

CITY OF BEACON  
CITY COUNCIL

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the City of Beacon will hold a public hearing on Tuesday, September 8<sup>th</sup>, 2009 at the City of Beacon Municipal Center, One Municipal Plaza, Beacon, New York at 7:00 p.m. or as soon thereafter as the matter is reached on the agenda, to Consider a Proposed Local Law to Create a Transit Oriented Development Zoning Dist. and Rezone Certain Properties to This New District.

This local law would take effect immediately upon filing with the Secretary of State. Complete copies of the proposed local laws are available at the Municipal Center for inspection during regular business hours.

All interested persons and citizens shall have an opportunity to be heard on said proposals at the date, time and place aforesaid.

Iola C. Taylor, City Clerk

Dated: July 28, 2009

**LOCAL LAW NO. \_\_\_\_ OF 2009**

**CITY COUNCIL  
CITY OF BEACON**

**LOCAL LAW CREATING A TRANSIT ORIENTED DEVELOPMENT (TOD)  
ZONING DISTRICT AND REZONING CERTAIN PROPERTIES  
TO THIS NEW DISTRICT**

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**BE IT ENACTED** by the City Council of the City of Beacon as follows:

**SECTION 1. TITLE**

This local law shall be entitled, "A Local Law Creating a Transit Oriented Development (TOD) District and Rezoning Certain Properties to This New District."

**SECTION 2. INTENT AND PURPOSE**

This local law is intended to implement a portion of the new City Comprehensive Plan relating to Transit Oriented Development. As stated in the Comprehensive Plan, the proposed TOD District, ".... recognizes the special character of the Waterfront/Train Station area, with its access to transportation modes, proximity to downtown, and adjacency to recreational and cultural opportunities. Given the desire to create land use synergies with the resources present at the station area, this zone should allow for sufficient density to support a transit oriented community focused toward residents, workers and visitors that seek the convenience of transportation facilities in a walkable community framework. This zone, [is] effectively a combination of the proposed high-density residential district and local business district ...."

**SECTION 3. ZONING TEXT AMENDMENTS**

1. **A new Article IVB entitled, Transit Oriented Development (TOD) District, shall be added to the Zoning Law and shall read as follows:**

**ARTICLE IVB  
Transit Oriented Development (TOD) District**

**§ 223-41.8 Purposes.**

Purposes of the Transit Oriented Development (TOD) District are the:

- A. ~~Protection and/or enhancement~~Preservation of important views and view corridors~~viewsheds~~ including those identified in the Local Waterfront Revitalization Program (LWRP), creation of structures and landscaped areas that provide attractive views of the City from the Hudson River, preservation of public recreation areas, maintenance and enhancement of public access to the waterfront, the hiding of parking under and within proposed building masses, generation of quality open space, improvement of connections to Main Street, improvement of public transit to Main Street, and the fostering of architectural quality and variety in articulation, scale and bulk.
- B. Promotion of the goals and objectives of the City of Beacon Comprehensive Plan, including positive development which recognizes the special character of the Waterfront/Train Station area, with its access to transportation modes, proximity to downtown, and adjacency to recreational and cultural opportunities.
- C. Creation of land use synergies with the resources present at the Train Station area, which allow for sufficient density to support a transit oriented community focused toward residents, workers and visitors that seek the convenience of transportation facilities in a walkable community framework.
- D. Improvement of access to Metro-North rail services, including enhanced intermodal connections.

**§ 223-41.9 Regulations.**

- A. This article establishes a comprehensive review for land uses in the Transit Oriented Development District. Development within the Transit Oriented Development District shall be governed by this article exclusively, except to the extent that this article specifically incorporates by reference other sections of this chapter. In the event that any other provision of this chapter is inconsistent with the provisions of this article, then the provisions of this article shall control.
- B. Permitted principal uses. A Transit Oriented Development is a mixed use which incorporates various permitted land use elements as part of a comprehensive plan. These elements may include:
  - (1) Water dependent uses, as defined in the LWRP, such as boating services, a Harbormaster's office, and facilities for the Beacon Institute for Rivers and Estuaries.
  - (2) The following water-enhanced uses, as defined in § 223-41.10 and in the LWRP:

- (a)(1) Apartment, attached and multi-family dwellings located to the east of the railroad tracks.
- (b)(2) Artist live/work spaces.
- (c)(3) Bed-and-breakfast establishments and inns.
- ~~(4) — Retail shops designed to serve the needs of commuters, residents, professional and small business office employees and visitors, which are related to their unique location near the waterfront and which do not unduly compete with commercial uses in the City's central business district of Main Street. Such retail uses may include convenience stores, book stores, bike stores, news stands, office supply stores, local drug stores, arts and crafts stores and galleries, and similar uses as determined by resolution of the City Council. Such retail uses shall be permitted on the ground floor and second floor of the buildings facing the streets.~~
- ~~(5) — Personal services designed to serve the needs of commuters, residents, professional and small business office employees and visitors, which are related to their unique location near the waterfront and which do not unduly compete with commercial uses in the City's central business district of Main Street. Such personal service uses may include barber/beauty shops, fitness centers/non-commercial swimming pools, day care centers and retail cleaners, and similar uses as determined by resolution of the City Council. Such personal service uses shall be permitted on the ground floor and second floor of the buildings facing streets.~~
- (d)(6) Restaurants and other eating and drinking establishments, ~~which are related to their unique location near the waterfront and which do not unduly compete with such uses in the City's central business district of Main Street.~~ Such restaurants and other eating and drinking establishments shall be permitted on the ground floor and second floor of the buildings facing streets.
- (e)(7) Professional, administrative, and small business offices on the ground floor and second floor of buildings facing the streets. Such offices shall be those which provide local services and may include medical offices and urgent care facilities.

~~(f)(8)~~ Community facilities that complement residential and commercial uses, such as public squares and parks, public or semi-public performance and cultural centers, galleries, live theaters, concert halls, meeting rooms suitable for social, civic, cultural or education activities, bandshells, kiosks and gazebos.

(3) Transit-oriented retail and personal service uses intended for transit riders, TOD neighborhood residents, and/or tourists such as:

(a) Bakeries and delis.

(b) Grocery stores, convenience stores, local drug stores and newsstands.

(c) Retail dry cleaners.

(d) Fitness centers and swimming pools.

(e) Day care facilities.

(f) Beauty/barber shops.

(g) Book stores, bike shops, arts and crafts supply stores, and office supply stores.

(h)(10) Railroad ~~and~~ transit facilities.

Such uses shall be located on the ground floor and second floor of buildings facing the streets, and no such use shall contain more than 10,000 square feet of gross floor area.

(4)(9) Other uses similar to the above uses as determined by resolution of the City Council.

C. Permitted accessory uses. Permitted accessory uses may include:

(1) Uses which are clearly incidental to, and customarily found in connection with the permitted principal uses including swimming pools. Exterior display of goods on special event days/weeks may be permitted, subject to the issuance of a permit by the City. Exterior storage is not allowed. Outdoor seating for restaurants and pedestrian-oriented accessory uses, such as flower, food or drink stands are permitted.

(2) Parking facilities including parking structures.

D. Procedure for review of Transit Oriented Development proposals.

(1) Each Transit Oriented Development project shall require:

(a) Special permit approval by the City Council; and

- (b) Site plan approval by the Planning Board.
  - (2) The City Council's review of a special permit application for a Transit Oriented Development project shall include review of a Transit Oriented Development concept plan, which contains a proposed designation of the appropriate land uses, or a range of land uses, for the overall development of the applicant's land holdings in the TOD District. The purpose of this review is to assure that the TOD District will be developed in accordance with an overall comprehensive plan, even though the total Transit Oriented Development District may consist of more than one separate TOD projects, which might be constructed at different times.
  - (3) The Planning Board may commence its review of a site plan for one or more Transit Oriented Development projects as soon as an application for such Transit Oriented Development special permit has been submitted to the City Council, and such reviews may proceed simultaneously. However, no final approval of a site plan for any Transit Oriented Development project shall precede the issuance of a special permit for such TOD project by the City Council.
- E. Application fees. Applications to the City Council and Planning Board as provided herein shall be accompanied by the appropriate fees which may be set from time to time by the City Council for such applications. If such fees are not sufficient to defray the costs of review, the applicant shall also be required to pay such additional fees as may be necessary for the reasonable expenses of technical assistance to the City in reviewing the technical aspects of the application.
- F. Procedure for special permit and Transit Oriented Development concept plan review.
- (1) Application. The application for a Transit Oriented Development special permit for one or more TOD projects shall be submitted to the City Council. The application shall consist of narrative text, drawings and/or illustrations describing the proposed Transit Oriented Development project and concept plan. Drawings shall be submitted approximately to scale, but need not be to the precision of a finished engineering drawing, or a final site plan. The application shall include the following:
    - (a) A written description of the Transit Oriented Development project(s) and concept plan, and a description of the manner in which such proposal meets the purposes of the Transit Oriented Development District; how it is consistent with the City of Beacon

Comprehensive Plan and Local Waterfront Revitalization Plan; and the manner in which the public interest would be served by the proposed Transit Oriented Development, including the description of the benefits to the City as a whole and to the Train Station/Waterfront area in particular.

- (b) A land use plan showing the various proposed land uses and their spatial arrangement, including the proposed general location of buildings, parking areas, public, community and/or recreation facilities, utility and maintenance facilities and open space.
- (c) An indication of the approximate square footage of buildings, the approximate number of dwelling units of each housing type and size, and the approximate amount of floor area of each type of non-residential use.
- (d) An indication of the appropriate number of parking and loading spaces in relation to their intended use.
- (e) A general indication of any phasing of construction.
- (f) The general configuration of the interior road system and connection/access to the adjoining road system.
- (g) A Transit Oriented Development concept plan showing the relation of the proposed uses to existing and proposed uses adjacent to the site that are not part of the application. If no such adjacent uses have been proposed, the applicant shall discuss potential uses for such other parcels.
- (h) The general configuration of the pedestrian circulation system and the connection of such pedestrian passageways to adjoining properties.
- (i) The proposed architectural and/or other treatment of views and viewing points from the site to the Hudson River; to the site from the Hudson River, Riverfront Park and Dennings Point; and over the site from important views and view corridors~~viewsheds~~ including those identified in the LWRP.
- (j) Descriptions, sketches, sections and elevations showing the general architectural treatment and design scheme contemplated for the

entire development and specifically for any public spaces or major elements of the plan.

- (k) Such additional information as the City Council may deem necessary in order to properly evaluate the application.
- (2) City Council review of special permit and Transit Oriented Development concept plan application.
- (a) Environmental compliance.
    - [1] The approval of a Transit Oriented Development project is an action subject to the State Environmental Quality Review Act (SEQRA), and all proceedings to review such project shall comply with the applicable requirements of SEQRA.
    - [2] Upon receipt of an application for a special permit and Transit Oriented Development concept plan, the City Council shall commence a coordinated review under SEQRA and institute lead agency procedures after identifying all involved and interested agencies, as provided by law.
    - [3] To the extent possible in accordance with law, any Draft Environmental Impact Statement (DEIS) required in connection with the special permit and Transit Oriented Development concept plan approval shall be sufficiently specific so as to eliminate the need for additional and/or supplemental DEIS's during the site plan stage of the approval process.
    - [4] To the extent possible in accordance with law, the preparation of any required DEIS shall be integrated into the existing agency review processes and should occur at the same time as the other agency reviews, including the special permit and Transit Oriented Development concept plan review. When a SEQRA hearing is held, it should be conducted jointly with other public hearings on the proposed action, whenever practicable.
    - [5] Enhanced public transportation between the TOD and Main Street should be one of the important methods of mitigating potential traffic impacts resulting from the TOD.

(b) City Council referrals.

[1] The City Council shall refer the application for a special permit and Transit Oriented Development concept plan approval to the Planning Board for a report and recommendation. The Planning Board shall review all documents and materials relating to the application and shall render a report to the City Council and may make any advisory recommendations it deems appropriate. Where the City Council is serving as the lead agency under SEQRA, where the Planning Board is an involved agency, and where a DEIS is required, then this referral may be coordinated with the comment period under SEQRA. The report of the Planning Board shall be due on the date set for receipt of written comments on the DEIS or a date 45 days from the referral by the City Council, whichever is greater.

[2] Other referrals. The City Council shall comply with the applicable provisions of General Municipal Law §§ 239-l and 239-m. Where the City Council is serving as lead agency under SEQRA, and where a DEIS is required, it shall circulate the DEIS and FEIS as provided by law. In addition to any referrals required by law, the City Council may refer the application to any other City board, department, official, consultant or professional it deems appropriate.

(c) City Council public hearing. The City Council shall hold a public hearing, with the same notice required by law for zoning amendments, on the application for a special permit and Transit Oriented Development concept plan approval. Where the City Council is serving as lead agency under SEQRA, and where a DEIS is required, the SEQRA hearing shall be conducted jointly with this public hearing, if practicable.

(3) City Council decision on special permit and Transit Oriented Development concept plan.

(a) The City Council shall render a decision on the application for Transit Oriented Development concept plan approval and for a special permit after it has held the required public hearing herein, completed the SEQRA process and has made the requisite SEQRA determination of significance and/or findings, and has made the

consistency determination as required under the City's Local Waterfront Consistency Law.

- (b) Concept plan approval. Prior to granting any special permit for a Transit Oriented Development project, the City Council shall review a Transit Oriented Development concept plan, which contains a proposed designation of appropriate land uses, or a range of land uses, for the overall development of the TOD District. The City Council shall approve the concept plan upon a finding that it:

- [1] Will fulfill the purposes of the Transit Oriented Development District; and

- [2] Will be in harmony with the appropriate and orderly development of the City's waterfront area.

- (c) Special permit approval. The City Council may authorize the issuance of a special permit for a Transit Oriented Development project, provided that it shall find that the following conditions and standards have been met:

- [1] The proposed Transit Oriented Development project will fulfill the purposes of the Transit Oriented Development District and is otherwise in the public interest.

- [2] The proposed Transit Oriented Development project meets the Transit Oriented Development design standards set forth in § 223-41.9I, to the extent applicable at the special permit stage.

- [3] The proposed Transit Oriented Development project will be in harmony with the appropriate and orderly development of the City's Train Station/Waterfront area.

- [4] The proposed Transit Oriented Development project is consistent with the City's Comprehensive Plan and will not hinder or discourage the appropriate development and use of adjacent lands.

- [5] The Transit Oriented Development is in accordance with the approved TOD concept plan.

- [6] The proposed Transit Oriented Development project is planned as a cohesive unit, with a comprehensive plan for ingress, egress, open space, landscaping, signage, circulation and utility service; the land uses are complementary; and the architectural styles are compatible and attain high standards of design.
  - [7] The land uses in the proposed Transit Oriented Development project relate, visually and functionally, with surrounding land areas, including Riverfront Park, Dennings Point, Long Dock and the Metro-North Train Station, and the elements of the TOD project relate compatibly with other elements of the City waterfront.
  - [8] The Transit Oriented Development project shall be sensitive to the site's relationship to the Hudson River and shall be designed accordingly.
  - [9] The TOD site is proposed to be developed in such a way as to maximize important views and view corridors throughout the development; and site layout and design has incorporated, protected and/or enhanced important views and view corridors including those identified in the LWRP, and shall also consider those from Riverfront Park, Denning's Point and the Hudson River toward the shore.
- (d) Conditions. In approving any Transit Oriented Development concept plan and special permit, the City Council may attach such conditions, safeguards and mitigation measures as it deems necessary or appropriate to assure continual conformance to all applicable standards and requirements and to fulfill the intent and purposes of this chapter.
- (4) Time periods for development pursuant to special permit. At the time of approving a special permit, the City Council may set forth the time period in which construction is to begin and be completed. The City Council may, in its discretion, extend any time period it has previously set where it finds that changing market conditions or other circumstances have acted to prevent the timely commencement or completion of work, and that the developer has proceeded with reasonable diligence in an effort to assure completion of the work within the permitted time period. The extension of these time periods shall not require the holding of a new public hearing.

- (5) Revisions to Transit Oriented Development special permit. After approval of a TOD special permit, any proposed revisions in the approved special permit shall be submitted to the City Council. The City Council, in its discretion, shall determine the appropriate procedures for consideration of the proposed revisions, and whether such revision is material enough to require further environmental analysis, further project review and/or a further hearing, as it may deem appropriate.
- G. Site development plan review. After approval of the Transit Oriented Development special permit by the City Council, the Planning Board may grant site plan approval to a Transit Oriented Development project.
- (1) Application for site plan approval. The application for site development plan approval shall contain all the material set forth in § 223-25B of this chapter. In addition, the applicant shall submit the following:
    - (a) Information to establish that the proposed site plan meets the Transit Oriented Development standards set forth in Subsection I below.
    - (b) Information to establish that the proposed site plan is in substantial conformance with the approved Transit Oriented Development concept plan and special permit.
    - (c) Elevations showing the architectural and design treatment of all buildings, public and open spaces and other site plan elements.
    - (d) Information to establish the relationship of the proposed project to later elements of the development of the TOD District, including any other adjacent and nearby lands that are not part of the applicant's Transit Oriented Development project(s).
    - (e) Such other information as the Planning Board may reasonably require in order to evaluate the site plan application.
    - (f) Application fees as required pursuant to Subsection E above.
  - (2) Planning Board review of site plan.
    - (a) The Planning Board shall conduct a detailed review of the adequacy, location, arrangement, design and appearance of each aspect of the proposed development. While the scope of the Planning Board's review of the site plan will generally relate to the