANSFER TO:

A -01-1650-250000-	PURCHASE EQUIPMENT	<u>\$ 9,022</u>
--------------------	--------------------	-----------------

TRANSFER FROM:

A -01-1990-400001-	CONTINGENCY FUND	<u>\$ 9,022</u>
--------------------	------------------	-----------------

2. Amend the 2024 General Fund Planning Budget for additional costs exceeding the anticipated budgeted amounts. This budget amendment is anticipated to cover the costs through the end of the year. Below is the proposed budget amendment:

TRANSFER TO:

A -08-8020-452000-	CONSULTANT	<u>\$ 15,000</u>
--------------------	------------	------------------

TRANSFER FROM:

A -01-1010-452020-	PLANNING STUDIES	<u>\$ 15,000</u>
--------------------	------------------	------------------

3. Amend the 2024 General Fund Police Budget and Recreation Budget for the accumulated and unused time payout for one employee resigning and one employee transferring to a new position and different union. Below is the proposed budget amendment:

TRANSFER TO:

A -03-3120-190000-	SEVERANCE/RETIREMENT PAY	\$ 3,137
A -07-7140-190000-	SEVERANCE/RETIREMENT PAY	<u>12,279</u>
		<u>\$ 15,416</u>

TRANSFER FROM:

A -01-1990-400004-	CONTINGENCY-RETIREMENT	<u>\$ 15,416</u>
--------------------	------------------------	------------------

City of Beacon
Council Budget Amendments
December 2, 2024 Meeting

4. Amend the 2024 General Fund Highway Budget for additional overtime costs associated with several jobs done in-house instead of contracting out including milling and paving work being paid for by Central Hudson. These costs can be covered by some of the funds received by Central Hudson for the work. The budget amendment is anticipated to cover the costs through the end of the year. Below is the proposed budget amendment:

INCREASE EXPENSE:

A -05-5110-105000-	OVERTIME	<u>\$ 50,000</u>
--------------------	----------	------------------

INCREASE REVENUE:

A -05-5110-277000-	MISCELLANEOUS REVENUE	<u>\$ 50,000</u>
--------------------	-----------------------	------------------

Respectfully submitted,
Susan K. Tucker CPA

City of Beacon City Council Agenda
11/25/2024

Title:

Fishkill Avenue Concepts Committee Progress Update

ATTACHMENTS

City of Beacon City Council Agenda
11/25/2024

Title:

Proposed 2025 City Council Calendar

ATTACHMENTS

[Proposed 2025 City Council Calendar](#)

2025 City Council Calendar

January						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

February						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

March						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

April						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

May						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

June						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

July						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

August						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

September						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

October						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

November						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

December						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Key	Council Meeting	Council Workshop	Council Hybrid Meeting
-----	-----------------	------------------	------------------------

City of Beacon City Council Agenda
11/25/2024

Title:

Proposed Local Law Concerning Parking Restrictions

ATTACHMENTS

Parking and Traffic Safety Committee Memorandum Regarding Recommended Code Amendments



CITY OF BEACON New York

PARKING AND TRAFFIC SAFETY COMMITTEE

845-838-5010

MEMORANDUM

TO: Mayor Kyriacou and City Council

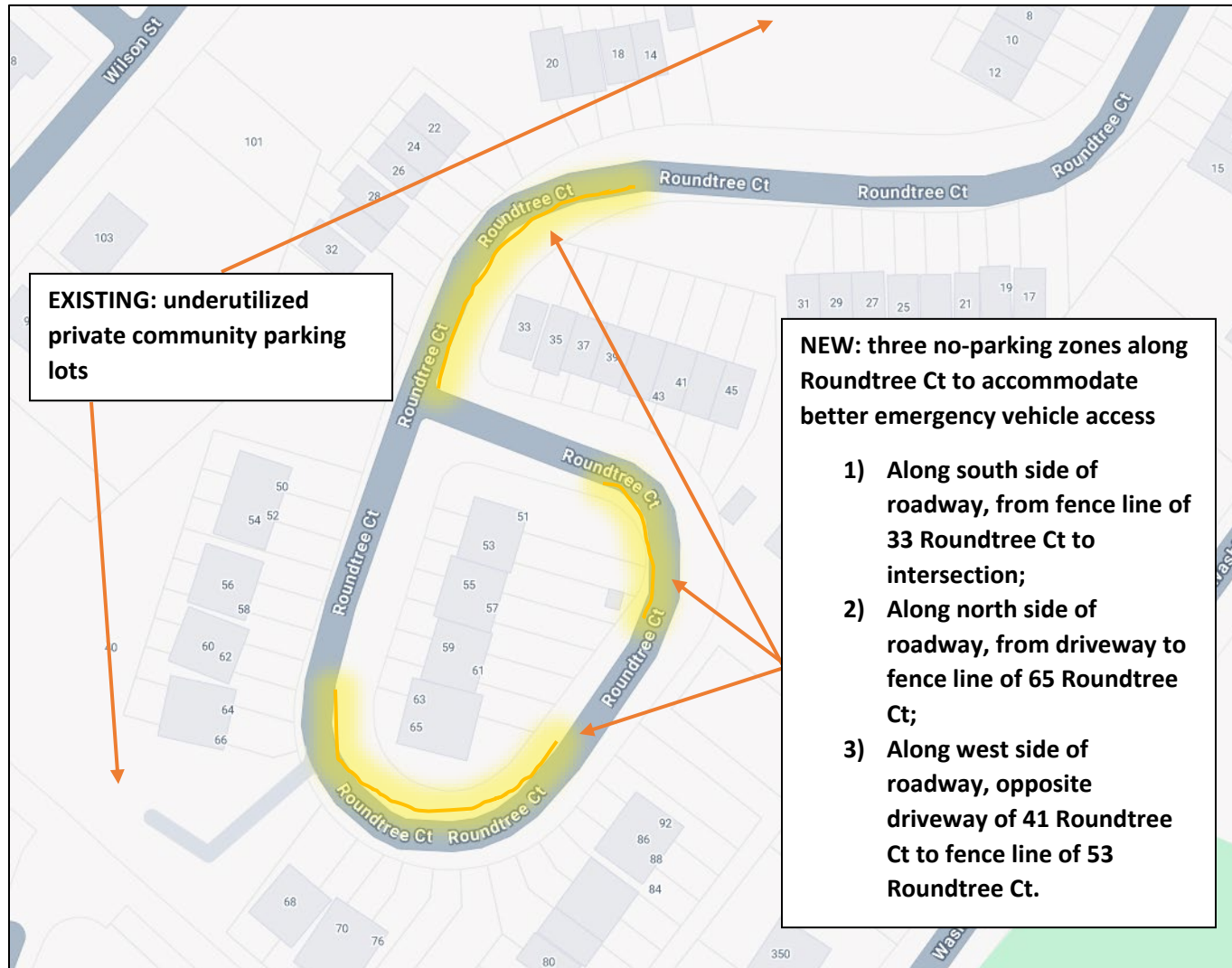
FROM: Benjamin Swanson, Secretary to the Parking and Traffic Safety Committee

RE: Proposed Changes to the City Code Chapter 211, Vehicles and Traffic

DATE: November 20, 2024

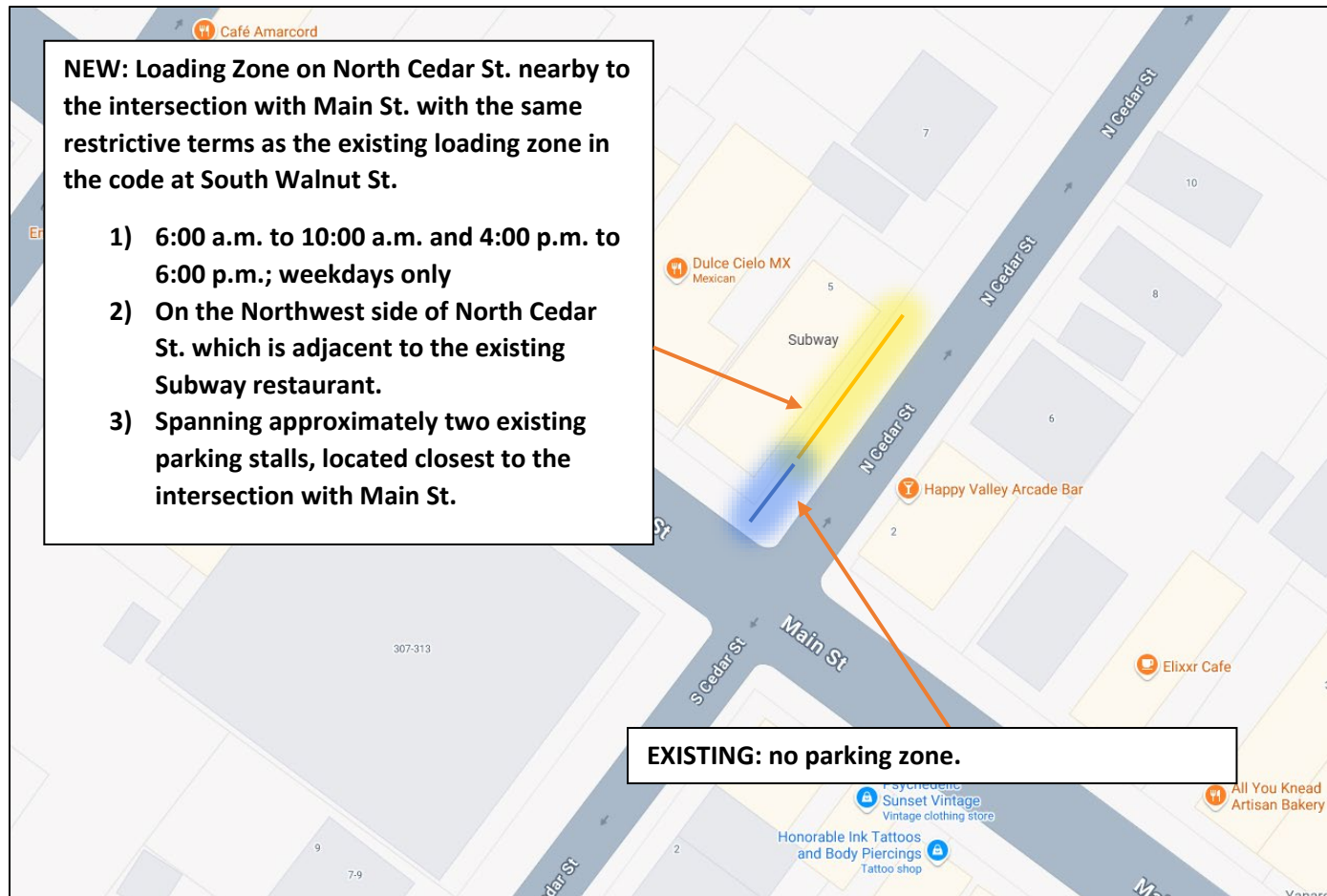
The Parking and Traffic and Safety Committee reviewed a number of Traffic and Safety related issues and make the following recommendations to the City Council.

1. Roundtree Court No Parking Zones



Existing code link: <https://ecode360.com/7065940>

2. Adding loading zone on North Cedar Street at the intersection of Main Street.



Existing code link: <https://ecode360.com/7065975>

City of Beacon City Council Agenda
11/25/2024

Title:

Request for Authorization to Issue a Certificate of Occupancy for the 248 Tioronda Avenue Project

ATTACHMENTS

Applicant Letter Requesting Authorization to Issue a Certificate of Occupancy for the 248 Tioronda Avenue Project (Oct. 11, 2024)

Applicant Letter Requesting Authorization to Issue a Certificate of Occupancy for the 248 Tioronda Avenue Project (Nov. 8, 2024)

248 Tioronda Ave July, 2021 Zoning Board of Appeals Submission

Excerpt of Zoning Board of Appeals Minutes Regarding 248 Tioronda Avenue Application (July 20, 2021)

248 Tioronda Ave Zoning Board of Appeals Materials (August 17, 2021)

Excerpt of Zoning Board of Appeals Minutes Regarding 248 Tioronda Avenue Application (August 17, 2021)

248 Holdings, LLC Letter Withdrawing Zoning Board of Appeals Application (September 10, 2021)

October 11, 2024

Via Email

Hon. Lee Kyriacou
Mayor of the City of Beacon
and Members of the City Council
1 Municipal Plaza
Beacon, New York 12508

***Re: Beacon 248 Holdings LLC
248 Tioranda Avenue***

Dear Mayor Kyriacou and City Councilmembers:

We represent Beacon 248 Holdings LLC regarding the above-referenced property. Our client requests that the Council authorize the issuance of a Certificate of Occupancy (“CO”) for the residential rental units in Building 200/300 prior to the completion of the project’s non-residential component pursuant to City Code Section 223-41.14B. We make this submission in advance of the Council’s October 15 workshop, and we ask that this be placed on your agenda that evening for discussion.

As required by the Code, there is “good cause” for this request. A CO would immediately make available 64 rental units in Building 200/300 – including 6 below market-rate housing units – which would help address the need for additional housing in the area, while affording our client and its broker adequate time to see if there is market demand for commercial use in Building 100. The CO would also put this building on the City’s tax roll, generating approximately \$300,000 in new annual gross tax revenues.

As mentioned in our prior letter, and at the Council’s suggestion, our client has expanded its prior marketing efforts by listing Building 100 for a commercial lease (the brochure is attached).¹ Our client is committed to this effort to evaluate demand for commercial use at this somewhat out-of-the-way location in a post-pandemic economic climate. Market conditions for commercial uses (whether retail or office) are not the same as they were at the time of amended approvals. To date, there has been no serious interest from qualified prospects, even though the foundation is complete, utility stubs are in place, and the site is ready to be customized for a specific end user. In addition to changing market conditions, the physical location of Building 100 away from Main Street makes it less than ideal for potential commercial users. Frankly, our clients would be delighted if they could finish the project as approved. It would be faster, and cheaper. And it would make things easier with their lenders. But it would be irresponsible to finish Building

¹ <https://thebrokerlist.com/properties/248-tioronda-avenue-beacon-ny-12508-154254>

100 on spec for a commercial user who may never materialize. Neither our clients nor the City would benefit from a “white elephant” scenario.

Additionally, the portion of the completed Greenway Trail and associated landscaping in front of Building 200/300 and along Fishkill Creek – approximately 1/3 of a mile – would be made open to the public upon the granting of a CO. This new stretch of the Trail would provide a recreational and aesthetic benefit for the residents in the building and the general public.

Accordingly, for all these “good cause” reasons, our client requests a CO for Building 200/300 so that the already-constructed rental units, including 6 below market-rate units, as well as all the other existing improvements (stormwater, utilities, parking, etc.), do not simply remain unused while the marketing efforts continue for Building 100. More time is needed to assess the viability of commercial use at this location and in the post-pandemic climate. And the 64 rental units and Greenway Trail improvements would result in public housing and recreational benefits, as well as generate economic activity from the site through new tax revenues and spending in the City by the new residents.

Thank you for the City Council’s attention. We look forward to discussing this request with the Council on October 15, and hopefully we can appear again on October 21 for an approval with appropriate conditions.

Respectfully submitted,
ZARIN & STEINMETZ LLP

By: Brad Schwartz
Brad Schwartz
Brian T. Sinsabaugh

cc: Christopher White, City Administrator
Nicholas Ward-Willis, Esq.



COMMERCIAL BUILDING FOR LEASE

248 TIORONDA AVENUE, BEACON, NY 12508

EXECUTIVE SUMMARY



OFFERING SUMMARY

Lease Rate:	Negotiable
Building Size:	25,400 SF
Available SF:	5,000 - 25,400 SF
Lot Size:	9.18 Acres
Year Built:	2025
Zoning:	RD-3

PROPERTY OVERVIEW

Experience a perfect blend of modernity and functionality at this to-be-built prime commercial building located at 248 Tioronda Avenue in Beacon, NY, 12508. The property offers flexible floor plans that can accommodate a variety of business needs. With ample natural light, state-of-the-art facilities, and customizable workspaces, this location provides an ideal environment for productivity and innovation. Ample parking, convenient access to major transportation routes, and proximity to local amenities make this property an unbeatable choice for businesses seeking a dynamic and efficient workspace. Elevate your business presence in this thoughtfully designed and strategically located property.

LOCATION OVERVIEW

Discover the vibrant community surrounding the property in Beacon, NY, 12508. This historic Hudson Valley town offers a perfect blend of small-town charm and urban amenities. Take a stroll down Main Street to explore unique shops, art galleries, and local eateries. Outdoor enthusiasts will enjoy easy access to hiking and biking trails at Mount Beacon Park and Long Dock Park along the scenic Hudson River. From the Dia Beacon art museum to the picturesque views at the Breakneck Ridge Trail, the area offers a variety of cultural and recreational attractions for office tenants to enjoy. The Greenway Trail runs throughout full site from south to north, including directly in front of Building 100, along the east side.

COMMERCIAL BUILDING FOR LEASE

248 TIORONDA AVENUE, BEACON, NY 12508

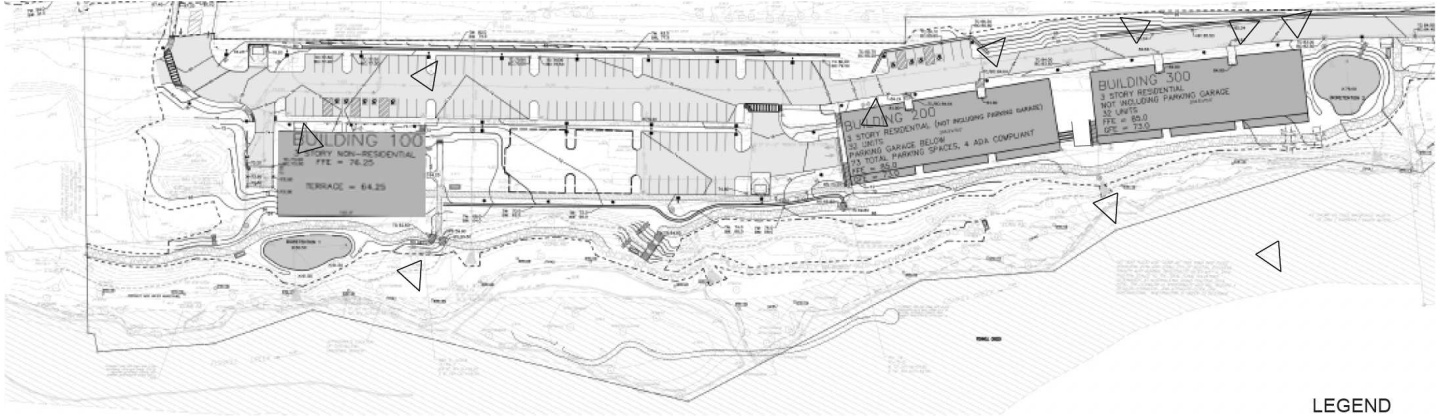
ADDITIONAL PHOTOS



COMMERCIAL BUILDING FOR LEASE

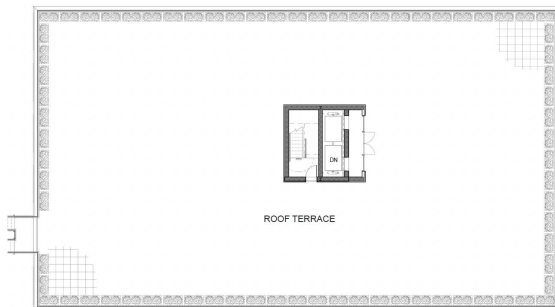
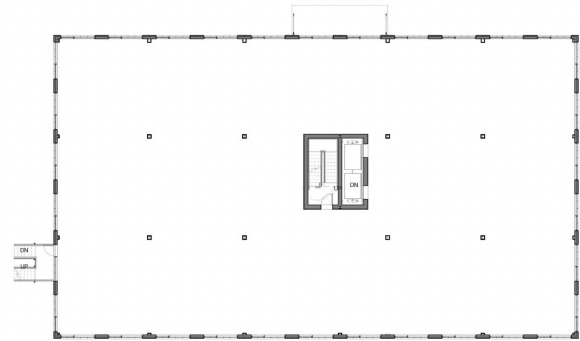
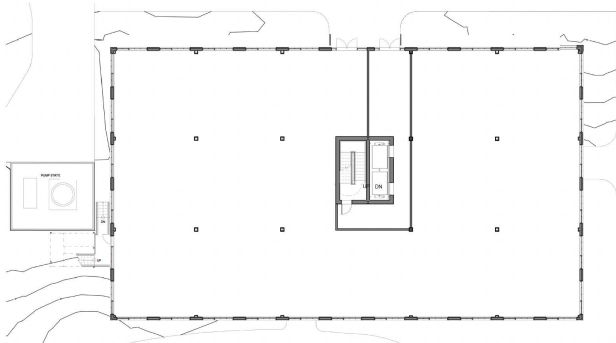
248 TIORONDA AVENUE, BEACON, NY 12508

ADDITIONAL PHOTOS



LEGEND

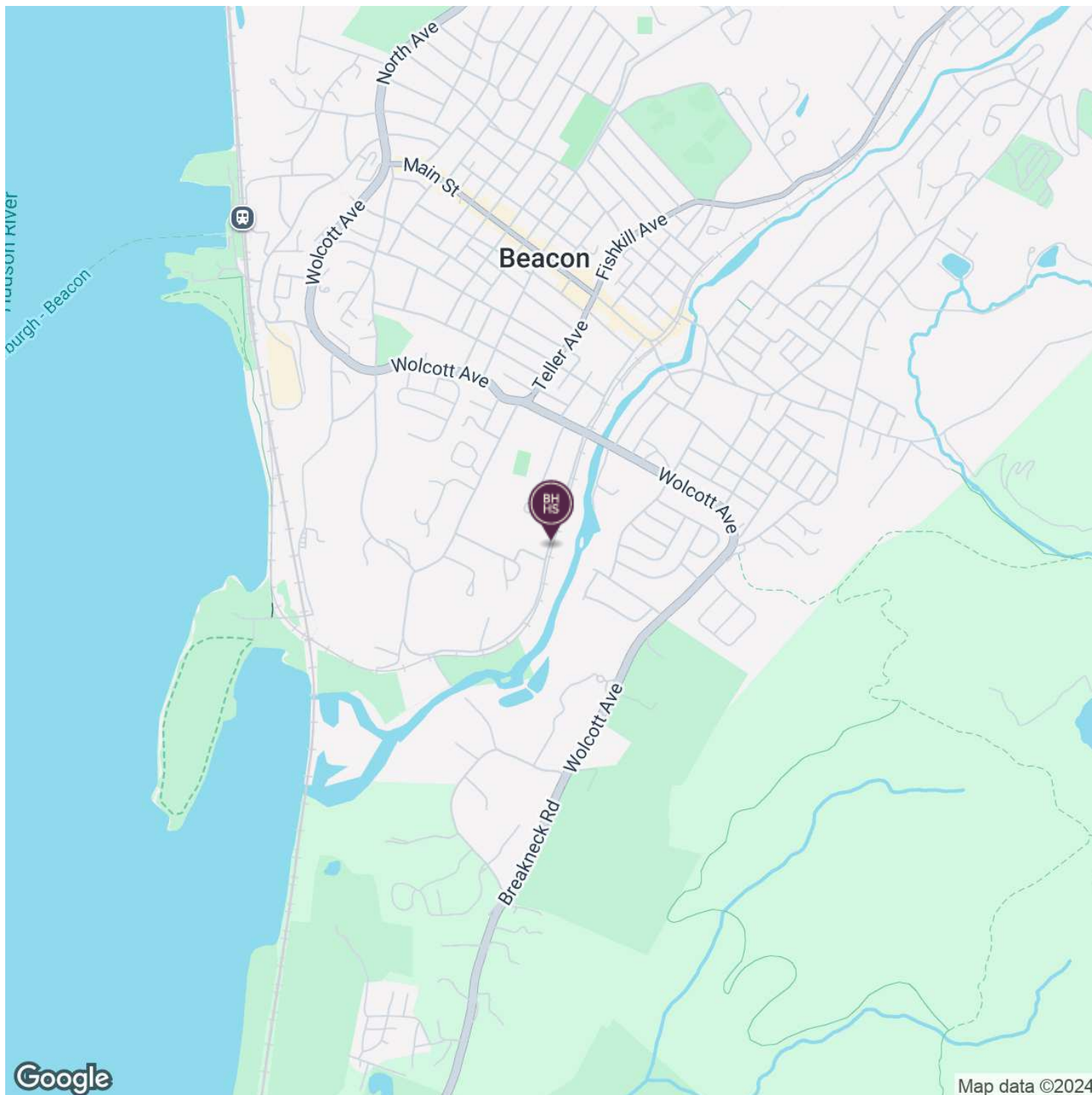
— PROPOSED P



COMMERCIAL BUILDING FOR LEASE

248 TIORONDA AVENUE, BEACON, NY 12508

LOCATION MAP

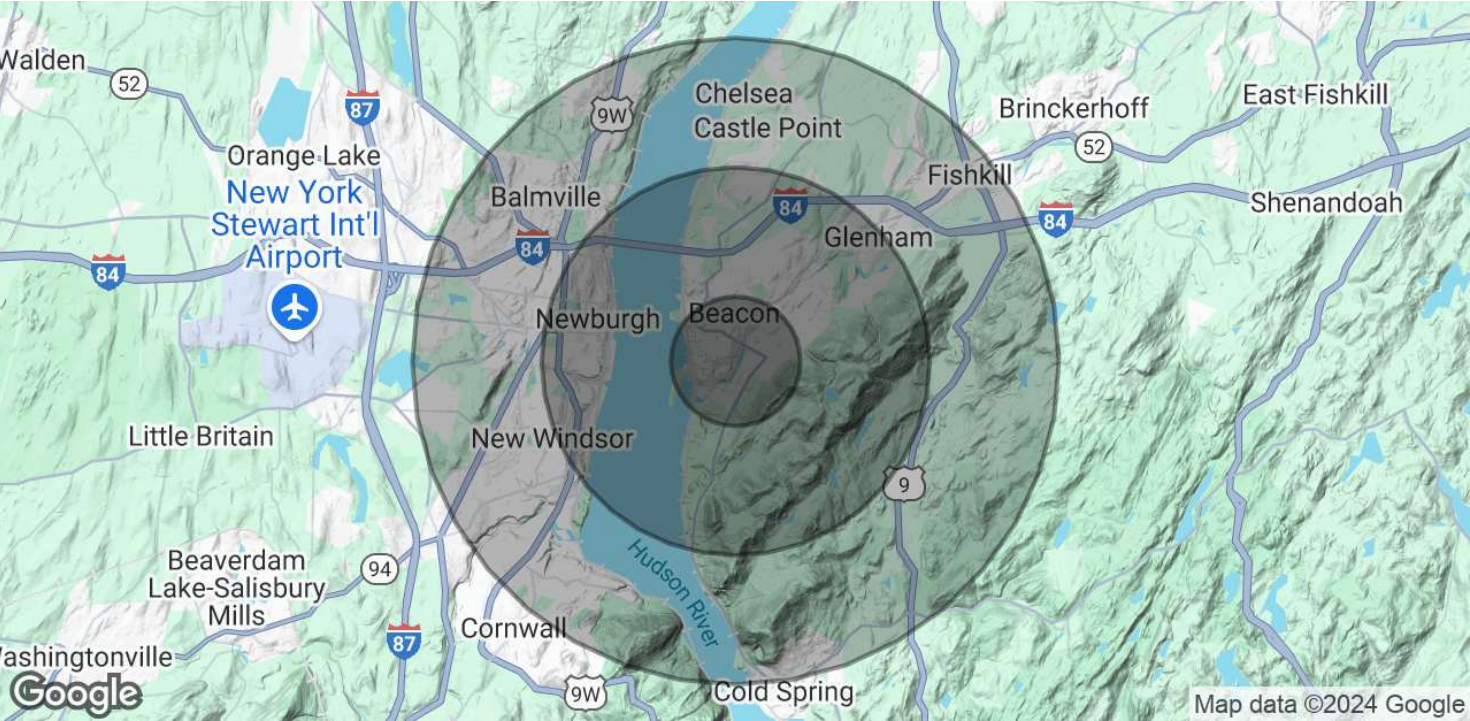




COMMERCIAL BUILDING FOR LEASE

248 TIORONDA AVENUE, BEACON, NY 12508

DEMOGRAPHICS MAP & REPORT



POPULATION	1 MILE	3 MILES	5 MILES
Total Population	8,688	44,494	92,390
Average Age	42	39	41
Average Age (Male)	41	39	40
Average Age (Female)	43	40	42
HOUSEHOLDS & INCOME	1 MILE	3 MILES	5 MILES
Total Households	3,769	16,223	35,030
# of Persons per HH	2.3	2.7	2.6
Average HH Income	\$130,717	\$98,965	\$107,933
Average House Value	\$491,314	\$370,217	\$379,899

Demographics data derived from AlphaMap

November 8, 2024

Via Email

Hon. Lee Kyriacou
Mayor of the City of Beacon
And Members of the City Council
1 Municipal Plaza
Beacon, New York 12508

**Re: Beacon 248 Holdings LLC
248 Tioranda Avenue (SBL: 6054-45-012574)**

Dear Mayor Kyriacou and City Councilmembers:

We submit this letter to address comments raised during the October 15 meeting. The Council expressed concern that our client is improperly trying to evade Code requirements, and asked about the project's chronology, including the prior ZBA application.

Our client complied, to the extent practicable, with its obligation to construct the residential and commercial components "concurrently." No one is trying to be underhanded or violate the code; in fact, we are seeking relief from the Council mindful of what the Code provides. The commercial piece stalled due strictly to changed market conditions post-pandemic. Our client's broker will attend on November 12 to describe what we all know: there has been a significant decline in demand for commercial space in recent years. Without a commercial tenant, our client cannot reasonably advance beyond the foundation and utilities. Unlike residential units, commercial space is designed and built to meet the specific needs of a tenant. It would be futile and a waste of resources to install the framing, much less finish the build-out of a "box," without knowing the end user.

Chronology

The Applicant obtained site plan approval for this mixed-use project on April 14, 2020, just one month after the start of the pandemic. Once return-to-work restrictions were lifted later that year, the Applicant began to seek construction financing from local banks, hoping to begin construction on the entire project in 2021. However, securing financing proved difficult given the pandemic's effect on commercial underwriting.

In June 2021, having struggled to obtain financing for the entire project and still lacking a commercial tenant, the Applicant sought a variance from the ZBA to permit construction of the residential component first. The Council now has documentation from the ZBA proceedings. It includes letters from two lenders stating that they would not finance the commercial space given

the risk involved. The minutes show that various questions were asked, like the ones being raised by the Council.

While the ZBA application was pending, Berkshire Bank fortunately stepped up and agreed to finance the entire project. Berkshire saw enough value in the residential component and was willing to take a chance on the commercial to work with our client, who has a strong reputation in the area. Our client jumped on the opportunity to get the project going. As such, with financing in hand, the Applicant voluntarily withdrew the ZBA application on September 10, 2021—the ZBA never voted on the application (copy of the withdrawal letter is attached).

The Applicant's *groundbreaking on the entire project* occurred on June 7, 2022 (it took some time to close on the construction loan). Both the residential and commercial sites were excavated, and foundations were poured (other site-wide improvements were also installed). It was always the Applicant's intent to construct both at the same time—in accordance with the Code and the Planning Board's approvals (and our client's own construction and financing schedule). Again, the only reason the residential and commercial elements were not completed together is because of the absence of a commercial tenant. Our client did not have the tenant specifications needed to begin framing the building. For example, a gym user would have much different spacing, ceiling height, and noise attenuation requirements than a music studio or more traditional office tenant.

Different Requests of the Council and ZBA

We also want to address the perception that our client is seeking a “second bite at the apple” after having failed to get relief from the ZBA. Initially, the ZBA application was withdrawn before a vote.

Perhaps more importantly, the relief sought is different. Our client asked the ZBA to permit the residential building *to be constructed* prior to the commercial building. If granted, our client would not have started any work on the commercial pad. That plan went away once Berkshire financed the entire project. Our client proceeded with the entire project (all excavations were done at once), hoping that the commercial use would come to fruition over time. But that never happened. Our client is now asking the Council to permit the *issuance of a CO for the residential building* while we continue to evaluate the market demand for the commercial space and a potential alternative if there continues to be no meaningful interest.

It is also relevant that the function of the ZBA and your Council is distinct. This is not a run-of-the-mill setback, coverage or height variance, which are the usual requests that come before the ZBA. This is instead a legislative policy issue that stems from the language in the Code about “concurrent” construction. Critically, this language was enacted *before the pandemic* in 2018. What made sense then may not work anymore. The Council has already begun to revisit this requirement by amending the Code to allow a CO to be issued for dwelling units prior to completion of the nonresidential component upon a showing of “good cause.”

Conclusion

Based on all these reasons, and those in our October 11 letter, there is “good cause” for the Council to authorize the issuance of a CO for the residential rental units pursuant to City Code Section 223-41.14B. The unexpected and sudden change in market constraints affected our client’s ability to complete the project all at once as everyone expected and desired.

And, as described previously, the City would reap several public benefits by issuing the CO for the 64 residential units: much needed housing (including 6 below market-rate units), Greenway Trail improvements, and new economic activity (taxes and spending).

Finally, with respect to the slippery slope concern, we are not aware of another current project that would face this scenario, and any future mixed-use project would likely not accept a condition that commercial and residential must be constructed together. It does not work in today’s economic climate. This is a unique situation which must be judged on its own facts.

We look forward to continuing our discussion on November 12 (with our client’s broker), and working together to achieve an outcome that allows the project to move forward. Our client never intended to violate the Code and apologizes for any lapse in communication over the years.

Thank you for the City Council’s continued attention.

Respectfully submitted,
ZARIN & STEINMETZ LLP

By: Brad Schwartz
Brad Schwartz
Brian T. Sinsabaugh

cc: Christopher White, City Administrator
Nicholas Ward-Willis, Esq.

BNR
Berlandi Nussbaum & Reitzas LLP
Attorneys at Law

NEW YORK CITY OFFICE

125 PARK AVENUE
25TH FLOOR
NEW YORK, NY 10017

WHITE PLAINS OFFICE

445 HAMILTON AVENUE
14TH FLOOR
WHITE PLAINS, NY 10601

PAWLING OFFICE

527 ROUTE 22
SUITE 2
PAWLING, NY 12564

TELEPHONE (212) 804-6329
FACSIMILE (646) 461-2312

WWW.BNRLLP.COM

September 10, 2021

VIA ELECTRONIC MAIL

Hon. David Jensen, And
Members of the Zoning Board of Appeals
City of Beacon
1 Municipal Plaza
Beacon, New York 12508

Re: Application of 248 Beacon Holdings, LLC, for an Area Variance
Premises: 248 Tioronda Avenue, Beacon, New York
Tax Parcel IDs: (5954-16-993482 & 6054-45-012574- Now Merged)

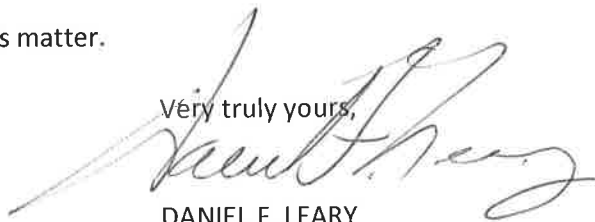
Dear Chairman Jensen and Members of the Zoning Board of Appeals ("ZBA"):

As you know, this firm represents 248 Beacon Holdings, LLC (the "Applicant"), the owner of property located at 248 Tioronda Avenue in the City of Beacon (the "City"), known and designated on the tax assessment map of the City as 5954-16-993482 & 6054-45-012574.

On behalf of the Applicant, please be advised that the pending application to the ZBA for a variance from Section 223-41.14B of the Zoning Code ("Bulk Regulations") is hereby withdrawn.

Thank you for your attention to this matter.

Very truly yours,



DANIEL F. LEARY

Cc: Berry Kohn, 248 Beacon Holdings, LLC
Drew Gamils, Esq., ZBA Attorney

City of Beacon Zoning Board of Appeals Agenda
07/20/2021

Title:

Review and hold public hearing on application submitted by Beacon 248 Holdings, LLC, 248 Tioronda Avenue, Tax Grid No.'s 30-5954-16-993482-00 & 30-6054-45-012574-00, FCD Zoning District, for relief from Section 223-31.1(B) to allow construction of the residential buildings to take place before, and not concurrently with, construction of the project's commercial building

ATTACHMENTS

[248 Tioronda Avenue Application.pdf](#)

[248 Tioronda Avenue EAF.pdf](#)

[248 Tioronda Avenue Cover Letter.pdf](#)

ZONING BOARD OF APPEALS
City of Beacon, New York

APPLICATION FOR APPEAL

OWNER: 248 Beacon Holdings LLC ADDRESS: 147 Union Street
Poughkeepsie, NY 12601

TELEPHONE: (845) 393-1380 E-MAIL: berry@chaibuilders.com

APPLICANT (if not owner): Same as above ADDRESS: Same as above

TELEPHONE: Same as above E-MAIL: Same as above

REPRESENTED BY: Daniel F. Leary, Esq. ADDRESS: 527 Route 22, Suite 2
Pawling, NY 12564

TELEPHONE: BNR LLP (914) 837-0896 E-MAIL: dleary@bnrllp.com

PROPERTY LOCATION: 248 Tioranda Avenue ZONING DISTRICT: FCD (Fishkill Creek Development)

TAX MAP DESIGNATION: SECTION 5954 BLOCK 16 LOT 993482
6054 45 012574

Section of Zoning Code appealed from or Interpretation desired:
Section 223-41.14B

Reason supporting request:

See Attached

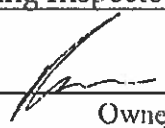
Supporting documents submitted herewith: Site Plan, Survey, etc. as required:

Site Plan, Correspondence from David Buckley, Building Inspector, dated June 25,
Correspondence of CPC, dated May 17, 2021.

Date: June 28, 2021

**2021,
Fee Schedule**

AREA VARIANCE \$ 250
USE VARIANCE \$ 500
INTERPRETATION: \$ 250


Owner's Signature


Applicant's Signature

****escrow fees may apply if required by Chairman****

APPLICATION PROCESSING RESTRICTION LAW

Affidavit of Property Owner

Property Owner: 248 Beacon Holdings LLC

If owned by a corporation, partnership or organization, please list names of persons holding over 5% interest.

Bernard Kohn

Michael Silberberg

List all properties in the City of Beacon that you hold a 5% interest in:

344 Main Street, Beacon, NY 12508

Craig House

Applicant Address: 147 Union Street, Poughkeepsie, NY 12601

Project Address: 248 Tioronda Avenue

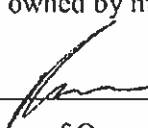
Project Tax Grid # 5954-16-993482 & 6054-45-012574

Type of Application Zoning Board of Appeals ("ZBA")

Please note that the property owner is the applicant. "Applicant" is defined as any individual who owns at least five percent (5%) interest in a corporation or partnership or other business.

I, Bernard Kohn, the undersigned owner of the above referenced property, hereby affirm that I have reviewed my records and verify that the following information is true.

- | | |
|---|---------------|
| 1. No violations are pending for ANY parcel owned by me situated within the City of Beacon | <u>X</u> |
| 2. Violations are pending on a parcel or parcels owned by me situated within the City of Beacon | <u> </u> |
| 3. ALL tax payments due to the City of Beacon are current | <u>X</u> |
| 4. Tax delinquencies exist on a parcel or parcels owned by me within the City of Beacon | <u> </u> |
| 5. Special Assessments are outstanding on a parcel or parcels owned by me in the City of Beacon | <u> </u> |
| 6. ALL Special Assessments due to the City of Beacon on any parcel owned by me are current | <u>X</u> |


Signature of Owner

Bernard Kohn- Principal

Title if owner is corporation

Office Use Only:

Applicant has violations pending for ANY parcel owned within the City of Beacon (Building Dept.)

ALL taxes are current for properties in the City of Beacon are current (Tax Dept.)

ALL Special Assessments, i.e. water, sewer, fines, etc. are current (Water Billing)

NO	YES	Initial
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

FOR OFFICE USE ONLY

Application #

CITY OF BEACON

1 Municipal Plaza, Beacon, NY

Telephone (845) 838-5000 • <http://cityofbeacon.org/>**INDIVIDUAL DISCLOSURE FORM**

(This form must accompany every land use application and every application for a building permit or certificate of occupancy submitted by any person(s))

Disclosure of the names and addresses of all persons) filing a land-use application with the City is required pursuant to Section 223-62 of the City Code of the City of Beacon. Applicants shall submit supplemental sheets for any additional information that does not fit within the below sections, identifying the Section being supplemented.

SECTION AName of Applicant: 248 Beacon Holdings LLCAddress of Applicant: 147 Union Street, Poughkeepsie, NY 12601Telephone Contact Information: (845) 393-1380**SECTION B. List all owners of record of the subject property or any part thereof.**

Name	Residence or Business Address	Telephone Number	Date and Manner title was acquired	Date and place where the deed or document of conveyance was recorded or filed.
248 Beacon Holdings LLC	147 Union Street Poughkeepsie, NY	(845) 393-1380	12110118 by Deed	Book 22019 Pg. 496 -
				Dutchess County Clerk

SECTION B. Is any owner of record an officer, elected or appointed, or employee of the City of Beacon or related, by marriage or otherwise, to a City Council member, planning board member, zoning board of appeals member or employee of the City of Beacon?

☐

YES

☒

NO

If yes, list every Board, Department, Office, agency or other position with the City of Beacon with which a party has a position, unpaid or paid, or relationship and identify the agency, title, and date of hire.

Agency	Title	Date of Hire, Date Elected, or Date Appointed	Position or Nature of Relationship

SECTION C. If the applicant is a contract vendee, a duplicate original or photocopy of the full and complete contract of purchase, including all riders, modification and amendments thereto, shall be submitted with the application.

SECTION D. Have the present owners entered into a contract for the sale of all or any part of the subject property and, if in the affirmative, please provide a duplicate original or photocopy of the fully and complete contract of sale, including all riders, modifications and amendments thereto.

☐

YES

☒

NO

I, Bernard Kohn being first duly sworn, according to law, deposes and says that the statements made herein are true, accurate, and complete.

(Print) Bernard Kohn

(Signature) 

FOR OFFICE USE ONLY

Application #

CITY OF BEACON**1 Municipal Plaza, Beacon, NY****Telephone (845) 838-5000 • <http://cityofbeacon.org/>****ENTITY DISCLOSURE FORM**

(This form must accompany every land use application and every application for a building permit or certificate of occupancy submitted by any entity)

Disclosure of the names and addresses of all persons or entities owning any interest or controlling position of any Limited Liability Company, Partnership, Limited Partnership, Joint Venture, Corporation or other business entity (hereinafter referred to as the "Entity") filing a land-use application with the City is required pursuant to Section 223-62 of the City Code of the City of Beacon. If any Member of the Entity is not a natural person, then the names and addresses as well as all other information sought herein must be supplied about the non-natural person member of that Entity, including names, addresses and Formation filing documents. Applicants shall submit supplemental sheets for any additional information that does not fit within the below sections, identifying the Section being supplemented.

SECTION A.

IF AFFIANT IS A PARTNERSHIP, JOIN VENTURE OR OTHER BUSINESS ENTITY, EXCEPT A CORPORATION: N/A

Name of Entity	Address of Entity
Place where such business entity was created	Official Registrar's or Clerk's office where the documents and papers creating entity were filed
Date such business entity or partnership was created	Telephone Contact Information

SECTION E. Is any party identified in Sections A- C an officer, elected or appointed, or employee of the City of Beacon or related, by marriage or otherwise, to a City Council member, planning board member, zoning board of appeals member or employee of the City of Beacon ?

☐ YES ☒ NO

If yes, list every Board, Department, Office, agency or other position with the City of Beacon with which a party has a position, unpaid or paid, or relationship and identify the agency, title, and date of hire.

Agency	Title	Date of Hire, Date Elected, or Date Appointed	Position or Nature of Relationship

SECTION F. Was any person referred to in Sections A-D known by any other name within five (5) years preceding the date of the application?

☐ YES ☒ NO[illegible]

SECTION G. List the names and addresses of each person, business entity, partnership and corporation in the chain of title of the subject premises for the five (5) years next preceding the date of the application.

Name	Address
248 Beacon Holdings LLC	147 Union Street Poughkeepsie, NY 12601
Beacon 248 Development LLC	104 Rochelle Avenue Rochelle Park 275

SECTION H. If the applicant is a contract vendee, a duplicate original or photocopy of the full and complete contract of purchase, including all riders, modification and amendments thereto, shall be submitted with the application.

N/A

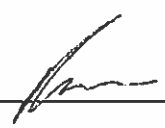
SECTION I. Have the present owners entered into a contract for the sale of all or any part of the subject property and, if in the affirmative, please provide a duplicate original or photocopy of the fully and complete contract of sale, including all riders, modifications and amendments thereto.

☐ YES

☒ NO

I, Bernard Kohn being first duly sworn, according to law, deposes and says that I am (Title) Principal, an active and qualified member of the LLC, a business duly authorized by law to do business in the State of New York, and that the statements made herein are true, accurate, and complete.

(Print) Bernard Kohn

(Signature) 

617.20
Appendix B
Short Environmental Assessment Form

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: 248 Tioronda Avenue Mixed-Use Project (Residential)			
Project Location (describe, and attach a location map): 248 Tioronda Avenue Beacon, NY 12508 (Commercial)			
Brief Description of Proposed Action: Application to the Zoning Board of Appeals ("ZBA") for relief from Section 223-41.14B of the Zoning code, to allow for construction of residential before office is fully built.			
Name of Applicant or Sponsor: 248 Beacon Holdings LLC		Telephone: 845-393-1380 E-Mail: berry@chaibuilders.com	
Address: 147 Union Street			
City/PO: Poughkeepsie		State: NY	Zip Code: 12601
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO ☒ X YES ☐
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			NO ☒ X YES ☐
3.a. Total acreage of the site of the proposed action?		9.18 acres	
b. Total acreage to be physically disturbed?		N/A acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		9.18 acres	
4. Check all land uses that occur on, adjoining and near the proposed action. ☒ Urban ☐ Rural (non-agriculture) ☒ Industrial ☒ Commercial ☒ Residential (suburban) ☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): _____ ☐ Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	☐	☒	☐
b. Consistent with the adopted comprehensive plan?	☐	☒	☐
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	☐	☒	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	☒	☐	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	☒	☐	
b. Are public transportation service(s) available at or near the site of the proposed action?	☐	☐	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	☐	☐	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO	YES	
	☒	☐	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO	YES	
	☐	☒	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO	YES	
	☐	☒	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO	YES	
	☒	☐	
b. Is the proposed action located in an archeological sensitive area?	☐	☐	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	☐	☒	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	☒	☐	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: ☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional ☐ Wetland ☒ Urban ☐ Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	
	☒	☐	
16. Is the project site located in the 100 year flood plain?	NO	YES	
	☒	☐	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES	
a. Will storm water discharges flow to adjacent properties? ☐ NO ☐ YES	☒	☐	
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	☐ NO ☐ YES		

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
	☒	☐
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
	☒	☐
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: <u>Former NYCS DEC State Super fund site - May 2003</u>	NO	YES
	☐	☒
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>248 Beacon Holdings LLC</u>		Date: <u>6/28/2021</u>
Signature: _____		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	☐	☐
2. Will the proposed action result in a change in the use or intensity of use of land?	☐	☐
3. Will the proposed action impair the character or quality of the existing community?	☐	☐
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	☐	☐
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	☐	☐
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	☐	☐
7. Will the proposed action impact existing:		
a. public / private water supplies?	☐	☐
b. public / private wastewater treatment utilities?	☐	☐
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	☐	☐
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	☐	☐

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	☐	☐
11. Will the proposed action create a hazard to environmental resources or human health?	☐	☐

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

☐	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
☐	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
_____ Name of Lead Agency _____ Date	
_____ Print or Type Name of Responsible Officer in Lead Agency _____ Title of Responsible Officer	
_____ Signature of Responsible Officer in Lead Agency _____ Signature of Preparer (if different from Responsible Officer)	

PRINT

City of Beacon

Request for Area Variance from the Zoning Board of Appeals (the “ZBA”)

Applicant: 248 Beacon Holdings LLC (the “Applicant”)

Parcel Nos: 5954-16-993482 & 6054-45-012574 (Merged)

Hearing Date: July 20, 2021

Supplemental Responses to the ZBA Application

Section of the City of Beacon Zoning Code from which variance is requested and herewith appealed:

The Applicant is seeking a variance from the following code section:

Section 223-41.14B of the City Zoning Code (“Bulk Regulations”), which requires that nonresidential space be built out before or concurrently with the residential development of the site.

Request for Area Variance.

Pursuant to General City Law Section 81-b (4) and Section 223.55 (C) (2) (b) of the City Zoning Code, the overall test for area variances is the balancing of the benefit to the applicant if the variances are granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or the community by such grant. As more fully set forth in the enclosed correspondence from The Community Preservation Corporation (“CPC”), dated May 17, 2021, the Applicant is not able to finance the commercial/office component of his fully approved mixed use project (the “Project”) at this time. This is due to the uncertainty of demand for commercial space and office space in particular, attributed to the pandemic and other factors. On the other hand, financing for the residential component of the Project remains available, and the Applicant is desirous of commencing construction on that portion of the Project as soon as possible. The Applicant is fully committed to the construction of the nonresidential space as approved for the Project, once financing is available. Therefore, the Applicant respectfully asks that the ZBA consider the benefit of granting the requested relief from Section 223-41.14B of the Zoning Code, when weighing and balancing the following five (5) factors:

1. There will be no undesirable change in the character of the neighborhood or a detriment to nearby properties by the granting of the variance.

No undesirable change will be produced in the character of the neighborhood and no detriment to nearby properties will be created by the granting of the variance. For the Project as a whole, the previous approval by the City of Beacon Planning Board to construct two multifamily buildings and a commercial building remains intact. The Applicant is not proposing to construct any additional buildings, expand impervious surfaces or change any of the previously approved setback, lot coverage and other

dimensional requirements applicable to development in the Fishkill Creek Development (“FCD” Zoning District. In addition, the Project would remain wholly consistent with the Local Waterfront Revitalization Program (“LWRP”) Zoning District. In sum, there will be no undesirable or detrimental “external” impacts to the character of the neighborhood or nearby surrounding properties by the grant of this variance.

2. The benefit sought by the applicant cannot be achieved by some method feasible for the Applicant to pursue, other than a variance.

As demonstrated by the enclosed correspondence from the CPC, there are no other feasible methods for the Applicant to pursue besides the requesting variance. Specifically, the financial viability of the Project itself hinges on the grant of the variance. Because the Applicant cannot obtain financing for the Project without obtaining relief from the sequencing in construction between commercial space and residential development required under Section 223-41.14B, there are no other feasible options for the Applicant to pursue. The Applicant is working within the constraints of the existing lending/borrowing market and this variance is the minimum necessary that will allow construction of the Project to move forward.

3. The requested variance is not substantial.

The requested variance is not substantial in effect. “Substantiality” is not just a matter of mathematical proportion. Rather, the reigning test is always whether the variance will have a detrimental effect on the neighborhood.

As already noted in “1” above, there will be no detrimental effect on the neighborhood by the grant of this variance. In fact, the variance being sought does nothing to change or increase building/lot coverage, setbacks, building size or the space between the proposed development and neighboring property owners required under the approved site plan or in the Zoning Code.

4. The requested variance, if granted, will not have an adverse impact on the physical and/or environmental conditions in the neighborhood.

The proposed variance will not have an adverse effect on the physical or environmental conditions of the neighborhood or district. There will be no adverse effects of noise, vibrations, odor, traffic or impact on public services by the grant of this variance. The variance will not result in any adverse impacts under SEQRA, nor will it increase any of the environmental impacts that went in to the “Negative Declaration” adopted by the Planning Board as Lead Agency on April 14, 2014. Other than this proposed change in sequencing between commercial and residential construction, none of the terms and conditions of the site plan previously approved by the Planning Board will be impacted by the grant of the variance, and the Project’s consistency with the LWRP remains unchanged.

5. The alleged difficulty was not self-created.

The alleged difficulty was not self-created, but arises out of a zoning amendment that was adopted well after the Applicant selected the site as the location of its proposed development and commenced site plan review by the Planning Board. However, even if the hardship was self-created, this alone does not preclude the grant of an area variance under General City Law 84-b (4) (v).



Berlandt Nussbaum & Reitzas LLP
Attorneys at Law

NEW YORK CITY OFFICE

125 PARK AVENUE
25TH FLOOR
NEW YORK, NY 10017

WHITE PLAINS OFFICE

445 HAMILTON AVENUE
14TH FLOOR
WHITE PLAINS, NY 10601

PAWLING OFFICE

527 ROUTE 22
SUITE 2
PAWLING, NY 12564

TELEPHONE (212) 804-6329
FACSIMILE (646) 461-2312

WWW.BNRLLP.COM

June 29, 2021

VIA ELECTRONIC MAIL

Hon. David Jensen, And
Members of the Zoning Board of Appeals
City of Beacon
1 Municipal Plaza
Beacon, New York 12508

Re: Application of 248 Beacon Holdings, LLC, for an Area Variance
Premises: 248 Tioronda Avenue, Beacon, New York
Tax Parcel IDs: (5954-16-993482 & 6054-45-012574- Now Merged)

Dear Chairman Jensen and Members of the Zoning Board of Appeals ("ZBA"):

By way of introduction, this firm represents 248 Beacon Holdings, LLC (the "Applicant"), the owner of property located at 248 Tioronda Avenue in the City of Beacon (the "City"), known and designated on the tax assessment map of the City as 5954-16-993482 & 6054-45-012574, but merged in to one parcel pursuant to the previously granted subdivision/lot merger approval by the City of Beacon Planning Board (the "Property").

Pursuant to Section 223.55 (C)(2) of the City of Beacon Zoning Code, we submit the enclosed application to the ZBA for a variance from Section 223-41.14B of the Zoning Code ("Bulk Regulations"), which requires that nonresidential space be built out before or concurrently with the residential development of the Property. Attached to the application is a supplemental statement setting forth the reasons supporting the request for a variance. In further support, we also enclose correspondence of The Community Preservation Corporation, dated May 17, 2021.

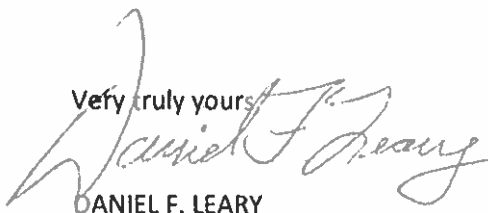
We respectfully request that the application be placed on the agenda of the July 20, 2021 meeting for a public hearing and consideration of this request for a variance. In the interim, if you have any questions, or need additional information, please do not hesitate to contact me at 914-837-0896 or dleary@bnrllp.com.

June 29, 2021
Page 2 of 2

BNR

Thank you for your consideration.

Very truly yours

A handwritten signature in cursive script, reading "Daniel F. Leary". The signature is written in dark ink and is positioned above the printed name.

DANIEL F. LEARY

Cc: Berry Kohn, 248 Beacon Holdings, LLC
Drew Gamils, Esq., ZBA Attorney
Jennifer L. Gray, Esq., Planning Board Attorney



David Buckley
Building Inspector

CITY OF BEACON
New York

BUILDING DEPARTMENT

845-838-5020
Email: dbuckley@cityofbeacon.org

June 25, 2021

Re: 248 Tioronda Ave
Grid # 5954-16-993482

Dear Mr. Kohn:

Your request to not build the commercial building concurrently with the two residential buildings at the referenced address is in violation of section 223-41.14(B) of the City of Beacon Zoning Code and cannot be approved.

You are hereby directed to apply to the zoning board of appeals for relief of this request. If you have any questions or need further information, please feel free to contact me at (845) 838-5020. Thank you.

Sincerely,

A handwritten signature in dark ink that reads "David Buckley". The signature is stylized with a large, looped "D" and a flourish at the end.

David Buckley
Building Inspector



The Community Preservation Corporation

480 Bedford Road, Suite 4201
Chappaqua, New York 10514

May 17, 2021

Mr. Bernard Kohn
248 Beacon Holdings LLC

Re: 248 Tioronda Avenue, Beacon, NY

To whom it may concern:

Mr. Kohn has submitted a request to the Community Preservation Corporation (CPC) for Construction Financing for the purposes of constructing a mixed-use development consisting of 64 residential apartments and 25,400 SF of Office space. The financing request states that the residential apartments will be constructed in two separate buildings with each building consisting of 32 apartments. The 25,400 SF of Office Space will be located in a third building.

CPC has reviewed the proposed development and is supportive of the project and would like to find a way to provide Mr. Kohn with the requested financing to construct additional housing in Beacon. CPC would like to move forward toward loan approval, however, given the uncertainty for demand for commercial space and in particular office space created by the pandemic, we are not able to finance the commercial component of this project at this time. CPC relies on Permanent Loan lenders such as Freddie Mac and Fannie Mae among others to provide long term financing to take-out CPC's Construction Loan's and these lenders are currently very hesitant to and in most cases not underwriting any income generated from office space or the commercial components of mixed-use developments. If these lenders begin to consistently underwrite to commercial income and in particular office space in the future, CPC would then reevaluate the loan request at that time, but for the time being we are unable to finance the commercial portion of this development.

CPC is both interested and excited to provide capital for multi-family development in Beacon and throughout New York State. Mr. Kohn is an existing client of CPC's and is currently in good standing. CPC is looking forward to working with Mr. Kohn in order to develop and preserve much needed safe affordable housing throughout the Hudson Valley.

Should you have any questions, please feel free to contact me.

Best Regards,

Michael Kroog Digitally signed by Michael Kroog
Date: 2021.05.17 16:20:46 -04 00'

Michael Kroog
Vice President, Mortgage Officer
P - (914) 801-1065
E - mkroog@communitypc.com

Other plans would not have required a variance but the garage entrance would have been closed off making it unfeasible. Mr. Buckley explained the height of the proposed second story complies with zoning.

Michal Mart, Sycamore Drive resident, supported the neighbors and felt the board should consider their concerns.

There were no further comments and Mr. Haug made a motion to continue the public hearing at the August meeting, seconded by Mr. Lanier. All voted in favor. Motion carried; 5-0.

ITEM NO. 5 REVIEW AND HOLD PUBLIC HEARING ON APPLICATION SUBMITTED BY BEACON 248 HOLDINGS, LLC, 248 TIORONDA AVENUE, TAX GRID NO. 30-5954-16-993482-00 & 30-6054-45-012574-00, FCD ZONING DISTRICT, FOR RELIEF FROM SECTION 223-41.1(B) TO ALLOW CONSTRUCTION OF THE RESIDENTIAL BUILDINGS TO TAKE PLACE BEFORE, AND NOT CONCURRENTLY WITH, CONSTRUCTION THE PROJECT'S COMMERCIAL BUILDING

Mr. Haug made a motion to open the public hearing on the application submitted by Beacon 248 Holdings, LLC, 248 Tioronda Avenue, for relief from Section 223-41.1(B) to allow construction of the residential buildings to take place before, and not concurrently with, construction of the project's commercial building, seconded by Ms. Smith. All voted in favor. Motion carried; 5-0.

Attorney Daniel Leary described his client's appeal seeking relief from the sequencing requirement in the Fishkill Creek Development Zone which requires commercial uses be constructed at the same time, or before, residential uses. He reported his client has every intention of building both components but due to financial reasons wants to be able to move forward with construction of the residential buildings first. Mr. Leary attended the Planning Board meeting and based on their comments submitted additional financial information. He also noted his client would not be opposed to the Planning Board's suggestion if the variance were to be granted that a condition be included to ensure the commercial portion of the project is built. Mr. Leary believed they could meet the five criteria of an area variance and that the variance should be granted.

City Attorney Drew Gamils explained this is an Unlisted Action under SEQRA and there are no other involved agencies. The Planning Board is undergoing a separate SEQRA review for a site plan amendment. The Zoning Board will need to make a determination on whether a sequencing change would be a significant environmental impact.

Mr. Leary reported his client has not been able to find funding for the commercial component of the development. The applicant has applied to The Community Preservation Corporation (CPC) and commercial lender Lakeland Bank. Both entities have expressed concerns due to difficulty of the times and changes resulting from the pandemic. Each cite issues with permanent loan lenders such as Fanny Mae and Freddy Mac. Mr. Leary repeated his client's commitment to constructing the commercial portion and knows it is a requirement of his Site Plan Approval, but timing is the issue. The requirement to construct both commercial and residential components at the same time was enacted in 2018 when the pandemic was not in

sight. Mr. Leary believed future lending will change and much optimism exists for business to open, particularly in this area. He feels this variance would not have an adverse impact to the neighborhood and explained the project cannot move forward without this component. Mr. Leary explained they are unable to add more equity to lessen the amount of loan that is needed, and they have not been able to find a tenant at this time.

A lengthy discussion took place regarding the City's goal to make certain that commercial uses are built along with residential uses and that requirements may need to be revisited as things have changed since the pandemic. City Attorney Drew Gamils explained the requirement is listed under bulk regulations making this an area variance, and each case is considered individually. A possible condition could be that a Certificate of Occupancy for the residential portion would not be issued until steps are made towards the construction of the commercial component. Mr. Jensen opened the floor for public comment.

Theresa Kraft, Liberty Street, read the following comments:

Sadly, Beacon residents are here tonight and listening across social media to a distressed developer asking this ZBA for a variance that is clearly self-created. The applicant and his legal team are requesting a variance to build out only the residential apartment units first because they cannot afford to build the commercial units at the same time. Everybody in construction knows it's more cost effective to build out methodically and not build a project in piecemeal. This request raises all the red flags. If they don't have the funds to do the project following codes and their approved application let them put it on the shelf, to blame it on the pandemic is a stretch. Remember the same developer owns the Craig house property. Why open a can of worms that could set precedent and alter that historic property as well or any other large new development in this municipality? Beacon must put a stop to all fourth floor builds and setbacks and special site plan approvals. It would be better for this city to demand better quality designs and high-end building materials used then to build more bland boxes in our beautiful city. Remember the number of residential units was based on the number of commercial units, this project is all intertwined, it was approved based on all the site plan components as a single entity with commercial and residential and not piecemeal in phases. Knowing the pattern of the applicant's other projects there is not a single guarantee that it would be built as was approved. Please DO NOT ALLOW or grant any additional variances on this project. Period.

Arthur Camins, Rombout Avenue resident, felt the variance fails on all five criteria established for area variances. Granting a variance would go against the City's objective to create balance and sequencing for projects in this zoning district. He felt the goal can be achieved by other methods, that it is substantial, will have an adverse effect on the area, and that the situation is self-created. Mr. Camins believed the applicant knew they did not have financing for the project and he asked the board not to accept their speculative reasoning. He strongly opposed granting a variance.

Erin Giunta, 9 Knevels Avenue, opposed the variance request and felt the commercial space should be constructed at the same time as required by zoning. She feels the hardship is self-created because the applicant did not seek appropriate finding. Ms. Giunta said Beacon has enough residential units and pointed out the commercial space at 344 Main Street remained empty for a long time. She believed work continues on the site because the applicant is certain a variance will be granted. Ms. Giunta expressed her frustration that developers' needs are put before the City's needs.

Jeremy Sucklow, Beacon resident, said the developer is currently in trouble with 344 Main Street because the City Council is looking at providing parking for that site. The applicant's speculation is a problem because commercial construction is booming. He felt the board should not be in the business of Real Estate speculation.

Michal Mart, Beacon resident, pointed out this applicant is same as 344 Main Street which has been a problem. She felt restricting the Certificate of Occupancy is not a viable option. Ms. Mart said the applicant has additional partners who have plenty of money.

Al Espisito felt a variance like this would be considered spot zoning which creates more problems. The applicant will pay less taxes and the community will not have access to services in those commercial spaces. He felt the project will be a detriment to the community. Mr. Espisito believed this applicant is an aggressive developer with deep pockets that already has a problem on Main Street. He advised the board not to go forward with the variance.

Kathleen Mazza, felt the City Council did a lot of work on zoning and that the board should hold the line and keep regulations as the community wanted them. We need businesses to work for the people in Beacon.

Jessica Eriksmoen, 98 Knevels Avenue, felt this developer has disregard for life along the creek. She sees beavers on the road and foxes in the yard, and there is no attention to wildlife on the site. Ms. Eriksmoen said construction starts at 5:25 a.m. and felt there was a lot of cheating going on. She asked that the variance be denied.

Eve Morganstern was informed of this meeting by her neighbors. She finds the project disturbing and felt more commercial space is needed. She did not want the board to set a bad precedent by granting a variance.

Rachel (no last name provided), asked about the definition of "commercial" and that it could be service related such as a bank, hair salon, or other service-related businesses, not just office space. She felt it would be good to have such businesses and was in favor of the variance.

Mary Fris, 54 Hillside Road, asked for clarification and advised the board to consider placing stipulations on issuing Certificates of Occupancy for the residential portion. She felt no one should reside in the development until the commercial portion is completed.

Mr. Leary explained this project started 8-9 years ago and has received Site Plan Approval. He reported the zoning amendment to require construction of the commercial component was enacted well after the project started. Therefore, he felt his client's hardship should not be considered self-created, nor should the current funding situation. Mr. Leary added those factors do not preclude granting of the variance.

Mr. Jensen noted several emails were submitted and will be read into the record at the August meeting. City Attorney Gamils reviewed each line of the Environmental Assessment

Form (EAF) to get responses for preparation for Part 2 of the EAF and/or Negative SEQRA Declaration.

Michal Mart, Sycamore Drive resident, asked why SEQRA was being considered before a decision on the variance has been made. City Attorney Drew Gamils explained that SEQRA does not need to be done first, but items should be considered and review can be done simultaneously.

Arthur Camins, Rombout Avenue, noted the SEQRA review was about timing but the possibility of the project actually being completed is speculative. Mr. Haug explained SEQRA review is based on the assumption that the project was completed.

Michal Mart, Beacon resident, felt the board was simply reevaluating the same Negative Declaration that was already issued by the Planning Board.

After a lengthy discussion, members requested the applicant provide evidence that commercial space in Beacon is desirable, vacancy rates, names of companies that have declined the offer of space, the number of declinations, and when the search began. They also requested information on whether application was made to any other lenders and what efforts were made to find alternate funding.

Al Espisito asked why the applicant didn't hire a commercial realtor to rent the commercial space before going through with the project.

Mr. Leary explained the project can't move forward under these circumstances or without relief from this section of the code.

Elizabeth Strelchun, 335 Tioronda Avenue, felt it unacceptable for a developer to rape and pillage the land to only stop progress due to funding.

Theresa Kraft, Liberty Street, noted the developer's partner's name is Michael Silberger and he has plenty of funding. There is a violation at 344 Main Street and this applicant should not be before the board.

Jeremy Sucklow, Beacon resident, a building with office space is planned to be built at 418 Main Street so funding must be available.

There was no further discussion and Mr. Haug made a motion to adjourn the public hearing until the August meeting, seconded by Mr. Lanier. All voted in favor. Motion carried; 5-0.

Mr. Haug made a motion to enter into executive session for advice of counsel, seconded by Mr. Lanier. All voted in favor. Motion carried; 5-0. Members went into executive session at 10:20 p.m. Mr. Haug made a motion to come out of executive session, after receiving advice from counsel, to return to the regular meeting, seconded by Mr. Lanier. All voted in favor. Motion carried; 5-0. Members returned from executive session at 10:56 p.m.

There was no further business to discuss and Mr. Haug made a motion to adjourn the meeting, seconded by Mr. Lanier. All voted in favor. Motion carried; 5-0. The meeting was adjourned at 10:57 p.m.

City of Beacon Zoning Board of Appeals Agenda
08/17/2021

Title:

Continue public hearing on application submitted by Beacon 248 Holdings, LLC, 248 Tioronda Avenue, Tax Grid Nos. 30-5954-16-993482-00 and 30-6054-45-012574-00, FCD Zoning District, for relief from Section 223-41.1(B) to allow construction of the residential building to take place before, and not concurrently with, construction of the project's commercial building

ATTACHMENTS

[ZBA Resolution 248 Tioronda](#)

[248 Tioronda Avenue Application.pdf](#)

[248 Tioronda Avenue Cover Letter.pdf](#)

[248 Tioronda Avenue EAF.pdf](#)

[E-mail From CPC.pdf](#)

[Letter from Lakeland Bank.pdf](#)

[248 Tioronda Avenue Variance Request EAF Part 2 and 3](#)

[Variance Request 248 Tioronda EAF Part 3 Negative Declaration](#)

CITY OF BEACON
ZONING BOARD OF APPEALS

RESOLUTION

Parcel ID# 5954-16-993482 & 6054-45-012574

WHEREAS, an application has been made to the City of Beacon Zoning Board of Appeals by 248 Beacon Holdings, LLC (the “Applicants”) for relief from City Code § 223-41.1B to allow construction of the residential buildings to take place before, and not concurrently with, construction of the project’s commercial building on property located at 248 Tioronda Avenue, in the Fishkill Creek Development (FCD) District. Said premises being known and designated on the tax map of the City of Beacon as Parcel ID# 5954-16-993482 & 6054-45-012574 (the “Property”); and

WHEREAS, City Code § 223-41.1B requires that development in the FCD District include a minimum of 25% of the total development's floor area shall be permitted nonresidential uses other than dwelling units or artist live/work spaces, which must be built out before or concurrently with the residential development of the site; and

WHEREAS, a duly advertised public hearing on the application was held on July 20, 2021 and continued the public hearing on August 16, 2021, at which time all those wishing to be heard on the application were given such opportunity; and

WHEREAS, the Board closed the public hearing on August 16, 2021; and

WHEREAS, the proposed action is an Unlisted Action pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, the Board considered the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant; and

WHEREAS, acting in its capacity as Lead Agency for environmental review, and after taking a “hard look” at all of the potential environmental impacts that might result from the proposed action, the Board has concluded for the reasons set forth in the annexed Negative Declaration that there will be no significant environmental impact or effect caused or occasioned by the issuance of the requested area variance.

NOW, THEREFORE, BE IT RESOLVED, that the Board, pursuant to the State Environmental Quality Review Act, hereby adopts the attached Negative Declaration.

BE IT FURTHER RESOLVED, that the Board, from the application, considered each of the factors set forth at Section 81-b(4)(b) of the General City Law and found, with respect to those considerations, as follows

- 1) As to whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance, the Board found that
- 2) As to whether the benefit the Applicant seeks can be achieved through another method, feasible for the Applicant to pursue, that does not require the area variance, the Board found that
- 3) As to whether the requested variance is substantial, the Board found that
- 4) As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, the Board found that.
- 5) As to whether the alleged difficulty is self-created, the Board found that the variance is.

BE IT FURTHER RESOLVED, that the Board finds that the requested variance [IS/IS NOT] the minimum variance necessary and adequate to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

BE IT FURTHER RESOLVED, that said application for relief from City Code § 223-41.1B to allow construction of the residential buildings to take place before, and not concurrently with, construction of the project's commercial building on property located at 248 Tioronda Avenue, in the Fishkill Creek Development (FCD) District, is hereby [GRANTED/DENIED], subject to the following conditions:

1. No permit or certificate of occupancy shall be issued until the Applicant has paid in full all application and consultant fees incurred by the City in connection with the review of this application.
2. The variance shall be void if the Applicant fails to (i) obtain a building permit within six months from the date of this Resolution; (ii) commence construction

within six months following the date of issuance of the building permit; and (iii) fails to complete construction and obtain a certificate of occupancy within 24 months after the date of issuance of said building permit.

BE IT FURTHER RESOLVED, that the Zoning Board of Appeals may grant a six month extension of this variance approval provided that a written request for an extension is submitted before the variance expires. Such extension shall only be granted upon a showing by the Applicant that the circumstances and conditions upon which the variance were originally granted have not substantially changed.

Dated: August 17, 2021

Mr. David Jensen, Chairman

Chairman David Jensen called the roll:

Motion	Second	Zoning Board Member	Aye	Nay
		David Jensen		
		Judy Smith		
		Robert Lanier		
		Jordan Haug		
		Elaine Ciaccio		
		Motion Carried		0

ZONING BOARD OF APPEALS
City of Beacon, New York

APPLICATION FOR APPEAL

OWNER: 248 Beacon Holdings LLC ADDRESS: 147 Union Street
Poughkeepsie, NY 12601

TELEPHONE: (845) 393-1380 E-MAIL: berry@chaibuilders.com

APPLICANT (if not owner): Same as above ADDRESS: Same as above

TELEPHONE: Same as above E-MAIL: Same as above

REPRESENTED BY: Daniel F. Leary, Esq. ADDRESS: 527 Route 22, Suite 2
Pawling, NY 12564

TELEPHONE: BNR LLP (914) 837-0896 E-MAIL: dleary@bnrllp.com

PROPERTY LOCATION: 248 Tioranda Avenue ZONING DISTRICT: FCD (Fishkill Creek Development)

TAX MAP DESIGNATION: SECTION 5954 BLOCK 16 LOT 993482
6054 45 012574

Section of Zoning Code appealed from or Interpretation desired:
Section 223-41.14B

Reason supporting request:

See Attached

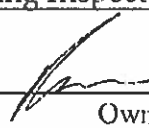
Supporting documents submitted herewith: Site Plan, Survey, etc. as required:

Site Plan, Correspondence from David Buckley, Building Inspector, dated June 25,
Correspondence of CPC, dated May 17, 2021.

Date: June 28, 2021

**2021,
Fee Schedule**

AREA VARIANCE \$ 250
USE VARIANCE \$ 500
INTERPRETATION: \$ 250


Owner's Signature


Applicant's Signature

****escrow fees may apply if required by Chairman****

APPLICATION PROCESSING RESTRICTION LAW

Affidavit of Property Owner

Property Owner: 248 Beacon Holdings LLC

If owned by a corporation, partnership or organization, please list names of persons holding over 5% interest.

Bernard Kohn

Michael Silberberg

List all properties in the City of Beacon that you hold a 5% interest in:

344 Main Street, Beacon, NY 12508

Craig House

Applicant Address: 147 Union Street, Poughkeepsie, NY 12601

Project Address: 248 Tioronda Avenue

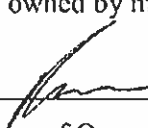
Project Tax Grid # 5954-16-993482 & 6054-45-012574

Type of Application Zoning Board of Appeals ("ZBA")

Please note that the property owner is the applicant. "Applicant" is defined as any individual who owns at least five percent (5%) interest in a corporation or partnership or other business.

I, Bernard Kohn, the undersigned owner of the above referenced property, hereby affirm that I have reviewed my records and verify that the following information is true.

- | | |
|---|---------------|
| 1. No violations are pending for ANY parcel owned by me situated within the City of Beacon | <u>X</u> |
| 2. Violations are pending on a parcel or parcels owned by me situated within the City of Beacon | <u> </u> |
| 3. ALL tax payments due to the City of Beacon are current | <u>X</u> |
| 4. Tax delinquencies exist on a parcel or parcels owned by me within the City of Beacon | <u> </u> |
| 5. Special Assessments are outstanding on a parcel or parcels owned by me in the City of Beacon | <u> </u> |
| 6. ALL Special Assessments due to the City of Beacon on any parcel owned by me are current | <u>X</u> |


Signature of Owner

Bernard Kohn- Principal

Title if owner is corporation

Office Use Only:

Applicant has violations pending for ANY parcel owned within the City of Beacon (Building Dept.)

ALL taxes are current for properties in the City of Beacon are current (Tax Dept.)

ALL Special Assessments, i.e. water, sewer, fines, etc. are current (Water Billing)

NO	YES	Initial
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

FOR OFFICE USE ONLY

Application #

CITY OF BEACON

1 Municipal Plaza, Beacon, NY

Telephone (845) 838-5000 • <http://cityofbeacon.org/>**INDIVIDUAL DISCLOSURE FORM**

(This form must accompany every land use application and every application for a building permit or certificate of occupancy submitted by any person(s))

Disclosure of the names and addresses of all persons) filing a land-use application with the City is required pursuant to Section 223-62 of the City Code of the City of Beacon. Applicants shall submit supplemental sheets for any additional information that does not fit within the below sections, identifying the Section being supplemented.

SECTION AName of Applicant: 248 Beacon Holdings LLCAddress of Applicant: 147 Union Street, Poughkeepsie, NY 12601Telephone Contact Information: (845) 393-1380**SECTION B. List all owners of record of the subject property or any part thereof.**

Name	Residence or Business Address	Telephone Number	Date and Manner title was acquired	Date and place where the deed or document of conveyance was recorded or filed.
248 Beacon Holdings LLC	147 Union Street Poughkeepsie, NY	(845) 393-1380	12110118 by Deed	Book 22019 Pg. 496 -
				Dutchess County Clerk

SECTION B. Is any owner of record an officer, elected or appointed, or employee of the City of Beacon or related, by marriage or otherwise, to a City Council member, planning board member, zoning board of appeals member or employee of the City of Beacon?

☐

YES

☒

NO

If yes, list every Board, Department, Office, agency or other position with the City of Beacon with which a party has a position, unpaid or paid, or relationship and identify the agency, title, and date of hire.

Agency	Title	Date of Hire, Date Elected, or Date Appointed	Position or Nature of Relationship

SECTION C. If the applicant is a contract vendee, a duplicate original or photocopy of the full and complete contract of purchase, including all riders, modification and amendments thereto, shall be submitted with the application.

SECTION D. Have the present owners entered into a contract for the sale of all or any part of the subject property and, if in the affirmative, please provide a duplicate original or photocopy of the fully and complete contract of sale, including all riders, modifications and amendments thereto.

☐

YES

☒

NO

I, Bernard Kohn being first duly sworn, according to law, deposes and says that the statements made herein are true, accurate, and complete.

(Print) Bernard Kohn

(Signature) 

FOR OFFICE USE ONLY

Application #

CITY OF BEACON**1 Municipal Plaza, Beacon, NY****Telephone (845) 838-5000 • <http://cityofbeacon.org/>****ENTITY DISCLOSURE FORM**

(This form must accompany every land use application and every application for a building permit or certificate of occupancy submitted by any entity)

Disclosure of the names and addresses of all persons or entities owning any interest or controlling position of any Limited Liability Company, Partnership, Limited Partnership, Joint Venture, Corporation or other business entity (hereinafter referred to as the "Entity") filing a land-use application with the City is required pursuant to Section 223-62 of the City Code of the City of Beacon. If any Member of the Entity is not a natural person, then the names and addresses as well as all other information sought herein must be supplied about the non-natural person member of that Entity, including names, addresses and Formation filing documents. Applicants shall submit supplemental sheets for any additional information that does not fit within the below sections, identifying the Section being supplemented.

SECTION A.

IF AFFIANT IS A PARTNERSHIP, JOIN VENTURE OR OTHER BUSINESS ENTITY, EXCEPT A CORPORATION: N/A

Name of Entity	Address of Entity
Place where such business entity was created	Official Registrar's or Clerk's office where the documents and papers creating entity were filed
Date such business entity or partnership was created	Telephone Contact Information

SECTION E. Is any party identified in Sections A- C an officer, elected or appointed, or employee of the City of Beacon or related, by marriage or otherwise, to a City Council member, planning board member, zoning board of appeals member or employee of the City of Beacon ?

☐ YES ☒ NO

If yes, list every Board, Department, Office, agency or other position with the City of Beacon with which a party has a position, unpaid or paid, or relationship and identify the agency, title, and date of hire.

Agency	Title	Date of Hire, Date Elected, or Date Appointed	Position or Nature of Relationship

SECTION F. Was any person referred to in Sections A-D known by any other name within five (5) years preceding the date of the application?

☐ YES ☒ NO

[illegible]

SECTION G. List the names and addresses of each person, business entity, partnership and corporation in the chain of title of the subject premises for the five (5) years next preceding the date of the application.

Name	Address
248 Beacon Holdings LLC	147 Union Street Poughkeepsie, NY 12601
Beacon 248 Development LLC	104 Rochelle Avenue Rochelle Park 275

SECTION H. If the applicant is a contract vendee, a duplicate original or photocopy of the full and complete contract of purchase, including all riders, modification and amendments thereto, shall be submitted with the application.

N/A

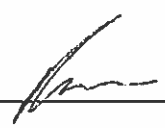
SECTION I. Have the present owners entered into a contract for the sale of all or any part of the subject property and, if in the affirmative, please provide a duplicate original or photocopy of the fully and complete contract of sale, including all riders, modifications and amendments thereto.

☐ YES

☒ NO

I, Bernard Kohn being first duly sworn, according to law, deposes and says that I am (Title) Principal, an active and qualified member of the LLC, a business duly authorized by law to do business in the State of New York, and that the statements made herein are true, accurate, and complete.

(Print) Bernard Kohn

(Signature) 



Berlandt Nussbaum & Reitzas LLP
Attorneys at Law

NEW YORK CITY OFFICE

125 PARK AVENUE
25TH FLOOR
NEW YORK, NY 10017

WHITE PLAINS OFFICE

445 HAMILTON AVENUE
14TH FLOOR
WHITE PLAINS, NY 10601

PAWLING OFFICE

527 ROUTE 22
SUITE 2
PAWLING, NY 12564

TELEPHONE (212) 804-6329
FACSIMILE (646) 461-2312

WWW.BNRLLP.COM

June 29, 2021

VIA ELECTRONIC MAIL

Hon. David Jensen, And
Members of the Zoning Board of Appeals
City of Beacon
1 Municipal Plaza
Beacon, New York 12508

Re: Application of 248 Beacon Holdings, LLC, for an Area Variance
Premises: 248 Tioronda Avenue, Beacon, New York
Tax Parcel IDs: (5954-16-993482 & 6054-45-012574- Now Merged)

Dear Chairman Jensen and Members of the Zoning Board of Appeals ("ZBA"):

By way of introduction, this firm represents 248 Beacon Holdings, LLC (the "Applicant"), the owner of property located at 248 Tioronda Avenue in the City of Beacon (the "City"), known and designated on the tax assessment map of the City as 5954-16-993482 & 6054-45-012574, but merged in to one parcel pursuant to the previously granted subdivision/lot merger approval by the City of Beacon Planning Board (the "Property").

Pursuant to Section 223.55 (C)(2) of the City of Beacon Zoning Code, we submit the enclosed application to the ZBA for a variance from Section 223-41.14B of the Zoning Code ("Bulk Regulations"), which requires that nonresidential space be built out before or concurrently with the residential development of the Property. Attached to the application is a supplemental statement setting forth the reasons supporting the request for a variance. In further support, we also enclose correspondence of The Community Preservation Corporation, dated May 17, 2021.

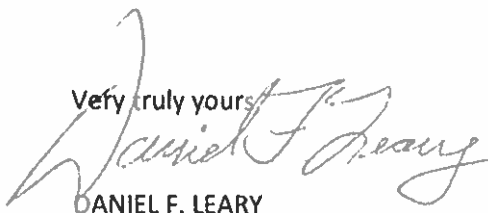
We respectfully request that the application be placed on the agenda of the July 20, 2021 meeting for a public hearing and consideration of this request for a variance. In the interim, if you have any questions, or need additional information, please do not hesitate to contact me at 914-837-0896 or dleary@bnrllp.com.

June 29, 2021
Page 2 of 2

BNR

Thank you for your consideration.

Very truly yours

A handwritten signature in cursive script, reading "Daniel F. Leary". The signature is written in dark ink and is positioned over the typed name "DANIEL F. LEARY".

DANIEL F. LEARY

Cc: Berry Kohn, 248 Beacon Holdings, LLC
Drew Gamils, Esq., ZBA Attorney
Jennifer L. Gray, Esq., Planning Board Attorney



CITY OF BEACON
New York

David Buckley
Building Inspector

BUILDING DEPARTMENT

845-838-5020
Email: dbuckley@cityofbeacon.org

June 25, 2021

Re: 248 Tioronda Ave
Grid # 5954-16-993482

Dear Mr. Kohn:

Your request to not build the commercial building concurrently with the two residential buildings at the referenced address is in violation of section 223-41.14(B) of the City of Beacon Zoning Code and cannot be approved.

You are hereby directed to apply to the zoning board of appeals for relief of this request. If you have any questions or need further information, please feel free to contact me at (845) 838-5020. Thank you.

Sincerely,

David Buckley
Building Inspector



The Community Preservation Corporation

480 Bedford Road, Suite 4201
Chappaqua, New York 10514

May 17, 2021

Mr. Bernard Kohn
248 Beacon Holdings LLC

Re: 248 Tioronda Avenue, Beacon, NY

To whom it may concern:

Mr. Kohn has submitted a request to the Community Preservation Corporation (CPC) for Construction Financing for the purposes of constructing a mixed-use development consisting of 64 residential apartments and 25,400 SF of Office space. The financing request states that the residential apartments will be constructed in two separate buildings with each building consisting of 32 apartments. The 25,400 SF of Office Space will be located in a third building.

CPC has reviewed the proposed development and is supportive of the project and would like to find a way to provide Mr. Kohn with the requested financing to construct additional housing in Beacon. CPC would like to move forward toward loan approval, however, given the uncertainty for demand for commercial space and in particular office space created by the pandemic, we are not able to finance the commercial component of this project at this time. CPC relies on Permanent Loan lenders such as Freddie Mac and Fannie Mae among others to provide long term financing to take-out CPC's Construction Loan's and these lenders are currently very hesitant to and in most cases not underwriting any income generated from office space or the commercial components of mixed-use developments. If these lenders begin to consistently underwrite to commercial income and in particular office space in the future, CPC would then reevaluate the loan request at that time, but for the time being we are unable to finance the commercial portion of this development.

CPC is both interested and excited to provide capital for multi-family development in Beacon and throughout New York State. Mr. Kohn is an existing client of CPC's and is currently in good standing. CPC is looking forward to working with Mr. Kohn in order to develop and preserve much needed safe affordable housing throughout the Hudson Valley.

Should you have any questions, please feel free to contact me.

Best Regards,

Michael Kroog Digitally signed by Michael Kroog
Date: 2021.05.17 16:20:46 -04 00'

Michael Kroog
Vice President, Mortgage Officer
P - (914) 801-1065
E - mkroog@communitypc.com

617.20
Appendix B
Short Environmental Assessment Form

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: 248 Tioronda Avenue Mixed-Use Project (Residential)			
Project Location (describe, and attach a location map): 248 Tioronda Avenue Beacon, NY 12508 (Commercial)			
Brief Description of Proposed Action: Application to the Zoning Board of Appeals ("ZBA") for relief from Section 223-41.14B of the Zoning code, to allow for construction of residential before office is fully built.			
Name of Applicant or Sponsor: 248 Beacon Holdings LLC		Telephone: 845-393-1380 E-Mail: berry@chaibuilders.com	
Address: 147 Union Street			
City/PO: Poughkeepsie		State: NY	Zip Code: 12601
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO ☒ X YES ☐
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			NO ☒ X YES ☐
3.a. Total acreage of the site of the proposed action?		9.18 acres	
b. Total acreage to be physically disturbed?		N/A acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		9.18 acres	
4. Check all land uses that occur on, adjoining and near the proposed action. ☒ Urban ☐ Rural (non-agriculture) ☒ Industrial ☒ Commercial ☒ Residential (suburban) ☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): _____ ☐ Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	☐	☒	☐
b. Consistent with the adopted comprehensive plan?	☐	☒	☐
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	☐	☒	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	☒	☐	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	☒	☐	
b. Are public transportation service(s) available at or near the site of the proposed action?	☐	☐	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	☐	☐	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO	YES	
	☒	☐	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO	YES	
	☐	☒	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO	YES	
	☐	☒	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO	YES	
	☒	☐	
b. Is the proposed action located in an archeological sensitive area?	☐	☐	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	☐	☒	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	☒	☐	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: ☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional ☐ Wetland ☒ Urban ☐ Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	
	☒	☐	
16. Is the project site located in the 100 year flood plain?	NO	YES	
	☒	☐	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES	
a. Will storm water discharges flow to adjacent properties? ☐ NO ☐ YES	☒	☐	
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	☐ NO ☐ YES		

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
	☒	☐
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
	☒	☐
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: <u>Former NYCS DEC State Super fund site - May 2003</u>	NO	YES
	☐	☒
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>248 Beacon Holdings LLC</u>		Date: <u>6/28/2021</u>
Signature: _____		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	☐	☐
2. Will the proposed action result in a change in the use or intensity of use of land?	☐	☐
3. Will the proposed action impair the character or quality of the existing community?	☐	☐
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	☐	☐
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	☐	☐
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	☐	☐
7. Will the proposed action impact existing:		
a. public / private water supplies?	☐	☐
b. public / private wastewater treatment utilities?	☐	☐
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	☐	☐
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	☐	☐

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	☐	☐
11. Will the proposed action create a hazard to environmental resources or human health?	☐	☐

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

☐	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
☐	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
_____ Name of Lead Agency _____ Date	
_____ Print or Type Name of Responsible Officer in Lead Agency _____ Title of Responsible Officer	
_____ Signature of Responsible Officer in Lead Agency _____ Signature of Preparer (if different from Responsible Officer)	

PRINT

City of Beacon

Request for Area Variance from the Zoning Board of Appeals (the “ZBA”)

Applicant: 248 Beacon Holdings LLC (the “Applicant”)

Parcel Nos: 5954-16-993482 & 6054-45-012574 (Merged)

Hearing Date: July 20, 2021

Supplemental Responses to the ZBA Application

Section of the City of Beacon Zoning Code from which variance is requested and herewith appealed:

The Applicant is seeking a variance from the following code section:

Section 223-41.14B of the City Zoning Code (“Bulk Regulations”), which requires that nonresidential space be built out before or concurrently with the residential development of the site.

Request for Area Variance.

Pursuant to General City Law Section 81-b (4) and Section 223.55 (C) (2) (b) of the City Zoning Code, the overall test for area variances is the balancing of the benefit to the applicant if the variances are granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or the community by such grant. As more fully set forth in the enclosed correspondence from The Community Preservation Corporation (“CPC”), dated May 17, 2021, the Applicant is not able to finance the commercial/office component of his fully approved mixed use project (the “Project”) at this time. This is due to the uncertainty of demand for commercial space and office space in particular, attributed to the pandemic and other factors. On the other hand, financing for the residential component of the Project remains available, and the Applicant is desirous of commencing construction on that portion of the Project as soon as possible. The Applicant is fully committed to the construction of the nonresidential space as approved for the Project, once financing is available. Therefore, the Applicant respectfully asks that the ZBA consider the benefit of granting the requested relief from Section 223-41.14B of the Zoning Code, when weighing and balancing the following five (5) factors:

1. There will be no undesirable change in the character of the neighborhood or a detriment to nearby properties by the granting of the variance.

No undesirable change will be produced in the character of the neighborhood and no detriment to nearby properties will be created by the granting of the variance. For the Project as a whole, the previous approval by the City of Beacon Planning Board to construct two multifamily buildings and a commercial building remains intact. The Applicant is not proposing to construct any additional buildings, expand impervious surfaces or change any of the previously approved setback, lot coverage and other

dimensional requirements applicable to development in the Fishkill Creek Development (“FCD” Zoning District. In addition, the Project would remain wholly consistent with the Local Waterfront Revitalization Program (“LWRP”) Zoning District. In sum, there will be no undesirable or detrimental “external” impacts to the character of the neighborhood or nearby surrounding properties by the grant of this variance.

2. The benefit sought by the applicant cannot be achieved by some method feasible for the Applicant to pursue, other than a variance.

As demonstrated by the enclosed correspondence from the CPC, there are no other feasible methods for the Applicant to pursue besides the requesting variance. Specifically, the financial viability of the Project itself hinges on the grant of the variance. Because the Applicant cannot obtain financing for the Project without obtaining relief from the sequencing in construction between commercial space and residential development required under Section 223-41.14B, there are no other feasible options for the Applicant to pursue. The Applicant is working within the constraints of the existing lending/borrowing market and this variance is the minimum necessary that will allow construction of the Project to move forward.

3. The requested variance is not substantial.

The requested variance is not substantial in effect. “Substantiality” is not just a matter of mathematical proportion. Rather, the reigning test is always whether the variance will have a detrimental effect on the neighborhood.

As already noted in “1” above, there will be no detrimental effect on the neighborhood by the grant of this variance. In fact, the variance being sought does nothing to change or increase building/lot coverage, setbacks, building size or the space between the proposed development and neighboring property owners required under the approved site plan or in the Zoning Code.

4. The requested variance, if granted, will not have an adverse impact on the physical and/or environmental conditions in the neighborhood.

The proposed variance will not have an adverse effect on the physical or environmental conditions of the neighborhood or district. There will be no adverse effects of noise, vibrations, odor, traffic or impact on public services by the grant of this variance. The variance will not result in any adverse impacts under SEQRA, nor will it increase any of the environmental impacts that went in to the “Negative Declaration” adopted by the Planning Board as Lead Agency on April 14, 2014. Other than this proposed change in sequencing between commercial and residential construction, none of the terms and conditions of the site plan previously approved by the Planning Board will be impacted by the grant of the variance, and the Project’s consistency with the LWRP remains unchanged.

5. The alleged difficulty was not self-created.

The alleged difficulty was not self-created, but arises out of a zoning amendment that was adopted well after the Applicant selected the site as the location of its proposed development and commenced site plan review by the Planning Board. However, even if the hardship was self-created, this alone does not preclude the grant of an area variance under General City Law 84-b (4) (v).

Begin forwarded message:

From: Michael Kroog <mkroog@communityp.com>
Date: July 19, 2021 at 1:53:07 PM EDT
To: Berry Kohn <berry@chaibuilders.com>
Subject: RE: EXT:Planning Board Comments_248 Tioronda.pdf

Hello Berry, CPC has provided financing for almost all of the mixed-use properties in Beacon at one point or another over the years. I have noted the last few mixed-use projects that CPC provided financing for in Beacon for reference.

CPC provides construction and permanent financing for mixed-use projects throughout the Hudson Valley, NYS and permanent financing on mixed-use projects throughout the Country. CPC is a seller/servicer for Freddie Mac and Fannie Mae which are the largest purchasers of multi-family mortgages (Permanent Financing) in the Country. It is currently very difficult to get them to include commercial income in the loan leverage due to the disruptions and complications in all commercial businesses over the past year +. This in turn results in more equity needed from the developer to make the financing work.

Furthermore, CPC's construction lending platform is capitalized by many of the major banks (except Chase) with Citibank being the lead bank so we are in constant contact with these institutions regarding financing and we see the same hesitation at the moment from these partners regarding the commercial component of mixed-use properties, especially office space given the shifting trends in remote working capability.

Lofts at Beacon Falls / 50-54 Leonard Street – Mixed-use
Beacon Theater / 445 Main Street – Mixed-use
494-495 Main and 2 South Street, Beacon – Mixed-use

Best,

Mike

From: Berry Kohn <berry@chaibuilders.com>
Sent: Monday, July 19, 2021 1:14 PM
To: Michael Kroog <mkroog@communityp.com>
Subject: EXT:Planning Board Comments_248 Tioronda.pdf



July 19, 2021
Mr. Bernard Kohn
248 Beacon Holdings LLC
Re: 248 Tioronda Avenue, Beacon, NY

To whom it may concern:

Mr. Kohn has discussed construction financing with Lakeland Bank for the purposes of constructing a mixed-use development consisting of 64 residential apartments and 25,400 SF of office space. The pro-forma information provided to Lakeland Bank indicates residential apartments will be constructed in two separate buildings with each building consisting of 32 apartments. The 25,400 SF of office space will be located in a third building.

Lakeland Bank has reviewed the information provided and has expressed an interest in financing the development project. A concern surrounding the financing inquiry is the development project's office space component. Due to various macroeconomics factors, microeconomic factors and inherently high vacancy rates, office space is considered to be a higher risk property type. As a result, Lakeland Bank would most likely not fund the portion of the construction loan associated with the office space until it has been largely leased. This risk mitigation tactic is not unique to Lakeland Bank. Many banks are hesitant to finance speculative office space projects in today's economy.

Lakeland Bank is very interested in financing multi-family development projects in Beacon and throughout the Hudson Valley. Since the opening of its New York Loan Production Office in 2015, Lakeland Bank has successfully financed commercial development projects in the Hudson Valley (two of which are located in Beacon, NY).

Should you have any questions, please feel free to contact me.

Ken Lawson
Relationship Manager
Commercial and Middle Market Lending
556 Route 32, Highland Mills, NY 10930
Office: 845-827-3155 | Cell: 973-903-1079

Project: 248 Tioronda Avenue - Variance

Date: August 17, 2021

Short Environmental Assessment Form

Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	☐	☒
2. Will the proposed action result in a change in the use or intensity of use of land?	☒	☐
3. Will the proposed action impair the character or quality of the existing community?	☒	☐
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	☒	☐
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	☒	☐
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	☒	☐
7. Will the proposed action impact existing:	☒	☐
a. public / private water supplies?	☒	☐
b. public / private wastewater treatment utilities?	☒	☐
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	☒	☐
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	☒	☐
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	☒	☐
11. Will the proposed action create a hazard to environmental resources or human health?	☒	☐

Short Environmental Assessment Form

Part 3 Determination of Significance

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

See attached.

☐

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

☒

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

City of Beacon Zoning Board of Appeals

Name of Lead Agency

August 17, 2021

Date

David Jensen

Print or Type Name of Responsible Officer in Lead Agency

Chairman

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from Responsible Officer)

**ATTACHMENT TO
NEGATIVE DECLARATION
REASONS SUPPORTING DETERMINATION

APPLICATION FOR VARIANCE APPROVAL
FOR 248 TIORONDA AVENUE**

Parcel Nos. 5954-10-993482 and 6054-45-012574

CONCLUSIONS

This Part 3 analysis has been prepared to address all relevant areas of environmental concern as identified in the review by the Zoning Board of Appeals (“ZBA”). This narrative will discuss and explain the analysis of the potential impacts, and why the Proposed Action will not result in a significant adverse environmental impact. Such analysis is appropriately set forth in the Part 3, even if the potential impact was identified as “none” or “small.” Based upon a review of Parts 1 and 2 of the Short Environmental Assessment Form (EAF) and all other application materials that were submitted in support of the Proposed Action, along with information from the public, the ZBA, undergoing an uncoordinated review, provides the following rationale for its SEQRA Determination.

Project Description:

On June 28, 2021, 248 Beacon Holdings, LLC submitted an application the ZBA for relief from City Code § 223-41.1B to allow construction of the residential buildings to take place before, and not concurrently with, construction of the project’s commercial building on property located at 248 Tioronda Avenue, in the Fishkill Creek Development (FCD) District (the “Proposed Action”). Said premises being known and designated on the tax map of the City of Beacon as Parcel ID# 5954-16-993482 & 6054-45-012574 (the “Property”). City Code § 223-41.1B requires that development in the FCD District include a minimum of 25% of the total development's floor area shall be permitted nonresidential uses other than dwelling units or artist live/workspaces, which must be built out before or concurrently with the residential development of the site.

On April 14, 2020, the Planning Board of the City of Beacon granted subdivision (lot merger) and site plan approval to 248 Beacon Holdings, LLC to redevelop the northern portion of the former Tuck Industries manufacturing site with a 64-unit multifamily residential development and a 25,400 s.f. office building, with associated parking. The multifamily residential development is included in two buildings with a total of 28 one-bedroom units and 36 two-bedroom units (100 bedrooms) (collectively referred to herein as the “Project” or “Proposed Development”). The Project includes Greenway Trail for public use along the Fishkill Creek.

The Proposed Action is an Unlisted Action. The Zoning Board of Appeals opened a public hearing to consider comments on the application on July 20, 2021. The public hearing was closed on _____.

Summary of Rationale for Negative Declaration

The Proposed Action will not result in any significant adverse impacts on the environment.

In summary:

- **Impact on Land: The Proposed Action will not have a significant adverse environmental impact as a result of any physical change to the Property.**

The Property is located in the FCD District. The Proposed Development is located almost entirely within the existing disturbed area of the former Tuck Tape Industries development area. The Property is already cleared and graded. The proposed variance may increase the length of time it takes to complete the Project which may cause additional disturbance to the land resulting from the extended use of construction vehicles and storage of materials on the Property. However, no significant adverse environmental impacts are expected as a result of any physical change to the Property.

- **Impact on Geological Features: The Proposed Action will not have a significant adverse environmental impact on any unique or unusual landforms on the site.**

There are no unique geological features on the Property.

- **Impacts on Surface Water and Groundwater: The Proposed Action will not have a significant adverse environmental impact on surface or groundwater quality or quantity.**

The Proposed Development will connect to existing public water and existing wastewater utilities. The Proposed Action to allow the Applicant to construction the residential buildings before the commercial buildings will not have a significant adverse environmental impact on the surface or groundwater quality or quantity.

Stormwater. Construction of the Proposed Development will result in a disturbance area of 5.95 acres of the 9.18-acre site, but virtually the entire disturbance is within the area already disturbed by the factory buildings, parking areas, and other areas associated with the industrial development. The Project will increase the impervious area by 0.48 acres. As a redevelopment project with an increase in overall impervious area, treatment of stormwater will be provided for 100% of the additional new impervious area and 25% of the existing disturbed impervious area. The project

proposes to use a combination of standard stormwater management practices and alternative practices. The site will continue to discharge stormwater runoff to the Fishkill Creek. An Erosion and Sediment Control Plan was previously approved for the Project and shall be employed during the construction phase to protect off-site waters from the adverse effects of sedimentation and erosion. Therefore, the Proposed Development is not expected to result in any adverse impacts in regard to stormwater.

Water resources. According to the NYSDEC Environmental Resource Map, the site does not contain nor is contiguous to a State regulated wetland or associated adjacent area. The Site is contiguous to the Fishkill Creek, a NYSDEC stream identified as H-95, a tributary of the Hudson River. This stream is classified as a Class C stream in the vicinity of the Site; therefore, it is not regulated by NYSDEC as a protected water, as confirmed by letter from NYSDEC dated March 21, 2019.

Groundwater. The Project will be connected to the existing public water distribution and sanitary sewer systems.

As a result, the Project will not result in a significant adverse impact on surface or groundwater quality or quantity.

- **Impact on Flooding: The Proposed Action will not have a significant adverse environmental impact on or alter drainage flows or patterns, or surface water runoff.**

According to the National Flood Insurance Program Flood Insurance Rate Map (FIRM), City of Beacon, New York, Community Panel 360217, a portion of the Site along the Fishkill Creek is located within Flood Zone AE, which is described as an area of the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual (100-year) chance flood can be carried without substantial increases in flood heights. No building construction is proposed within Zone AE. The Proposed Action has no impact on the location of the buildings.

For the reasons set forth above and herein, the Project will not have a significant adverse impact on or alter drainage flows or patterns, or on surface water runoff.

- **Impact on Air: The Proposed Action will not have a significant adverse environmental impact on air quality.**

Construction activities associated with the Proposed Action could result in temporary air quality impacts. The proposed variance may prolong the length of time construction activities occur on the Property, however, air quality in the area is not expected to be significantly impacted by project construction because the construction activities will be temporary and confined to the Property. Construction will be limited to 7:00 a.m. to 5:00

p.m. Monday through Friday, or as otherwise limited by the City Code in effect at the time of construction. Construction vehicles will emit certain air pollutants through engine exhaust. There is also the potential for fugitive dust to be created during the construction period from site preparation activities. Fugitive dust emissions will be mitigated by wetting and stabilizing soils to suppress dust generation. Other dust suppression methods will include the spraying of soil stockpiles during dry periods and covering trucks carrying solid and other dry materials. These unavoidable short-term impacts to air quality will cease upon project completion. Construction will be conducted in accordance with all applicable federal, state and local codes. It is anticipated that nearby properties may experience temporary fugitive dust and an elevation in vehicle emissions from construction vehicles throughout occasional periods during construction of the proposed project. This is a temporary, construction-related, unavoidable impact that is not significant.

- **Impact on Plants and Animals: The Proposed Action will not have a significant adverse environmental impact on flora or fauna.**

There are currently no records of rare or state-listed animals or plants, or significant natural communities, at the Property. Therefore, no significant adverse impacts to endangered, threatened or rare species are anticipated as a result of the Proposed Action.

- **Impact on Agricultural Resources: The Proposed Action will not have a significant adverse environmental impact on agricultural resources.**

There are no agricultural resources in the vicinity of the Property.

- **Impact on Aesthetic Resources: The Proposed Action will not have a significant adverse environmental impact on aesthetic resources.**

The Proposed Action will not result in the obstruction, elimination or significant screening of one or more officially designated scenic views, or visibility from any publicly accessible vantage points either seasonally or year around.

- **Impact on Historic and Archeological Resources: The Proposed Action will not have a significant adverse environmental impact on historic or archeological resources.**

The Site is not substantially contiguous to nor does it contain a building site, or district, listed on the National or State Register of Historic Places. The Proposed Action concerning the phasing of construction will not have a significant adverse environmental impact on historic or archaeological resources.

- **Impact on Open Space and Recreation: The Proposed Action will not have a significant adverse environmental impact on open space and recreation.**

The area of the Proposed Action is not designated as open space by the City of Beacon. The Proposed Action will not result in the loss of a current or future recreational resource, eliminate significant open space, or result in loss of an area now used informally by the community as an open space resource. In fact, the Proposed Development includes a significant addition to the City's Greenway Trail system.

- **Impact on Critical Environmental Areas: The Proposed Action will not have a significant adverse environmental impact on Critical Environmental Areas.**

The Proposed Action is not located in a Critical Environmental Area.

- **Impact on Transportation: The Proposed Action will not have a significant adverse environmental impact on transportation.**

The Proposed Action will not generate additional traffic so as to result in a significant adverse environmental impact on transportation. The Proposed Action may extend the length of time it takes to complete the Proposed Development which may temporarily generate additional traffic from construction vehicles. However, the traffic expected to be generated by the Proposed Development will not result in any significant adverse traffic impacts, as set forth in the Negative Declaration adopted by the Planning Board on June 11, 2019 in connection with 248 Beacon Holdings, LLC's proposed subdivision (lot merger) and site plan application to redevelop the northern portion of the former Tuck Industries manufacturing site with a 64-unit multifamily residential development and a 25,400 s.f. office building, with associated parking.

- **Impact on Energy: The Proposed Action will not have a significant adverse environmental impact on energy.**

The existing energy infrastructure will adequately serve the additional demand. The Proposed Action does not require a new, or an upgrade to any existing substation.

- **Impact on Noise, Odor and Light: The Proposed Action will not have a significant adverse environmental impact as a result of objectionable odors, noise or light.**

The Proposed Action is not anticipated to generate any discernable odors at the property line. Noise impacts associated with the Proposed Development will be limited to temporary impacts generated during construction. The Proposed Action may increase the duration of construction. There will be no significant noise impacts post-construction. All exterior lighting was previously reviewed and approved by the

Planning Board. The lighting will be downward directed and will consist of full cut-off lighting with International Dark-Sky Association approved “dark sky friendly” performance. The Proposed Action will not impact exterior lighting.

- **Impact on Human Health: The Proposed Action will not have a significant adverse environmental impact on human health from exposure to new or existing sources of contaminants.**

The Property was listed in the NYSDEC’s Environmental Remediation Database as Site Code 314044, formerly owned by Tuck Industries and operated as a tape manufacturing facility. The listing was the result of leaking drums and storage tanks that contained solvents and solvent recovery system waste (primarily heptanes and toluene), which resulted in soil contamination. The NYSDEC website indicates that the has been remediated and assigned a classification of C, which means that the NYSDEC has determined that remediation has been satisfactorily completed under a remedial program. The site has been delisted from the NYS Registry of Inactive Hazardous Waste Disposal Sites per NYSDEC correspondence dated October 11, 2002.

By letter dated May 1, 2003, NYSDEC notified the owner of the Site that it had been “deleted from the Registry effective with receipt of this letter.”

As such the Proposed Action will not have a significant adverse environmental impact on human health from exposure to new or existing sources of contaminants.

- **Consistency with Community Plans and Community Character: The Proposed Action is not inconsistent with adopted community plans and community character.**

The Applicant requires a variance because it seeks to construct the residential buildings prior to, and not concurrently with construction of the commercial building. The Applicant’s request does not comply with the City’s adopted zoning regulations, however, the ZBA is authorized by General City Law and the City Code to vary the provisions of the City Zoning Code and grant relief from certain provisions of the City’s Zoning Code. The ZBA may grant relief to the Applicant to allow the Applicant to construct the commercial building after the residential buildings, the variance pertains only to the phasing of the Project. The Applicant shall be required to ultimately construct the commercial use on the property pursuant to the approved Site Plan and shall fulfill the intent of the Zoning Code to promote commercial development in the FCD District.

Based upon this information and the information in the Full Environmental Assessment Form, the ZBA finds that the Proposed Action will not have any significant adverse impacts upon the environment. This Negative Declaration indicates that no environmental impact statement need be prepared and that the SEQRA process is complete.

Adopted: August 17, 2021
Beacon, New York

Dated: August 17, 2021

Mr. David Jensen, Chairman

Chairman David Jensen called the roll:

Motion	Second	Zoning Board Member	Aye	Nay
		David Jensen		
		Judy Smith		
		Robert Lanier		
		Jordan Haug		
		Elaine Ciaccio		
Motion Carried				0

The Board measured whether the requested variance was the minimum variance necessary and adequate to preserve and protect the character of the neighborhood and the health, safety and welfare of the community. Members agreed the requested variance was the minimum and that the applicant was not asking for more relief than was necessary.

After careful consideration Ms. Smith made a motion to grant the variance as requested with conditions outlined in the draft resolution, seconded by Mr. Haug. All voted in favor. Motion carried; 4-0.

ITEM NO. 3 CONTINUE PUBLIC HEARING ON APPLICATION SUBMITTED BY SCOTT HERRING & LAUREN JOHNSON, 20 PAYE STREET, TAX GRID NO. 30-5954-15-730297-00, R1-10 ZONING DISTRICT, FOR RELIEF FROM SECTION 223-17(D) TON CONSTRUCT A ONE-STORY 1-1/2 CAR GARAGE WITH 21.11 FT. FRONT YARD SETBACK (25 FT. REQUIRED) AND 9.4 FT. SIDE YARD SETBACK (15 FT. REQUIRED)

Upon the request of the applicant, Mr. Haug made a motion to adjourn this item until the September 21, 2021 meeting, seconded by Ms. Ciaccio. All voted in favor. Motion carried; 4-0.

ITEM NO. 4 CONTINUE PUBLIC HEARING ON APPLICATION SUBMITTED BY BEACON 248 HOLDINGS, LLC, 248 TIORONDA AVENUE, TAX GRID NOS. 30-5954-16-993482-00 AND 30-6054-45-012574-00, FCD ZONING DISTRICT, FOR RELIEF FROM SECTION 223-41.1(B) TO ALLOW CONSTRUCTION OF THE RESIDENTIAL BUILDING TO TAKE PLACE BEFORE, AND NOT CONCURRENTLY WITH, CONSTRUCTION OF THE PROJECT'S COMMERCIAL BUILDING

Mr. Haug made a motion to continue the public hearing on the application submitted by Beacon 248 Holdings, LLC, 248 Tioronda Avenue, for relief from Section 223-41.1(b) to allow construction of the residential building to take place before, and not concurrently with, construction of the project's commercial building, seconded by Ms. Smith. All voted in favor. Motion carried; 4-0.

Daniel Leary, Partner at Berlandi Nussbaum and Reitzas LLP with offices at 125 Park Avenue, 25th Floor, New York, New York 10017, 445 Hamilton Avenue, 14th Floor, White Plains, New York 10601, and 527 Route 22, Suite 2, Pawling, New York 12564 was representing his client Berry Kohn, one of the owners and developers of 248 Tioronda Avenue. Mr. Leary and Mr. Kohn laid out the reasons for their request for relief from Section 223-41.1(b) to allow construction of the residential building to take place before, and not concurrently with, construction of the project's commercial building.

- 1) Mr. Kohn is having difficulty securing a loan without having a commercial tenant in place (as evidenced by a letter from Lakeland Bank he provided the Board). He is having trouble finding a commercial tenant because of the high degree of uncertainty that many potential commercial tenants are facing during the pandemic.
- 2) Mr. Kohn did not foresee the problems with the bank.

- 3) The type of commercial tenant determines the layout and building materials that Mr. Kohn will use. Without the commitment of a tenant, he does not know the layout or materials.
- 4) No major tenant will commit to the space due to the uncertainty of when the space will be available, right now there is a shortage of materials causing a delay in construction. Having an empty building sitting without any tenants is worse than not having a building.
- 5) Mr. Kohn is working hard to find a tenant, every real estate broker in Dutchess County and down to Westchester County knows about the project.
- 6) Prior to the pandemic, a tenant was not required in order to secure a commercial loan.

A discussion ensued by the Board about the definition of “Concurrently.” According to Mr. Buckley, concurrently means that the structures have to be built at the same time. Simply building one structure and only pouring the foundation of the other structure does not qualify as two buildings being built concurrently.

The Board expressed concern that Mr. Kohn will build the residential building and will never complete the commercial building. Mr. Jensen asked what assurance Mr. Kohn could provide that the commercial space will ever be built. Mr. Kohn said the he is installing \$1.5 million dollars-worth of commercial construction already. He also pointed out that another one of his projects, the building at 344 Main Street, Beacon, New York took three years to fill the commercial spaces, however he has been able to fill all of the spaces with good quality, long term tenants.

When asked by the Board about his construction timeline, Mr. Kohn stated that if he had commercial tenants in place, he could complete the project in 18 months. If, however he built the residential section first and then the commercial section, it would take 18 months for the residential and then another 8 to 12 months to build the commercial space.

Again, Mr. Jensen inquired about what assurance Mr. Kohn could provide to the City that the commercial space will be completed if the request is granted. Mr. Kohn responded, “I’m not sure I have an answer to that [...] It will get built, [...] I’m here to build, not to not to build.”

Theresa Kraft, Liberty Street

Ms. Kraft opposes Mr. Kohn’s request. She noted that the project was approved for the commercial and residential space to be built concurrently, not piecemeal. She questioned the validity of blaming the issues on COVID-19 since other commercial spaces are being aggressively built throughout the Hudson Valley. She’d like to see the funding issues fixed before moving forward.

Michal Mart, Sycamore Drive

Ms. Mart opposes Mr. Kohn's request. She said that approving the request would set a bad precedent for neighboring properties. The Zoning Board is only receiving an insultingly scant number of details to backup this request. Approving this request would open up the entire zoning code to be changed by a zoning board vote. She noted that a similar instance has likely happened elsewhere. She suggested that the City Attorney find similar case law. She requested that there be a thorough investigation into the existing case law and an explanation of why there is no case law if none can be found.

Erin Giunta, 9 Knevels Avenue

Ms. Giunta said that by not constructing the commercial and residential spaces concurrently, the construction timeline would be extended, thus further inconveniencing neighbors such as herself who have to live near a loud construction site. There are kids who walk by this to school every day. She questioned why Mr. Kohn was not providing the Board with more letters from banks showing that he cannot get a loan. She said that funding should have been secured by this point. Ms. Giunta noted that allowing this exception for Mr. Kohn would set a bad precedent for every developable property in the Fishkill Creek Development Zone.

Kristan Flynn, 125 Catherine Street

Ms. Flynn opposed Mr. Kohn's request. She said that the developer should be more creative when it comes to finding a commercial tenant. The fact that the zoning changed in the Fishkill Creek Development Zone did not create a hardship, if Mr. Kohn did not like the new zoning, the developer should have sold. Granting the request does not necessarily align with the City's priorities. There may not be a need for residential units in Beacon, there is currently a seven percent vacancy rate. More residential supply in the past few years has not brought down residential prices. Banks want to lend money; they want to keep money moving. COVID -19 didn't just happen to one project. She said it feels like everyone is working hard to find a loophole to the zoning based on a hardship with very little evidence.

Mr. Kohn said he was in favor of adjourning his request until the next meeting on September 21, 2021. For the September 21st Meeting, the Zoning Board requested more denial letters from lenders. The Board also requested information about how the applicant is searching for tenants, including but not limited to a list of brokers being used.

Mr. Haug made a motion to adjourn the public hearing on the application submitted by Beacon 248 Holdings, LLC, 248 Tioronda Avenue, until the September 21, 2021 meeting, seconded by Ms. Smith. All voted in favor. Motion carried; 4-0.

There was no further business to discuss and Mr. Haug made a motion to close the meeting, seconded by Ms. Ciaccio. All voted in favor. Motion carried; 4-0.

BNR
Berlandi Nussbaum & Reitzas LLP
Attorneys at Law

NEW YORK CITY OFFICE

125 PARK AVENUE
25TH FLOOR
NEW YORK, NY 10017

WHITE PLAINS OFFICE

445 HAMILTON AVENUE
14TH FLOOR
WHITE PLAINS, NY 10601

PAWLING OFFICE

527 ROUTE 22
SUITE 2
PAWLING, NY 12564

TELEPHONE (212) 804-6329
FACSIMILE (646) 461-2312

WWW.BNRLLP.COM

September 10, 2021

VIA ELECTRONIC MAIL

Hon. David Jensen, And
Members of the Zoning Board of Appeals
City of Beacon
1 Municipal Plaza
Beacon, New York 12508

Re: Application of 248 Beacon Holdings, LLC, for an Area Variance
Premises: 248 Tioronda Avenue, Beacon, New York
Tax Parcel IDs: (5954-16-993482 & 6054-45-012574- Now Merged)

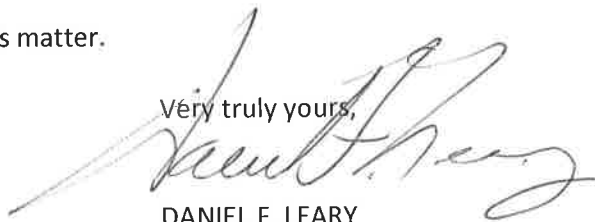
Dear Chairman Jensen and Members of the Zoning Board of Appeals ("ZBA"):

As you know, this firm represents 248 Beacon Holdings, LLC (the "Applicant"), the owner of property located at 248 Tioronda Avenue in the City of Beacon (the "City"), known and designated on the tax assessment map of the City as 5954-16-993482 & 6054-45-012574.

On behalf of the Applicant, please be advised that the pending application to the ZBA for a variance from Section 223-41.14B of the Zoning Code ("Bulk Regulations") is hereby withdrawn.

Thank you for your attention to this matter.

Very truly yours,



DANIEL F. LEARY

Cc: Berry Kohn, 248 Beacon Holdings, LLC
Drew Gamils, Esq., ZBA Attorney

City of Beacon City Council Agenda
11/25/2024

Title:

Executive Session: Personnel

ATTACHMENTS