

RESOLUTION OF APPROVAL
SUBDIVISION, SPECIAL USE PERMIT & SITE PLAN
FOR
NET-ZERO DEVELOPMENT LLC

(ZERO PLACE)

APPLICATION NO. PB16-02

APPLICATION SUMMARY

Net-Zero Development LLC (hereinafter “the Applicant”) proposes to combine two land parcels into a single 1.45-acre lot (the “Property”) and construct a “net-zero energy” mixed-use building with 46 residential units and 8,200 square feet of retail space.

IDENTIFICATION OF THE PROPERTY

The Property that is the subject of this Resolution is located along NYS Route 32 (a/k/a North Chestnut Street) and Mulberry Street in the Village of New Paltz, New York and is shown on the Village tax maps as Section 86.26, Block 1, Lots 14.11 & 14.21. The Property consists of approximately 1.45 acres (63,013 square feet) located in the Neighborhood Business Residential Mixed-Use District (NBR).

IDENTIFICATION OF THE PLANS & SUBMITTALS

Although not a complete catalog of all documents submitted to, and considered by, the Planning Board in connection with this matter, the following are significant plans and other submittals that formed, in part, the basis of the Planning Board’s action in this matter:

1. Site Plan, Special Use Permit and Subdivision Application, dated 03/22/2016
2. Full Environmental Assessment Form
 - a. Part 1, dated 07/07/2016
 - b. Part 2, dated 10/18/2016
 - c. Part 3 (with Negative Declaration), dated 09/05/2017

3. Scoping Document of Issues to be Addressed in Zero Place Full EAF Expanded Part 3, dated 01/03/2017
4. Zero Place Full EAF Expanded Part 3 (with all referenced Exhibits), dated 02/28/2017
5. Summary of Phase 1 and Phase II ESAs of AHC LLC Property, prepared by The Chazen Companies, dated 04/19/2016
6. Environmental Investigation Summary prepared by The Chazen Companies, dated 10/04/2016
7. Memorandum from The Chazen Companies, dated 02/05/2018
8. Snow Removal Plan, dated 11/21/2017
9. Management Proposal for the Rooftop Terrace v4.0, dated 01/23/2018
10. Affordable Housing (AH) Plan, dated 02/04/2018
11. Recreation Fee Considerations, dated 02/07/2018
12. Plans for Zero Place prepared by Medenbach & Eggers Civil Engineering & Land Surveying, P.C., identified as follows:

<u>Sheet No.</u>	<u>Description</u>	<u>Last Revised</u>
T-01	Title Sheet	02/20/2018
CS-01	Site Plan	02/20/2018
CS-02	Existing Conditions	01/26/2018
CS-03	Grading & Utility Plan	01/26/2018
CS-04	Drainage Plan	02/20/2018
CS-05	Lighting Plan	01/22/2018
CS-06	Soil Erosion & Sediment Control	02/20/2018
CS-07	Soil Erosion & Sediment Control Details	12/12/2017
CS-08	Site Details	12/29/2017
CS-09	Stormwater Details	02/20/2018
HIP	Highway Improvement Plan	12/12/2017
SUBD	Resubdivision Plan	10/13/2017

13. Additional Plans prepared by Medenbach & Eggers Civil Engineering & Land Surveying, P.C., identified as follows:

<u>Description</u>	<u>Last Revised</u>
SU – 30 Ft. Box Truck Movement for Zero Place	07/05/2016
Traffic & Parking Plan for Zero Place	07/21/2016
Tree Well Plan for Zero Place	01/30/2018

14. Landscape Plans for Zero Place prepared by Maser Consulting P.A., identified as follows:

<u>Sheet No.</u>	<u>Description</u>	<u>Last Revised</u>
L 01	Landscape Plan	01/29/2018
L 02	Landscape Plan	01/29/2018
L 03	Landscape Details	01/29/2018
R 01	Landscape Rendering	09/13/2017

15. Architectural Plans for Zero Place prepared by Bolder Architecture PLLC, identified as follows:

<u>Sheet No.</u>	<u>Description</u>	<u>Last Revised</u>
A 01	Building Elevations	09/12/2017
A 02	First Floor Plan	09/12/2017
A 03	Second, Third & Fourth Floor Plan	09/12/2017
A 04	Roof Plan	09/12/2017
A 05	Dumpster Enclosure	10/13/2017

16. Sign Plan prepared by Bolder Architecture PLLC, submitted 01/10/2018
17. Stormwater Management Report for Zero Place, prepared by Medenbach & Eggers Civil Engineering & Land Surveying, P.C., revised 02/20/2018
18. Zero Place Special Use Calculator Proposal, dated 01/07/2018, and Special Use Calculator Excel spreadsheet

PROCEDURAL HISTORY

The original site plan and special use permit application was filed on or about January 4, 2016. A revised site plan, special use permit and subdivision application was filed on or about March 22, 2016.¹

On April 5, 2016, the Planning Board determined that under the State Environmental Quality Review Act (“SEQRA”) the application was an Unlisted action, and declared its intent to be lead agency. Having received no objections from any other involved agency, the Planning Board assumed Lead Agency status on June 7, 2016 and requested a Full Environmental Assessment Form (“EAF”). The Planning Board embarked on an EAF Expanded Part 3 process and took the unusual step of requiring a formal Scoping Document for the EAF Expanded Part 3, outlining specific concerns, analyses and mitigations for the Applicant to address. The Applicant responded with a detailed EAF Expanded Part 3 submission. The EAF Expanded Part 3 was more than a year-long negotiation with the Applicant concerning the project’s impacts and potential mitigations.² On September 5, 2017, the Planning Board issued a Negative Declaration on the application, determining that the project will not have any significant adverse environmental impacts, given the modifications and mitigations made to the initial plan during the EAF Expanded Part 3 process.

The Planning Board considered the application complete for purposes of referral to the Ulster County Planning Board on July 5, 2016. The Planning Board received the General Municipal Law §§ 239-m and 239-n Referral Responses from the Ulster County Planning Board on August 22, 2016. The Ulster County Planning Board issued a decision of “No County Impact” on the subdivision referral, meaning that it is primarily of local concern and involves no countywide or inter-municipal issues or concerns. The Ulster

¹ Site plan approval is required under Village Code § 212-23. A special use permit is required for the mixed-use building. *See* Village Code § 212-13(G)(3) & Schedule A, Use Schedule. Subdivision approval is required for the lot line revision/merger. *See* Village Code § 178-6.

² This process was approved by New York’s highest court twenty years ago “to allow for consideration of the legitimate maturation of a development project in accordance with the goals of environmental regulation.” *Merson v. McNally*, 90 N.Y.2d 742, 750 (1997).

County Planning Board requested modifications for the site plan and special permit. On or about November 1, 2017, the Ulster County Planning Board issued a subsequent Referral Response for the site plan and special permit recommending approval of the application.

On December 27, 2017, the Village Board of Trustees approved a motion setting forth its support and intent to approve the Applicant's proposed plan pending before the Planning Board for a single connection between the project site and the Village's Rail Trail Property, monitored by the Wallkill Valley Land Trust by way of a conservation easement with the Village.

A duly noticed public hearing on the site plan, subdivision and special use permit application was convened on January 16, 2018 and thereafter adjourned to February 6, 2018, when it was closed. In addition to the formal public hearing, the public also commented at length on the project at numerous Planning Board meetings during the general comment portion of the meetings.

FINDINGS

The Planning Board has determined that approval of this site plan, special use permit and subdivision will protect and promote public health, safety, comfort, convenience, and economy, as well as the natural, agricultural and cultural resources, aesthetics, and the general welfare. Furthermore, the character of the land is such that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.

The Planning Board has found that the site plan conforms to the Village's adopted Comprehensive Master Plan, and Village Code. There will be no unreasonable interference with traffic on surrounding streets and the site plan includes adequate stormwater-detention facilities to the satisfaction of the Planning Board's consulting engineer. The Planning Board has reviewed conservation features, aesthetics, landscaping, and impact on surrounding development and the entire Village in making this determination of approval.

The Planning Board has also found that the proposed use is in harmony with the Zoning Code and will not adversely affect the neighborhood if the requirements imposed by this Resolution of Approval are met. In accordance with Village Code §212-39(B)(3),

the Planning Board has attached conditions and safeguards to the special use permit and development plan as are, in its opinion, necessary to ensure initial and continual conformance to all applicable standards and requirements.

The Planning Board has also found that the standards and requirements for the mixed-use building special use set forth in Article VII of the Village Zoning Law (Chapter 212), in addition to all other applicable regulations, have been met. The Planning Board has specifically determined that the conditions in Village Code §212-40 have been met as follows:

- (1) The proposed use will serve a community need and convenience by providing high-density housing and new retail space. There will be 46 new residential units, including 5 affordable housing units, and 8,200 square feet of accessible retail space with adequate parking. The project will also create two attractive community spaces, improve bicycle lanes and extend sidewalks in a manner that will complement and enhance the Rail Trail and surrounding resources.
- (2) The location and size of the use, the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it, are such that it will be in harmony with the appropriate and orderly development of the zoning district in which it is located. The NBR District was established in 2015 “to promote the development of a neighborhood defined by a mix of residential, retail, service, professional, civic and cultural uses and which encourages travel by walking, bicycle and mass transit. Two goals for the district are to encourage residential housing on the upper floors of multistory, mixed-use buildings, and to foster a positive relationship between residential, retail and service/professional uses, while encouraging mass transit and reducing automobile trips and overbuilding of parking facilities.” (Village Code §212-13(G)(1)). This mixed-use “net-zero energy” building serves the NBR District goals by offering a mix of retail space and residential units in a pedestrian-friendly setting that is well-integrated with its surroundings, and

42 of the 46 residential units are located on the upper 3 floors. The project is in harmony with the appropriate and orderly development of the NBR District.

- (3) The location, nature, and height of the buildings, walls, fences and the nature and extent of existing and proposed plantings on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings. The existing improvements on the property are limited to a parking lot and concrete slab(s) from the former building(s). The proposed building and plantings are appropriate for this location and serves the goals of the NBR District. The present development landscape of the NBR District lacks aesthetic resources and appeal and this project will be a positive addition to this part of the Village.
- (4) Operations in connection with the mixed-use building will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristics than would be the operations of any permitted use not requiring a special permit.
- (5) Parking areas are of adequate size for the mixed-use building, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives are laid out so as to achieve maximum and adequate safety. The Applicant has proposed sufficient parking with adequate safe access to serve the new building and suitable landscaping to screen adjacent residential uses.

The Planning Board has further found that the proposed subdivision complies with the Village of New Paltz Land Subdivision Regulations. The proper provision has been made for water supply, drainage, sewerage, and other needed public improvements and utilities. Streets are of such width, grade and location as to appropriately accommodate present and prospective vehicular, bicycle, and pedestrian traffic, to afford adequate light and air, to facilitate adequate fire protection and provide access of firefighting equipment to buildings, and are coordinated so as to compose a convenient system conforming to the Village's Comprehensive Master Plan.

On February 20, 2018, the Planning Board further found that (1) there is a need for recreation areas in the Village, including improvement of existing recreation areas; (2) the new residential units for this project will increase demand on the Village's recreation needs, and presents a proper case for requiring a park or parks suitably located for recreational purposes; and (3) suitable parks or recreation areas of adequate size to meet this requirement cannot be located on the site, especially given that Village Code § 212-23(J)(2) provides that reservation of land on a site plan for park or recreational purposes generally be a minimum of 2 acres to satisfy recreational needs for a project. The Planning Board also found that the appropriate recreation fee to be imposed is the site plan recreation fee. Although this project can be characterized generally as including a subdivision component, it is in actuality simply the elimination of an internal lot boundary and the merger of the adjacent two lots. Thus, is not a "subdivision plat with residential units" that requires a subdivision recreation set aside, or fee in lieu under Village Code § 178-19(1) and Village Law § 7-730(4)(a).

The Board recognized that the Applicant is proposing approximately 6,000 square feet of land for park or recreational purposes on site, consisting of the Mulberry Plaza and Route 32 North Streetscape, which are described in the Applicant's Recreation Fee Considerations submission. The Board found that the quality of the land proposed to be reserved on site for park and recreation purposes is such that it attracts the public to recreate and partially satisfies the parkland recreation requirement on site, and can be used to partially offset the recreation fee payment that would otherwise be applicable for this project. On March 6, 2018, the Planning Board found that that approximately 6,000 square feet of suitable parks or recreation areas can be properly located on the site, and have made a further determination that this partial credit for a parkland set-aside on site is the equivalent parkland/recreation needs of ___ units, waived the requirement of land reservation for the remaining ___ units, and required the Applicant to deposit a cash payment in lieu of land reservation with the Village Clerk pursuant to Village Code §212-23(J)(3) for ___ units in the amount set by resolution of the Board of Trustees (including any applicable credit for the five Affordable Housing units).

RESOLUTION OF APPROVAL

NOW, THEREFORE, the Planning Board of the Village of New Paltz, New York hereby resolves to issue Site Plan, Special Use Permit and preliminary and final Subdivision Approval to the application of Net-Zero Development LLC (Zero Place), but only as specifically set forth on the plans as identified above, or as subsequently revised in accordance with this Resolution, and as further conditioned as set forth below. The Chairperson is hereby authorized to sign such plans and other documents evidencing this Approval only in strict accordance with all of the terms and conditions of this Resolution of Approval.

SPECIFIC CONDITIONS

1. Prior to the signing of the plans, the Applicant shall submit proof of filing with the Ulster County Clerk of Easements in favor of the Village, in such form as is acceptable to the Planning Board Attorney, in consultation with the Village Attorney, that provide for the following: (1) the public's right to access and use the Applicant's exterior restrooms near the proposed new access to adjacent Rail Trail; (2) the Village's right to enter upon the Property for purpose of inspecting, correcting and maintaining the stormwater facilities; (3) a conservation easement, with a surveyed easement description, for the onsite parkland recreation areas (*aka* Mulberry Plaza and Route 32 North Streetscape) that provides for: (a) the public's right to use the onsite parkland recreation areas; (b) the owner's obligation to maintain the onsite parkland recreation areas, including all improvements noted on the plan, in like new condition (including, but not limited to, the sculpture podium, seat walls, benches, bike racks, mountings, landscaping, lighting, and concrete and other surface treatments); (c) the Village's right to enter upon the property for purposes of inspecting and, upon the owner's failure to make repairs and replacements necessary to maintain the onsite recreation areas in like new condition after notice from the Village and a reasonable opportunity to cure, to

make such necessary repairs and replacements and charge the cost as a lien against the property.

2. *[Potential Condition if PB received new comment letter from consulting engineer: Prior to the signing of the plans, the Applicant shall comply with all comments noted in Hudson Land Design's Comment letter of _____ the satisfaction of Hudson Land Design and/or the Building Inspector.]*
3. Prior to the issuance of a building permit, the Applicant shall provide proof of filing with the Ulster County Clerk of a deed covenant/restriction, in such form as is acceptable to the Planning Board Attorney, setting forth the owner's obligations for the operation and maintenance of the stormwater facilities as described in the Stormwater Notes on the Drainage Plan (Sheet CS-04).
4. Prior to the issuance of a building permit, the Applicant shall obtain all approvals required for the off-site improvements and other modifications proposed within the Rail Trail Property including, but not limited to, the Village's approval of the Applicant's construction, maintenance and insurance/indemnification for the improvements.
5. Prior to the issuance of a building permit, the Applicant shall submit proof of approval from the Village Superintendent of Public Works of a traffic control plan regarding traffic control for all work within the Village's right of way.
6. Prior to issuance of a Certificate of Occupancy, the Applicant shall plant within the Rail Trail property a minimum of five plantings from the following list, in such locations and with such maturity as is acceptable to Eileen M. Travis, RLA, to screen the view of the building from the west: European Larch, White Spruce, Carolina Allspice, Henry's Garnet Sweetspire, Mountain Fire Andromeda (Pieris), Shadblow Serviceberry, Mountain Laurel, False Cypress (Chamaecyparis), Summersweet Clethra, Elderberry or Blue Muffin Arrowwood Viburnum.
7. Prior to the issuance of a Certificate of Occupancy, the Applicant shall submit proof of all necessary approvals from the New York State Department of Transportation.

8. Prior to the issuance of a Certificate of Occupancy, all contaminated soil on the property shall be removed, including nonhazardous contaminated soil.
9. Five of the proposed housing units (2 two-bedroom units and 3 one-bedroom units) shall be reserved for affordable housing in accordance with Chapter 132 of the Village Code. The Affordable Housing units shall be distributed throughout the building as shown on the Applicant's Affordable Housing (AH) Plan. Prior to the issuance of a Certificate of Occupancy, proof of the filing with the County clerk must be given to the Village Building Department demonstrating that the deeds of ownership for the Affordable Housing units shall be subject to a covenant and restriction memorializing all requirements of Chapter 132 in such form as is acceptable to the Planning Board Attorney. Any changes in the designated Affordable Housing unit shall require a site plan amendment and an amended covenant and restriction in the deeds. A site plan amendment to change an Affordable Housing unit shall be granted upon a showing that the change complies with all applicable Village Code requirements. All Affordable Housing units must remain physically integrated into the design of the development and physically distributed throughout the development in the same proportion of other housing units.
10. The Affordable Housing units shall be constructed to the same quality standards as market-rate units. The exterior finishes of the Affordable Housing units shall be indistinguishable from all other units. Different appliances and interior hardware may be permitted in the Affordable Housing units provided such substitutions will not adversely impact the habitability of the unit. Prior to the issuance of a Certificate of Occupancy, the Building Inspector shall make a determination that the Affordable Housing units as constructed meet the standards in Chapter 132 of the Village Code.
11. Off-street parking spaces shall not be restricted to residential uses; all off-street parking spaces shall be available for the residential uses and retail uses.

12. The number of approved off-street parking spaces shall control the number and types of businesses allowed in the building. No nonresidential uses shall be allowed unless the parking requirements applicable to each such individual use, and all such collective uses, are met.
13. All nonresidential uses shall require individual special use permits under Village Code §212-13(G)(3) & Schedule A, Use Schedule.
14. Deliveries to the property shall be made only by 30 foot box trucks during off-hours.
15. There shall be no in-ground gardening; any gardening on the Property grounds must be by raised boxes.
16. The Applicant shall install and maintain “No Parking” signs on the Mulberry Street portion of the Property, outside of the area of the two designated handicapped parking spots.
17. Use of the rooftop terrace is subject to all terms set forth in the Management Proposal for the Rooftop Terrace v4.0, dated 01/23/2018, as conditions for use. The rooftop terrace use conditions shall be subject to annual review by the Planning Board for the first two years and as frequently thereafter as the Planning Board determines after the second annual review. The first annual review shall occur approximately one year after ___% of the residential units are occupied. During the annual review(s), the building management team shall meet with the Planning Board to review the conditions of use and adjust as deemed necessary by the Planning Board to ensure continual conformance to all applicable standards and requirements, particularly to ensure the noise and visual impacts to nearby properties are no more objectionable than those associated with decks for one- and two- family residences.
18. The Rules for Use of the Rooftop Terrace, including any amendments required after the Planning Board’s annual reviews, shall apply to all tenants and their guests. The Rules for Use of the Rooftop Terrace shall be prominently posted in the building and included in all residential leases. The language in the lease setting

forth the residential tenants' obligations to follow the rules, as may be amended, shall be in a form that is acceptable to the Planning Board Attorney.

GENERAL CONDITIONS

1. This Resolution of Approval is conditioned upon the Applicant submitting all necessary final copies of the plans, reports and documents to the Village of New Paltz Building Inspector.
2. This Resolution of Approval is further conditioned upon all other approvals that are needed by operation of federal, State or local laws and regulations, whether or not noted above in the Specific Conditions of this Resolution, including, but not limited to the United States Army Corps of Engineers, New York State Department of Environmental Conservation, New York State Department of Transportation, New York State Department of Health, Ulster County Department of Health, the Village of New Paltz Board of Trustees, and compliance with the New York State Uniform Fire Prevention and Building Code.
3. The site plan as approved by the Planning Board shall be binding upon the Applicant and any subsequent owner. Any changes from the approved plan shall require resubmission and re-approval by the Planning Board. No deviation from the plans, reports or other documents that form the basis for this approval are effective unless and until an amendment to this Resolution is secured from the Planning Board in writing. The Village may stop work on this project, and/or revoke a building permit, and/or withhold a certificate of occupancy, and/or seek any other additional relief as authorized by law, if any term or condition of this Resolution is violated.
4. If no construction or other site improvements have been initiated at the site during the 12-month period following site plan approval, the approved plan shall require resubmission and re-approval by the Planning Board.
5. All fees regarding this Application must be paid in full, including all application fees, other fees required by the Village Code, and the fees of the Planning Board consultants, including all engineering, planning, and legal fees. Any bonds or

other security required by this Resolution shall be submitted in a timely manner as required by the Village Code or Building Inspector. No building permit may be issued by the Building Inspector unless and until such fees have been paid in full and such bonds or other security, if any, shall have been filed with the Village.

6. Any bonds necessary for the performance of the work shall be in such form and in such amounts as required by the Village Board of Trustees, in consultation with the Village Engineer, the Superintendent of the Village Department of Public Works, and the Village Attorney.
7. Any special use permit not exercised within one year of the date of issuance shall expire without further hearing by the Planning Board. A special use permit shall be deemed to authorize only the special use or uses specified in the approval resolution and shall expire if the authorized special use shall cease for more than 6 months for any reason.
8. The Applicant shall submit a final Subdivision Plat in accordance with Village Code §178-23. Prior to the signing of the plat, the Applicant shall submit written confirmation from a surveyor that boundary markers have been placed at all new property line intersections.
9. In accordance with Village Code §§178-15(A) and 178-32(A), any subdivision plat not filed or recorded in the office of the County Clerk within 90 days of the date upon which such plat is approved shall become null and void unless the particular circumstances of said subdivider warrant the Planning Board to grant an extension which shall not exceed two additional periods of 90 days.
10. No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat unless said plat is first resubmitted to the Planning Board and the Planning Board approves such modifications.

IN FAVOR:

AGAINST:

ABSTENTIONS:

ABSENT:

DATE OF APPROVAL: MARCH __, 2018

DATE OF SIGNATURE: MARCH __, 2018

MICHAEL ZIERLER, CHAIRPERSON
VILLAGE OF NEW PALTZ PLANNING BOARD

I, Alberta Shaw, Village Clerk, do hereby certify that the foregoing Resolution was filed in the Office of the Village Clerk on _____, and copies provided to the Building Inspector and mailed to the Applicant.

ALBERTA SHAW, CLERK
VILLAGE OF NEW PALTZ, NEW YORK

DRAFT