

**RESOLUTION #2014-035**

**A RESOLUTION OF THE CANANDAIGUA CITY COUNCIL ISSUING FINAL SITE PLAN APPROVAL FOR THE PROPOSED PHASE I - NORTH SHORE PROJECT IN THE LAKEFRONT REDEVELOPMENT PLANNED UNIT DEVELOPMENT**

**WHEREAS**, in April 2008, application was made to the City Council of the City of Canandaigua for sketch plan approval for The Canandaigua Lakefront Redevelopment Project, located along the northern shore of Canandaigua Lake between NYS 5 & US 20 and Lakeshore Drive in the City of Canandaigua (the “Site”), and Planned Unit Development (“PUD”) zoning designation under the Planned Unit Development Ordinance of the City of Canandaigua as set forth in Article XII of the Code of the City of Canandaigua (the “PUD Ordinance”); and

**WHEREAS**, the City Council, after obtaining additional information deemed the submission to be complete on August 8, 2008 and initiated the required State Environmental Quality Review (“SEQR”) for the Project by declaring itself lead agency; and

**WHEREAS**, The Canandaigua Lakefront Redevelopment Project was reviewed by both City Council and its PUD Committee, in accordance with the requirements of the SEQR and the City of Canandaigua Zoning Ordinance; and

**WHEREAS**, on October 2, 2008, the City Council issued a Positive Declaration pursuant to SEQR requiring the preparation of an environmental impact statement for the Project; and

**WHEREAS**, on November 6, 2008, the City Manager issued a Coordinated Staff Review of the Project; and

**WHEREAS**, on December 11, 2008, the City Council conducted a public hearing for the purpose of considering the PUD district designation for the area in accordance with applicable law and for the purpose of obtaining public input regarding sketch plan approval or disapproval for the Project; and

**WHEREAS**, on August 20, 2009, by Resolution #2009-011, the City Council issued a Notice of Completion of a Draft Environmental Impact Statement (“DEIS”) as prepared by the Applicant and thereafter conducting a public comment period and a public hearing on October 1, 2009 for the DEIS and sketch plan proposal pursuant to the applicable SEQR requirements and Section 850-124(C)(1) of the PUD Ordinance; and

**WHEREAS**, the sketch plan was referred to and reviewed by the City Planning Commission, which issued a report for the Project on November 10, 2009; and

**WHEREAS**, pursuant to Section 850-124(C)(2) of the PUD Ordinance, the City Council was required to act on the sketch plan proposal (as revised and amended by the Applicant) within 60 days of October 1, 2009, which requisite time period was extended by consent of the Applicant to December 17, 2009 and evidenced in Resolution #2009-136; and

**WHEREAS**, on December 9, 2009, the Ontario County Planning Board rendered a favorable report relative to sketch plan approval of the project and PUD zone classification to the City Council with certain comments and modifications pursuant to Section 239-m of the N.Y. General Municipal Law; and

**WHEREAS**, on December 17, 2009, the City Council passed Resolution #2009-181, which determined that the Canandaigua Lakefront Redevelopment Project is appropriate for the area, meets the stated intention and objectives of the of the PUD Ordinance, and designated the Project area as a PUD Zone on the City of Canandaigua Map; and

**WHEREAS**, Resolution #2009-181 also approved The Canandaigua Lakefront Redevelopment Project's sketch plan (termed "Alternative G"), subject to certain stated conditions; and

**WHEREAS**, on July 1, 2010 and by Resolution #2010-064, the City Council adopted a Findings Statement pursuant to SEQQR, which concluded that The Canandaigua Lakefront Redevelopment Project, as depicted by Alternative G, would not result in any significant adverse environmental impacts, and that any identified environmental impacts would be mitigated to the maximum extent practicable; and

**WHEREAS**, in 2013, Morgan-Lechase Development, LLC ("Applicant") made an application to undertake the Site's development with modification to certain aspects of the approved sketch plan; and

**WHEREAS**, the Applicant, with the assistance of its engineers and architects, proposed certain changes to The Canandaigua Lakefront Redevelopment Project, referred to hereafter as "the North Shore Project", and made certain revisions to Alternative G (now identified as the "Amended Sketch Plan"); and

**WHEREAS**, the Applicant asserted that the proposed changes further improve the Site's environmental features, positively enhance previously-approved development components such as traffic and aesthetics, increase Site development feasibility, and, are in keeping with the Site's PUD zoning designation; and

**WHEREAS**, the Applicant requested that City Council and its PUD Committee review the Amended Sketch Plan for its consistency with Alternative G, so that the Applicant could proceed to the Preliminary Site Plan phase of the North Shore Project's review under the City of Canandaigua Zoning Ordinance; and

**WHEREAS**, the Applicant similarly requested that City Council determine that the North Shore Project is consistent with City Council's prior SEQR determination and does not raise any issues which have the potential to result in new or greater significant environmental impacts; and

**WHEREAS**, the City Manager, City Staff and the City's special consultants, LaBella Engineering, P.C. and Harter Secrest & Emery LLP (collectively, the "Consultants"), reviewed the Draft Environmental Impact Statement ("DEIS"), Final Environmental Impact Statement ("FEIS"), and Findings Statement previously issued by this City Council to determine whether the Amended Sketch Plan would have any new or greater significant environmental impacts than those identified during the SEQR process; and

**WHEREAS**, the Applicant and its consultants, Stantec Consulting Services Inc., Jerry Goldman, Esq., and Hanlon Architects provided the City Manager, City Staff and the City's Consultants with a comprehensive Consistency Analysis, draft Findings Statement, and a series of Figures in accordance with Canandaigua Zoning Ordinance Section 850-124 (PUD Application Procedure and Zoning Approval) in support of Applicant's contention that the Amended Sketch Plan is consistent with Alternative G, in keeping with the PUD zoning designation and that the North Shore Project does not raise any environmental issues not previously evaluated during the SEQR process; and

**WHEREAS**, on July 30, 2013, the PUD Committee reviewed the Amended Sketch Plan, considered Applicant's information described above, and received the opinion of the City Manager, City Staff and the City's Consultants that the Amended Sketch Plan is consistent with Alternative G, that the previous PUD designation is appropriate for the North Shore Project, and that the North Shore Project and the Amended Sketch Plan will not result in any new or greater significant environmental impacts than those identified during the SEQR process; and

**WHEREAS**, at the July 30, 2013 meeting, the PUD Committee recommended that City Council adopt the PUD Committee's conclusions as stated therein; and

**WHEREAS**, on August 1, 2013, the City Council reviewed the modified sketch plan for the North Shore Project, and by Resolution #2013-064 made a determination that the proposed

changes were consistent with the original zoning resolution and the previously approved SEQR analysis; and

**WHEREAS**, on October 24, 2013, the Applicant submitted an application for the proposed Phase I - North Shore Project preliminary site plan, consistent with the purposes of the PUD District and the revised sketch plan; and

**WHEREAS**, by Resolution #2013-073, the City Council acknowledged receipt of the proposed Phase I - North Shore Project preliminary site plan and supporting documents for the North Shore Project, and referred the same to the City of Canandaigua Planning Commission and the County of Ontario Planning Board for reports to the City Council; and

**WHEREAS**, On November 7, 2013, the City Council conducted a Public Hearing on the proposed Phase I - North Shore Project preliminary site plan and comments from the public were heard and deliberated by the City Council; and

**WHEREAS**, On November 12, 2013 the City Planning Commission reviewed the preliminary site plan for Phase I - North Shore Project and submitted their report with comments to City Council by memo from Richard Brown, dated November 15, 2013; and

**WHEREAS**, On November 13, 2013 the Ontario County Planning Board reviewed the preliminary site plan for Phase I - North Shore Project and recommended approval of the plan with comments to City Council; and

**WHEREAS**, On November 19, 2013, the Applicant, submitted to the Planned Unit Development Committee written responses to certain comments made by the public at the Public Hearing on November 7, 2013. Additionally, the Applicant listened to concerns of the Planned Unit Development Committee and proposed certain revisions to the submitted application to address the concerns that were raised; and

**WHEREAS**, On November 26, 2013, the Applicant presented a revised Phase I - North Shore Project preliminary site plan reflecting the modifications requested above; and

**WHEREAS**, On December 2 and December 17, 2013, the City Planned Unit Development Committee met for a review and discussion of the revised Phase I - North Shore Project preliminary site plan and recommended conditional approval; and

**WHEREAS**, on December 19, 2013, by Resolution #2013-095, the City Council adopted and presented to the Applicant a written statement conditionally approving the preliminary site

plan for the Phase I - North Shore Project, as revised and presented by the Applicant on November 26, 2013 and again on December 2, 2013; and

**WHEREAS**, on February 13, 2014, and by Resolution #2014-012, the City Council accepted the final site plan application for the Phase I - North Shore Project and referred it to the Ontario County Planning Board in accordance with Municipal Code §850-125(F); and

**WHEREAS**, On March 6, 2014, the City Council conducted a Public Hearing on the proposed Phase I - North Shore Project final site plan, as required by Section 850-125(G)(1) of the Municipal Code, and comments from the public were heard and deliberated upon by the City Council; and

**WHEREAS**, the Ontario County Planning Board was scheduled to deliberate on the final site plan application on March 12, 2014 but the meeting was cancelled due to weather, and pursuant to New York General Municipal Law §239-m(4)(b), if the Ontario County Planning Board is unable to issue a report within 30 days of referral, then the City Council may take final action on the final site plan without such report; and

**WHEREAS**, On March 20, 2014, the Planned Unit Development Committee discussed with the Applicant their concerns and conditions with the proposed final site plan and with certain revisions to the final site plan has recommended that the final site plan, as revised and amended, of the Phase I - North Shore Project, be conditionally approved.

**NOW, THEREFORE BE IT RESOLVED**, that the Canandaigua City Council expressly approves the final site plan of the Phase I - North Shore Project, as revised and amended (dated 3/25/14), a copy of which is on file in the Office of the Director of Planning and Development, conditioned upon the Applicant complying with the following conditions and requirements:

1) Previous Conditions Continued: All conditions set forth in Resolution #2013-095 and the conditions set forth in the Statement of Council Regarding the Preliminary Site Plan incorporated therein, are continued unless otherwise expressly modified herein.

2) Parking Requirements: A. As part of Phase I, Applicant shall be required to return the parking lot located to the north of the Hess gas station to a serviceable condition, (i.e., free from cracks, potholes, ponding and heaving) including but not limited to repairing, sealing and striping the same, and shall construct the adjacent walk way to Lakeshore Blvd., previously identified in proposed phase V of the Project, and provide ongoing maintenance and care of both.

The lot shall be designated for public use, with appropriate signage, and shall be at no cost to the City or the public. The Phase I design and construction specifics of the parking lot's rehabilitation shall be determined in consultation with the City of Canandaigua's Director of Public Works, and shall be guided by the generally accepted practices customary to the design and construction of public parking lots. The parking lot shall be maintained in a serviceable condition by the developer until such time as the parking lot, as depicted in the Amended Sketch Plan dated 7/31/13 and approved 8/1/13, is reconstructed according to City specifications, at which time the parking lot shall be dedicated to the City after the completion of Phase II. If Phase II fails to be completed by the Applicant, the parking lot shall be reconstructed and dedicated to the City within five years of the completion of Phase I.

3) Stormwater: Compliance with a Stormwater Management and Erosion Control Plan and all MS4 requirements, as approved by New York State Department of Environmental Conservation ("DEC"), which meets the requirements of not only the applicable requirements for construction projects, but any and all additional requirements set forth in Chapter 795 of the City Code. This shall include, but not be limited to, Developer entering into a Maintenance Agreement with the City. Proof of DEC approval must be provided to the City by Applicant in advance of any site construction activities. Compliance with the recommendations of Mark Tayrien of Labella Associates' letter dated March 18, 2014 relative to the SWPPP and proposed NOI.

4) Lighting: Additional lighting provided on the building faces of Building B on North Shore Boulevard and Lakeshore Drive, as discussed with Applicant and PUD Committee on March 4, 2014.

5) Greenspace: A recreation fee shall be assessed and paid by the Applicant, said amount being based on a rate of \$300 per bedroom of Phase I. The Applicant has represented that there are 193 bedrooms in the 137 units in Phase 1, for a total fee of \$57,900.00. If there is a change in number of bedrooms, the recreation fee shall be adjusted accordingly. This fee shall be paid in full prior to the issuance of any building permits.

6) Architecture: Materials, colors, and iteration (Alt. B) as discussed with Applicant and PUD Committee on March 4, 2014.

7) Schedule of Completion and Values. Preparation and submission to the City Director of Public Works of a Schedule of Completion and a Schedule of Values for the

Phase I - North Shore Project. The Applicant must strictly comply with the Schedule of Completion for all public improvements set forth in the amended Final Site Plan.

8) All applicable financial requirements set forth by the City pursuant to Section 850-127 of the Municipal Code, specifically, Applicant shall provide a non-expiring letter of credit to the City of Canandaigua in an amount as established by the City Corporation Counsel and the City Manager, after a Schedule of Completion and a Schedule of Values has been provided to the City by the Applicant. Such letter of credit shall only be terminated with the express written authorization of the City by its City Manager and Corporation Counsel.

9) The Applicant shall guarantee all materials and work that is to be dedicated to the City for 2 years from dedication.

**BE IT FURTHER RESOLVED, that:**

Upon satisfaction of the above conditions, including financial surety, and submission of a Schedule of Completion and a Schedule of Values for the Project, the City Council hereby directs the City Manager to endorse his approval on a copy of the amended Final Site Plan as approved herein, and directs him to forward said amended Final Site Plan to the City of Canandaigua Code Enforcement Officer for review and issuance of any necessary permits in conformance with the approval and conditions set forth by the City Council in this Resolution; and

At the Applicant's expense, the City, at the discretion of the City's Code Enforcement Officer and City Manager, may hire independent, third-party, qualified professionals for purposes of ensuring compliance with the New York State Building Code and Fire Prevention Code; and

This Resolution shall take effect immediately upon adoption.

ADOPTED this 3<sup>rd</sup> day of April, 2014.

ATTEST:

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Nancy C. Abdallah  
City Clerk/Treasurer