

To: Village of Nyack Board of Trustees

From: BFJ Planning

Subject: Summary of Proposed Zoning Changes as Revised Per Public Hearing Comments (Revisions Shown in Red)

Date: August 22, 2016

Proposed Zoning Map and Text Amendments

As part of the 2016 Update to the Village of Nyack's Comprehensive Master Plan (CMP), a review of the Village's existing zoning code was performed to evaluate opportunities to enhance and strengthen the code parallel to the recommended updates of the CMP. These accompanying zoning text amendments discussed below represent a synthesis of input received by and through the combined efforts of the CMP Steering Committee, the Village Consultant team, Village Officials, residents, and stakeholders.

Map Changes

Under Nyack's existing zoning, there is one downtown district, the Downtown Mixed Use (DMU). Within that zone, a DMU overlay zone is mapped along Broadway between Cedar Hill and First Avenues, Main Street generally between Broadway and Washington Street, and Franklin Street generally between Depew and High Avenues (see attached Existing Zoning Map). The key difference between the DMU zone and the DMU Overlay Zone is that, in the overlay, ground-floor residential uses are prohibited.

The proposed zoning map changes would create two downtown zones, the DMU-1 and DMU-2 districts. The DMU-1 zone corresponds to the existing DMU Overlay Zone, in addition to the south side of Main Street between Washington Street and Mill Street. The DMU-2 zone encompasses the remainder of the existing DMU district. With this change, the DMU Overlay Zone will be eliminated. The intent in creating two downtown zoning districts is to recognize that the downtown core and downtown peripheral areas may need to be treated differently in terms of their mix of uses and development pattern. Having separate zones allows the Village to consider making targeted changes to these areas in the future as appropriate.

The provisions of the DMU-1 and DMU-2 zones are identical, except as follows:

- Ground-floor residential uses are prohibited in the DMU-1 zone, and
- The DMU-1 zone allows buildings to be four stories, or up to 48 feet, subject to a special permit and provision of either public benefits or payment of a fee (see discussion below).

In addition to creation of the DMU-1 and DMU-2 districts, two other zoning map changes are proposed:

- An area bounded by Burd Street to the north, Remsen Street to the south and Piermont Avenue to the east, currently zoned Residential Mixed Use (RMU) is rezoned to DMU-2. This area consists of the parking lot to the First Niagara Bank on Broadway, and three small commercial buildings on Burd. The RMU zone has a maximum allowable height of two stories, or 32 feet, and it appears that one or more

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of the commercial buildings exceeds that height. The DMU-2 zone would allow all the current uses in this area, at a height of three stories, or 40 feet. The change would ensure that the existing buildings are conforming, and could also encourage infill redevelopment of the surface parking in this area.

- The Oak Hill Cemetery is rezoned from two-family residential (TFR) to single-family residential (SFR-1). This change is meant to preserve the open space character of this property and ensure that, if any portion of it is ever developed, it would be at the lowest possible residential density.

The proposed zoning changes are summarized in a map included in this package.

Text Changes

Based on the above map changes, throughout the zoning code, references to the DMU Overlay district have been removed and replaced accordingly with reference to the DMU-1 district; additionally, any reference to the DMU district have been replaced with references to the DMU-1 and/or DMU-2 districts, where applicable. Accompanying this memo is a red-lined version of Chapter 360 with the draft zoning amendments included. **Revisions that have been made as a result of comments made during the public hearing process are further designated in highlight.**

§ 360-2.1 Establishment of districts and § 360-2.4 Mixed use districts.

- The existing Downtown Mixed Used (DMU) Overlay District is now an individualized base district, differentiated using the DMU-1 district designation. Additionally, all areas within the Village which were previously zoned as DMU but not covered by the DMU Overlay District have been included in a new downtown transition zone, differentiated as the DMU-2 district.
- The previously-established Bulk and Density Incentives for the DMU Overlay district are now modified to apply to the DMU-1 district only, and are rephrased as Development incentives within the DMU-1 district. These incentives are now defined as a means by which the Board of Trustees may require the provision of special public benefit features **and** the payment of a fee by an applicant when permitting increased building height. **This removes floor area ratio (FAR), residential density and special uses as potential development incentives for any DMU district, and reduces applicability of the remaining development incentive – height only – to the DMU-1 district, capped at four stories or 48 feet. The section makes clear that the height incentive applies to new construction, but specifies that adding a fourth floor to an existing building constitutes new construction. Any references to density incentives in the DMU districts have been removed.**

§ 360-3.2 Use-specific Standards. (Solar Energy Collectors)

- This new section establishes a framework for the regulation and permitting of Solar Energy Collectors as accessory uses within the Village. The regulations are organized by applicability within generalized zoning districts, split between single-family residential zones and multi-family residential and commercial zones. The characteristics of the proposed Solar Energy Collector installation are considered for the permitting process. Regardless of size or type, all Solar Energy Collectors proposed in multi-family residential or commercial zoning districts require site development plan approval.

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§ 360-4.4 natural and scenic resource protection standards.

- The regulations within this section were modified according to discussions with the Village CMP Steering Committee, the Village Sustainability Coordinator, and other Village officials. The fine for cutting or destroying a significant tree has been reduced, while the permitted slope grade of non-residential sites has been reduced from 50% to 35%. Additional changes related to the buffer surrounding wetlands, and the implementation of green infrastructure, have been implemented.

§ 360-4.14 Sustainability.

- The provision of car-sharing services for use by residents, and the provision of electric vehicle (EV) charging stations, have been removed as allowable sustainability amenities for density or applicable FAR bonus. There are now no changes to the sustainability incentives.

§ 360-5.7 Site development plan.

- § 360-5.7 (1) has been deleted for clarification. Reference has been added to a new section (see below) that provides activities exempt from site development plan review.

§ 360-5.14 Building permit (no board review required).

- A section has been added specifying that minor exterior alterations to one- and two-family homes do not require site development plan review. These include improvements to or replacement of roofs, and exterior work not requiring a variance and not expanding the building footprint coverage by more than 10%. Note that the “exterior” qualifier has been removed, as interior work does not require site development plan review, and that the term “building footprint” has been changed to “building coverage,” as building coverage is already defined in Nyack’s Zoning Code.

§ 360-5.20 Performance guarantee.

- This new section requires applicants to post performance bonds or other security to assure that all streets or other public places shown on a site plan shall be suitably graded and that all public infrastructure proposed as part of a project is implemented.

§ 360-5.21 Project phasing and improvements.

- This new section requires that any public benefit or amenity feature that is proposed as part of a phase of a multi-phase development must be completed with that corresponding phase.

§ 360-5.22 Development incentives.

- This new section ties the amount of new floor area permitted in the DMU-1 or WF district under a bonus or incentive program to the fee to develop said floor area. This section provides an additional framework for incentive/density bonus area, and makes clear that any additional floor area possible through the provision of a fourth floor subject to § 360-2.4B(2)(b) (DMU-1 height incentive) shall not exceed the maximum allowable under Table 4-1 (Dimensional Standards). The section also makes

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clear that any fee associated with new floor area in the DMU-1 or WF district shall be calculated at a minimum of 10% of the market value of the additional floor area, as determined by the Town Assessor.

§ 360-6.1 Words Defined.

- The definition for Significant Tree has been amended to include all trees that are twelve inches (12") in diameter, and located within a public right-of-way or within five (5) feet of a property boundary. Definitions have also been added for Brew Pub, Live/Work Space, Microbrewery, and Solar Energy Collector. The definition for DMU Overlay District has been removed.

Permitted Uses

With brew pubs, live/work spaces and microbreweries defined, they are now permitted in the DMU, RMU and Office Mixed Use (OMU) districts. Live/work spaces are permitted uses in all three zones, while brew pubs and microbreweries are allowed by special permit in the DMU and RMU districts.

Dimensional Standards

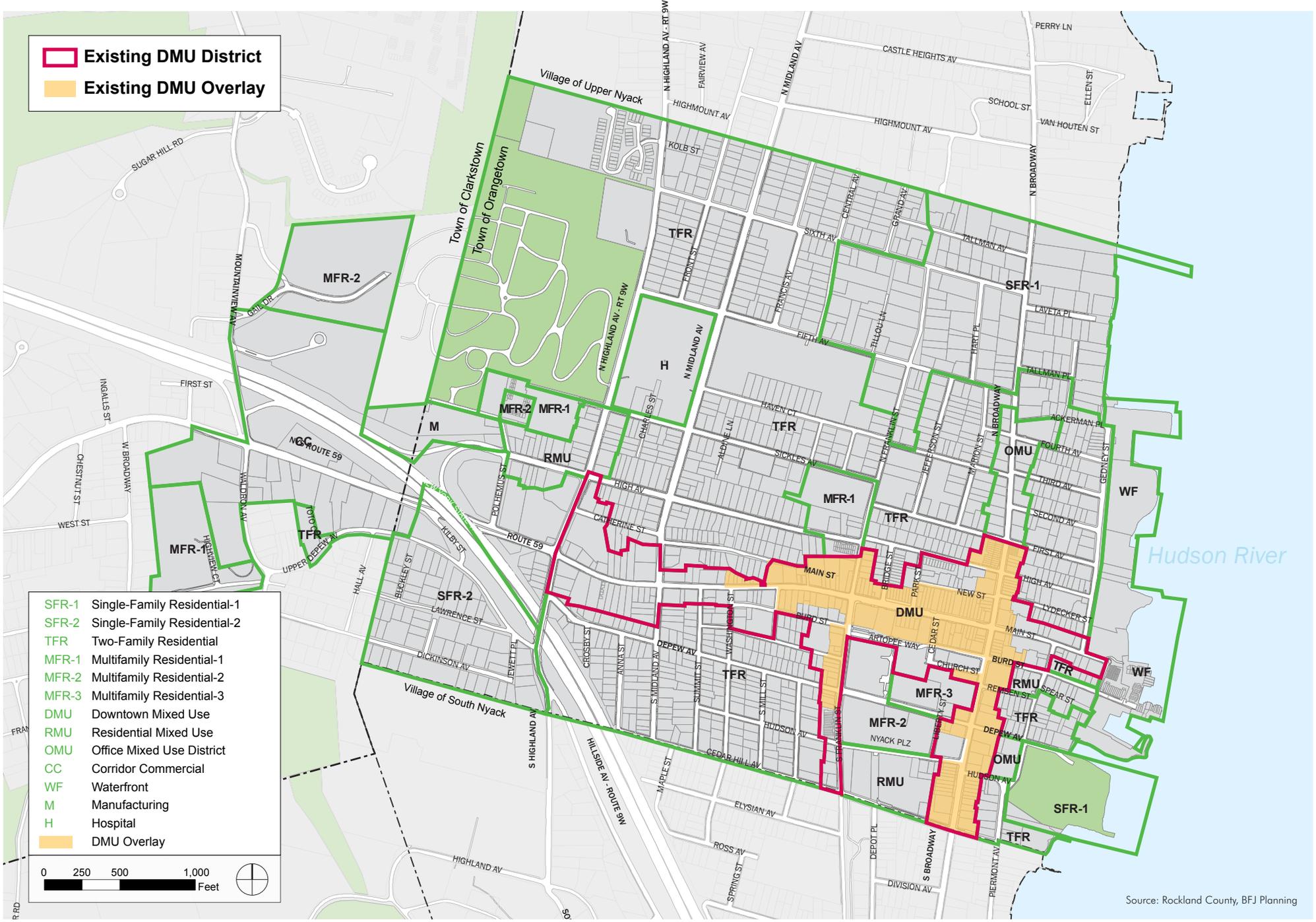
Dimensional standards have been added for the DMU-2 district, as described above. In addition, a minimum per-unit amount of usable open space has been added to the one- and two-family zones and the Corridor Commercial (CC) district. Also, a maximum front setback of 25 feet has been established for the CC district, to promote the siting of buildings closer to the street. See Attachment 2 (Table 4-1). **In addition, in the DMU-2 district, a minimum front setback of 5 feet has been established, with a provision that in all cases the building must be set back at least 10 feet from the curb line. This provides sufficient space for a sidewalk.**

Parking Standards

The parking requirement for banks in the DMU and RMU districts has been reduced from 1 per 200 square feet to 1 per 300 square feet, in an effort to match supplied parking with typical demand for these uses, and reduce the amount of impervious coverage.

Architectural Review Board

No changes are proposed to the Architectural Review Board (ARB) at this time.



Existing DMU District
 Existing DMU Overlay

- SFR-1 Single-Family Residential-1
 - SFR-2 Single-Family Residential-2
 - TFR Two-Family Residential
 - MFR-1 Multifamily Residential-1
 - MFR-2 Multifamily Residential-2
 - MFR-3 Multifamily Residential-3
 - DMU Downtown Mixed Use
 - RMU Residential Mixed Use
 - OMU Office Mixed Use District
 - CC Corridor Commercial
 - WF Waterfront
 - M Manufacturing
 - H Hospital
 - DMU Overlay
- 0 250 500 1,000 Feet

Source: Rockland County, BfJ Planning

Existing Zoning Map

Proposed Zoning Map Changes

- New DMU-1 District
- New DMU-2 District

DMU-1 District is created from the existing DMU Overlay (with two additions outlined on this map).

DMU-2 District regulations are identical to existing DMU with one exception: **existing Density and Bulk Incentives can no longer be achieved in the DMU-2.**

Existing Density and Bulk Incentives are limited to height incentives and restricted to only the DMU-1. **This proposal eliminates incentives for FAR, density, and uses and reduces the area where height incentives can be achieved by ~50%. The proposal also caps the height incentive at 4 stories or 48 feet.**

Create new DMU-1 District from existing DMU Overlay

Create new DMU-2 District from existing DMU that is not included in the DMU Overlay

Include parcels in the DMU-1 that are not currently included in the DMU Overlay (south side of Main b/w Washington and Mill)

Rezone Parcels from RMU to DMU-2 (First Niagara Bank parking lot and 3 commercial buildings on Burd)

- SFR-1 Single-Family Residential-1
- SFR-2 Single-Family Residential-2
- TFR Two-Family Residential
- MFR-1 Multifamily Residential-1
- MFR-2 Multifamily Residential-2
- MFR-3 Multifamily Residential-3
- DMU-1 Downtown Mixed Use-1
- DMU-2 Downtown Mixed Use-2
- RMU Residential Mixed Use
- OMU Office Mixed Use District
- CC Corridor Commercial
- WF Waterfront
- M Manufacturing
- H Hospital



Source: Rockland County, BfJ Planning

Proposed Zoning Map Changes

The following code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

Chapter 360

Zoning

Article II

Zoning Districts

This article establishes the zoning districts and contains basic information pertaining to zoning districts, primarily statements of purpose and district-specific regulations. Article **III**, Use Regulations, and Article **IV**, Development Standards, set forth the uses allowed within the districts and the dimensional and development standards applying to development in the districts, respectively.

§ 360-2.1 Establishment of districts.

The Village of Nyack is hereby divided into the following zoning districts:

District Category	District Name	Abbreviation
Mixed use	<u>Downtown Mixed Use-1</u>	<u>DMU-1</u>
	<u>Downtown Mixed Use-2</u>	<u>DMU-2</u>
	Residential Mixed Use	RMU
	Residential Office <u>Office Mixed Use</u>	OMUR <u>OMUR</u>

§ 360-2.4 Mixed-use districts.

B. Downtown Mixed Use Districts (DMU-1 and DMU-2).

- (1) Purpose. The purpose of the Downtown Mixed Use (DMU-1 and DMU-2) Districts is to provide for the most intensive concentration of retail sales and service, personal services, office and public and institutional uses in the heart of the Village. In addition, the district is intended to encourage the development of multifamily residential units above the ground floor. Redevelopment should preserve the existing historic character, scale and mix of uses in the downtown. Appropriate new development should add to the civic and economic vitality of the community. In order to encourage pedestrian-friendly environments, special standards are provided to address urban design, building design and parking considerations. ~~Specifically, the DMU-1 Overlay Zone District~~ is designed to place more specific standards in the ~~district's Village's downtown~~ core retail areas as specified in the Village's Comprehensive Master Plan. Unless otherwise specified, all standards of the DMU-1 District apply to the DMU-2 District Overlay Zone. [Amended 5-8-2014 by L.L. No. 2-2014]
- (2) District specific standards.
 - (a) Ground floor uses in the DMU-1 District. ~~Ground floor uses are restricted only in the DMU Overlay Zone.~~ In order to maintain an active streetscape for pedestrians and pedestrian-oriented businesses and activities in the downtown's core retail area, residential uses are prohibited along the entire length of the ground floor of the principal building adjacent to a public street in the DMU-1 District. That nonresidential space shall be no less than 25 feet deep. A residential use may be located on the ground floor only when it shares that floor with another permitted use that occupies the portion of

the floor adjacent to the street. [Amended 5-8-2014 by L.L. No. 2-2014]

(b) Building height in the DMU-1 District. Through the issuance of a special permit, the Village Board of Trustees may allow the maximum building height in the DMU-1 District to be increased to 4 stories and no more than 48 feet. In order to achieve the special permit for building height, the applicant must provide the public benefit features specified in Subsection (3) herein, and pay a fee as specified within § 360-5.22.

(c) Building entrances. Buildings shall have one or more pedestrian entrances located on the front facade and facing the street. A building located on a corner may have an angled entrance at the corner of the two streets. The entrance setbacks should reflect adjacent buildings. The pedestrian entrance(s) shall be operable during normal hours of business operation.

(d) New curb cuts restricted. To establish and maintain a continuous streetscape the construction of new curb cuts shall require a special permit. In no case shall a curb cut exceed 18 feet in width. Existing curb cuts shall be vacated when redevelopment of a property makes them unnecessary or inconsistent with the intended character of the zoning district.

(e) Security gates. Solid security gates are prohibited.

(f) Sidewalks. Sidewalks conforming to Village specifications shall be provided on the street frontage of the lot and/or within the right-of-way of any street located adjacent to a lot. The sidewalk material shall be continuous through the drive.

(3) ~~Bulk and density incentives~~ Development incentives in the DMU-1 District. To provide an incentive which will encourage the most appropriate use and development of sites in the DMU-1 District, the Village Board of Trustees may allow, following a public hearing following the procedures for zoning amendments, an increased FAR, density, building height ~~or special uses,~~ within the limits as set forth in Subsection A hereof and subject to the provision of specific public benefit features and payment of a fee as specified within § 360-5.22. It may also choose not to allow any such change. Any height incentive granted in the DMU-1 district shall apply to new construction. Floor space within a fourth floor that is added to an existing building shall be considered new construction. Village Board action on such an application shall be taken only after review of the proposed plan by the Planning Board and the Architectural Review Board and recommendation by those Boards to the Trustees. Final site plan approval by the Planning Board shall not occur until after the height bulk and density incentive determination by the Village Board. The incentive features, and the guidelines for Village Board action, are as described below:

(a) The specific public benefit features for which incentive height density increases may be granted in the DMU-1 District are as follows:

[Subsections [1] through [5] unchanged.]

(b) In determining the specific amount of height density incentive increase that may be granted in the DMU-1 District, if any, the Village Board, in each case, shall take into consideration the following:

[Subsections [1] through [6] unchanged.]

(d) To assist the Village Board in determining the appropriate amount of height density increase in the DMU-1 District, if any, to grant as an incentive for the applicant's provision of the proposed public benefit feature(s), the applicant shall submit an estimate of the cost of providing the proposed feature(s) and the value of the height density increase requested. The Village Board may also engage its own independent experts to either separately prepare such analyses or to review those prepared by the applicant. The reasonable cost of such expert assistance shall be reimbursed to the Village by the applicant.

(e) In addition to the foregoing guidelines, the Village Board may take into account other considerations bearing upon the purposes and objectives of this subsection in determining the amount of any

~~heightdensity~~ increase in the DMU-1 District.

D. ~~Residential~~ Office Mixed Use District (OMUR~~Θ~~).

- (1) Purpose. The purpose of the OMUR~~Θ~~ District is to provide opportunities for a coexistence of office and residential uses in predominantly residential settings along select roads in the Village, including the conversion of single-family dwellings to office uses. Retail sales and service uses, and their associated parking and traffic impacts, are not appropriate in these areas.

Article III Use Regulations

§ 360-3.2 Use-specific standards.

E. Accessory uses.

- (4) Professional office or studio accessory to a residential building. A professional office or studio, including but not limited to those of an architect, artist, dentist, engineer, lawyer, musician, teacher or physician, but not including veterinarians, is permitted as an accessory use on a lot where the principal use is residential, provided that:
- (b) In any residential building other than a multifamily building, such office or studio shall occupy not more than 30% of the area of the first floor of the principal building or shall be located in a legal detached accessory building. This limitation shall not apply to structures located in the DMU-1, DMU-2, OMU or RMU Districts.
- (6) Outdoor dining.
- (a) Intent. Outdoor dining other than in the form of a sidewalk cafe as defined in this chapter shall be permitted as an accessory use that is incidental to and in conjunction with an established permitted restaurant, bar or delicatessen as permitted in the DMU-1, DMU-2, CC and WF Districts, provided that the establishment of such an accessory use has no deleterious effect on the public health, safety or welfare, or negative effect on adjoining businesses. Outdoor cabarets and outdoor dining in conjunction with a cabaret are specifically prohibited. **[Amended 4-19-2012 by L.L. No. 2-2012]**
- (7) Sidewalk cafe.
- (a) Intent. Sidewalk cafes may be permitted by special permit of the Building Inspector, provided that such use is incidental to and in conjunction with an established permitted restaurant, bar or tavern, or take-out restaurant as permitted in the DMU-1, DMU-2, RMU and WF Districts, provided that the establishment of such an accessory use has no deleterious effect on the public health, safety or welfare, or negative effect on adjoining businesses. Sidewalk cafes and outdoor cabarets in conjunction with fast-food establishments are specifically prohibited. **[Amended 4-19-2012 by L.L. No. 2-2012]**

(10) Solar Energy Collectors.

- (a) Intent. The Board of Trustees desires to facilitate the noncommercial use of solar energy collectors to further energy saving and conservation, but the Trustees also recognize that regulation of the construction, placement, and operation of solar energy collectors are matters of public importance which concern issues of aesthetics, lighting, and the possible depreciation of property values by reason of improperly installed, placed, maintained, or operated solar energy collectors. This section shall be read and construed in furtherance of the foregoing purposes and is enacted under the authority granted by New York State Village Law § 7-700.
- (b) Generally applicable standards. All solar energy collectors shall be subject to the following requirements:

[1] Solar energy collectors shall be permitted only to provide power for use by owners, lessees,

tenants, residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through a "net billing" or similar program in accordance with New York Public Service Law § 66-j or similar state or federal statute.

[2] Solar energy collectors shall be located in areas and ways which most mitigate their visibility from surrounding properties.

[3] Solar energy collectors shall not be unnecessarily bright, shiny, garish, or reflective.

[4] Solar energy collectors shall be considered to be structures for the purpose of compliance with all Village laws and ordinances, shall require a building permit and certificate of occupancy issued by the Building Inspector, and shall comply in their design, construction, and operation with all other Village laws and ordinances unless inapplicable by their terms or in conflict with this section.

(c) Additional standards; single-family residential zones.

[1] Solar energy collectors mounted on a building or the roof of a building. Solar energy collectors mounted on a building or the roof of a building shall be permitted as an accessory use in any single-family residential zoning district, subject to the following requirements:

[a] Shall not exceed the lesser of 900 square feet in area or 33% of the entire roof area.

[b] Shall be mounted no more than 12 inches above the surface to which they are affixed.

[c] Shall be installed in a manner that minimizes their visibility from public locations but still maintains their functional integrity and viability, and:

[i] On a pitched roof shall not extend beyond the highest point of the roof.

[ii] On a flat roof shall not extend above any roof cornice.

[2] Freestanding solar energy collectors. Freestanding solar energy collectors may be permitted by special permit of the Planning Board, subject to the following requirements:

[a] Freestanding solar energy collectors located in any:

[i] Rear yard shall comply with all rear and side line setback requirements and be at least 15 feet from every rear and side line at all points.

[ii] Front or side yard shall comply with all front and side yard setback requirements and shall be subject to site plan approval under Village Code §360-5.7C. The Building Inspector shall refer any application for a building permit to construct a freestanding solar energy collector in a front or side yard to the Planning Board for site plan approval under Village Code §360-5.7C.

[b] Freestanding solar energy collectors shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.

[c] Freestanding solar energy collectors shall not exceed the lesser of 1,000 square feet in area or 5% of the area of the lot on which it is located.

[d] The plan submitted to the Building Inspector as a requirement for the issuance of a building permit for any such collector shall indicate all existing and proposed grading, excavating, filling, paving, fencing, and screening as it may relate to the proposed collector, shall indicate the location of all property lines and neighboring buildings, and shall comply with the requirements and standards of this section, and the Building Inspector may refer any such application to the Planning Board for review and comment, but nothing

contained in any such review or comment shall limit or otherwise affect the authority of the Building Inspector for issuance or denial of the permit.

(d) Additional standards for multifamily and commercial zones. Solar energy collectors shall be permitted as an accessory use in any multifamily or commercial zoning district, subject to site development plan approval under Village Code §360-5.7 and the following requirements:

[1] Solar energy collectors shall not exceed the lesser of 1,000 square feet in area or 33% of the area of the entire lot on which it is located.

[2] The plan submitted to the Building Inspector as a requirement for the issuance of a building permit shall indicate all existing and proposed grading, excavating, filling, paving, fencing, and screening as it may relate to the proposed collector, shall indicate the location of all property lines and neighboring buildings, and shall comply with the requirements and standards of this section and of Village Code §360-5.7, and the Building Inspector shall refer any such application to the Planning Board for site development plan approval under Village Code §360-5.7C.

Article IV Development Standards

§ 360-4.2 Measurements and exceptions.

C. Building height.

- (2) Height exceptions for appurtenances. The height limitations contained in this code do not apply to the following:
- (d) Solar energy ~~systems~~ collectors, provided that such systems shall be erected only to the height necessary to accomplish the purpose they are intended to serve.

§ 360-4.4 Natural and scenic resource protection standards.

The purpose of this section is to protect and enhance the natural and man-made features that contribute significantly to the Village's scenic quality and character, including: varying topography and hillsides, floodplains, wetlands, significant trees, view corridors and historic sites and areas.

C. Tree protection.

- (4) Penalties for offenses. Notwithstanding other provisions of this chapter, the following shall apply to a violation of the provisions of these tree protection standards:
 - (a) Where the Building Inspector determines that any person violates or refuses to comply with this chapter, that person shall be subject to a fine not to exceed \$~~10,000~~2,500, per offense, upon conviction. Each significant tree cut, destroyed or removed shall constitute a single offense.

D. Steep slopes.

- (2) Standards. No development ~~or improvements~~ shall be permitted on that portion of a lot having slopes equal to or greater than 25% for single-family, two-family or three-family residential development or slopes equal to or higher than ~~50~~35% for any other type of land development permitted pursuant to this chapter, except for conservation measures or measures intended to remove debris which inhibits the function of a swale.

E. Erosion and sediment control.

- (11) Construction near wetlands. Construction shall not be located within ~~100~~50 feet of the upland boundary of a freshwater or tidal wetland. This includes the introduction of impervious surfaces, roads, utility equipment and other infrastructure. An exception is made for a private dock, provided that no other opportunity for water access exists on the lot, except through wetlands. Wetland boundaries and the ~~one hundred fifty~~-foot setback referred to in this subsection shall be identified on the plat as "conservation areas," and notes shall be placed on the plat and on all deeds that expressly prohibit accessory structures and uses in such areas.
- (13) Natural vegetative buffer. To the extent practicable, a natural vegetative buffer of ~~100~~50 feet shall be maintained adjacent to surface waters and wetlands to absorb floodwaters and trap sediment.
- (15) Amount and velocity of runoff. The amount and velocity of runoff from a site after development shall approximate its predevelopment characteristics, such that the development shall result in zero net incremental discharge of runoff from the development site, or a decrease in the net incremental discharge of runoff from the development site through the use of green infrastructure as defined in §360-4.14C. However, if the site is adjacent to coastal waters, stormwater shall be contained on-site, to the maximum extent practicable, to prevent direct discharge of runoff to coastal waters.
- (19) Green Infrastructure. To the maximum extent possible, the amount and velocity of runoff from a site should be reduced through the use of sustainable stormwater management techniques which retain runoff and enable infiltration on the site. Such techniques are hereby referred to as green infrastructure, as defined in §360-4.14C.

§ 360-4.5 Parking and loading.

C. Minimum parking requirements.

- (1) Purpose. The minimum parking standards are intended to provide enough off-street parking to accommodate the typical demand for parking generated by the range of uses on a site, particularly in areas where sufficient on-street parking is not available. They are also intended to provide adequate parking on a site to prevent parking for nonresidential uses from encroaching into adjacent residential neighborhoods. The character of the DMU-1 and DMU-2 zoning districts allows for lower parking requirements in some cases.

D. Areas computed as parking spaces.

- (2) For any establishments in the CC, DMU-1 and DMU-2 Districts that include a drive-up or take-out window, the number of vehicles included in the queue to the drive-up or take-out window must be included in total parking spaces required, to ensure that parking and cuing don't cause backups on to Village street or Route 59.

E. Location and ownership of required accessory parking facilities.

- (1) Required accessory parking spaces may be provided upon the same lot as the use to which they are accessory, or elsewhere, provided that all spaces therein are located within 1,200 feet of the principal lot in the DMU-1 and DMU-2 Districts, or 300 feet in all other districts. In all cases, such parking spaces shall conform to all the regulations of the district in which they are located; and in no event shall such parking spaces be located in any residential district unless the uses to which they are accessory are permitted in such districts, or by special permission of the Zoning Board of Appeals. The ongoing availability of such spaces shall be guaranteed by deed restriction or legal contract between the owner of the principal lot and the owner of the lot on which the remote parking is provided, to the satisfaction of the Planning Board.

- L. Payment in lieu of parking. A payment-in-lieu of parking for development located within the DMU-1, DMU-2, RMU, OMU or CC zoning districts may be authorized by the Planning Board as a condition of approval for a site development review application to satisfy the off-street parking requirement, or a portion thereof, according to the following standards:

§ 360-4.7 **Street trees.**

Except as modified by the Planning Board, any application for property located in the DMU-1, DMU-2, RMU, OMU or CC zoning district meeting the applicability requirements of § 360-4.5B, above, shall provide one deciduous or ornamental street tree for every 40 linear feet of street frontage or portion thereof, with a minimum of two trees per lot for lots that have a minimum width of 60 feet. Street trees shall be planted within the tree lawn portion of the right-of-way with adequate spacing to allow for the mature spread of the trees. When a tree lawn is not provided, trees shall be planted within 10 feet of the back of curb.

§ 360-4.9 **Fences, walls and hedges.**

B. Maximum height.

(1) Residential and mixed-use districts.

- (a) In the SFR, TFR, MFR, DMU-1, DMU-2, RMU, OMU and WF zoning districts the maximum height of fences, walls and hedges above grade shall be as follows:

§ 360-4.11 **Signs.**

E. Permitted signs in nonresidential districts. In the DMU-1, DMU-2, RMU, OMU and WF Districts, the sign area for all signs on the property, in square feet, shall not be greater than two times 2/3 the width, in feet, of the storefront of the front facade of commercial establishment to which the sign refers. In the CC, M and H Districts, the maximum sign area shall be 10% of the total surface area of the building's front facade upon which it is faced or 80 square feet, whichever is lesser. The total area of signage for all businesses or tenants in a building shall not exceed the area of signage that would be allowed if there were a single tenant. The following signs are permitted in the DMU-1, DMU-2, RMU, OMU, CC, WF, M and H Districts, provided that they are accessory to a principal use on the premises: [Amended 5-26-2011 by L.L. No. 5-2011]

(1) Wall signs — flat and projecting.

- (b) In addition, one projecting wall sign may be erected perpendicular to the building or street. The following limitations shall apply:

[3] The bottom of the sign or the protruding portion of the bottom bracket shall be at least 10 above the sidewalk in the CC, M and H Districts and at least eight feet above the sidewalk or ground in the DMU-1, DMU-2, RMU, OMU and WF Districts.

- (c) Signage in the DMU-1, DMU-2, RMU, OMU and WF Districts shall be designed so that it is visible and informative at the pedestrian scale. The following design standards shall apply:

(2) Freestanding signs.

- (a) In the DMU-1, DMU-2, RMU, OMU, WF and H Districts, where the building is set back from the front lot line a distance of 25 feet or more, not more than one freestanding sign consisting of either a pole sign or a monument sign, with an area of not more than 20 square feet per face, may be erected not nearer than six feet to any building. No such freestanding signs shall encroach on any required yard, except in a motor vehicle service station, and not more than one standard sign may be erected in a required yard for purposes of identification. The maximum height of a pole sign shall be 15 feet and the maximum height of a monument sign shall be four feet, measured to the topmost portion of the sign above grade. Any building availing itself of a freestanding sign may not erect a perpendicular sign as provided in § 360-4.11E(1)(b).

- (10) Temporary signs. The following regulations shall apply to temporary signs, which are paper, cardboard and other similarly impermanent material signs. Temporary interior signs are located within 24 inches of the storefront's glass windows and doors and include open, closed, and sale signs, menus, lists of products and services, are allowed and do not need permits when together they do not exceed four square feet. Temporary and permanent signs together cannot cover more than

15% of the ground floor window area or 36 square feet; or 20% of upper floor window area.

- (f) Special event, holiday signs and announcement signs may be permitted in DMU-1, DMU-2, RMU, OMU, CC, WF and H Districts without the Building Inspector's approval. These signs may be placed in the window only and may not cover more than 15% of the window area together with other signs. These signs may be put in place four weeks prior to the event and shall be removed within one week of the event.
 - (h) Temporary signs pertaining to campaigns, drives or events of civic, philanthropic or educational institutions are permitted in DMU-1, DMU-2, RMU, OMU, CC and WF Districts without the Building Inspector's approval for a period not to exceed 15 days. These signs may be placed in the window only and may not exceed six square feet in area. They should not overlap, cover or obscure permanent signs.
- G. Prohibited signs. The following types of signs or artificial lighting are prohibited:
- (6) Sandwich board signs shall constitute prohibited signs; however, such signs shall be permitted in the DMU-1, DMU-2, RMU, OMU, CC, WF and M Districts upon the issuance of an administrative permit for same by the Building Inspector. The standards applicable for such permits shall be on file in the Building Department. [Amended 2-24-2011 by L.L. No. 4-2011]

§ 360-4.14 Sustainability.

[Added 5-8-2014 by L.L. No. 2-2014]

- B. Applicability. This chapter applies to all residential, mixed use, commercial and office uses in the following zoning districts: DMU-1, DMU-2, RMU, OMU, MFR-1, MFR-2, MFR-3, WF and CC. [Amended 2-12-2015 by L.L. No. 2-2015]
- D. Density bonus incentives.
 - (2) Each amenity listed under Subsection ~~D-E~~ shall be eligible for a ten-percent density bonus in the allowable number of residential units in the underlying zoning district with the exception of green roofs which shall be eligible for a twenty-percent residential density bonus due to the higher initial cost of implementation. The density bonus shall not exceed 40% of the allowable number of units in the underlying district excluding the affordable/workforce housing bonus under § 120-1.
- E. Allowable sustainability amenities eligible for density or applicable FAR bonus under this chapter. The following are allowable sustainability amenities eligible for density or applicable FAR bonuses:

~~(9) Provision of car sharing services for use by residents.~~

~~(10) Provision of electric vehicle (EV) charging stations.~~

Article V Administration

§ 360-5.7 Site development plan.

- B. Applicability. Site development plan approval by the Planning Board is required for:

~~(1) All uses of land where no building is proposed and where a building permit or certificate of occupancy is not required.~~

~~(12)~~ The erection or enlargement of all buildings in all districts (excluding signage), or any change in the site characteristics, including but not limited to parking, traffic or pedestrian access, loading, drainage, lighting, utilities, landscaping, sight lines or view corridors, except as provided in § 360-5.14 (A)(2).

~~(23)~~ Any application for a special permit.

(34) The amendment of any previously approved site development plan.

§ 360-5.14 **Building permit (no board review required).**

A. Purpose and applicability.

(1) No person, firm or corporation shall commence the erection, construction, enlargement, alteration, removal, improvement, demolition, conversion or change in the nature of the occupancy of any building or structure, or cause the same to be done, without first obtaining a separate building permit from the Building Department for each such building or structure; except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature. Applications that involve exterior alterations or that require any additional approvals under the provisions of this chapter shall be referred to the appropriate decisionmaking body(ies) for approval prior to issuance.

~~(1)~~(2) In circumstances where minor exterior alterations to one- and two-family homes are proposed, referral to the applicable decision-making body(ies) is not required and review is completed by the Building Department with approval granted through the issuance of a building permit. Such minor exterior alterations include improvements to or replacement of roofs, and exterior work not requiring a variance and not expanding the building coverage footprint by more than 10%.

§ 360-5.20 Performance guarantee.

A. The applicant may be required to post performance bonds or other security, pursuant to § 7-730 and other pertinent provisions of the Village Law of the State of New York, in sufficient amounts and duration to assure that all streets or other public places shown on the site plan shall be suitably graded and paved and that street signs, sidewalks, streetlighting standards, curbs, gutters, street trees, water mains, fire alarm signal devices, including necessary ducts and cables or other connecting facilities, sanitary sewers and storm drains or combined sewers shall all be installed in accordance with standards, specifications and procedures acceptable to the appropriate Village departments.

B. The applicant may be required to post performance bonds or letters of credit in sufficient amounts and duration to assure that all public improvements shown on the site plan are installed. The sufficiency of such performance bonds or letters of credit shall be determined by the Planning Board, Building Inspector, Code Enforcement Officer or other appropriate party.

§360-5.21 Project phasing and improvements

A. Any public amenity, improvement, or infrastructure upgrade (public benefit feature) to be included as part of one or more phases of a proposed site development plan, special permit, or subdivision (development action) must be completed simultaneously to the corresponding phase of that development action.

(1) Public benefit features proposed to accompany a phase of a development action include:

(a) The provision of street improvements such as street signs, sidewalks, streetlights, curbs, gutters, street trees, and parking spaces for long-term use beyond that which is required to serve the specific development action and designed to enhance streetscapes, traffic flow and connectivity in the Village.

(b) The provision of special design amenities available for public use and enjoyment which would enhance the function and/or appearance of the Village, including but not limited to pedestrian linkages, walking trails, plazas, fountains, artworks, seating and other passive recreation areas, special landscape design features and other such similar improvements; conversely, the removal of existing features which detract from the function and/or appearance of said area, including but not limited to overhead utility lines, unattractive structures and other such features.

(c) The provision of indoor or outdoor recreation amenities available to the general public.

(d) The provision of water mains, fire alarm signal devices, including necessary ducts and cables or other connecting facilities, sanitary sewers and storm drains or combined sewers.

B. Requirements. Any development project proposed to be constructed in one or more phases must include a phasing plan, in accordance with §360-4.12, which outlines the provision of all public benefit features corresponding with each phase of the proposed action. Upon completion of a development phase, no Certificate of Occupancy or Temporary Certificate of Occupancy shall be granted for a project until the public benefit features coinciding with the completion of that phase are finalized.

§ 360-5.22 **Development incentivesBuilding floor area bonus program and related fees.**

A. Purpose. The purpose of the building floor area bonus program is to permit increases in allowable density in exchange for funding public improvements in a designated geographic area within the Village.

B. General regulations.

(1) Development incentive programs areThe bonus program is available in the DMU-1 Downtown Mixed Use and WF Waterfront Zoning Districts by special permit only, and is subject to approval by the Village Board of Trustees.

(2) Only new developments are eligible for the bonuses unless otherwise approved by the Village Board of Trustees.

(3) Buildings using bonus floor area must not exceed the maximum height limits in the applicable district except when permitted through special permit.

C. Bonus floor area option.

(1) In the DMU-1 Downtown Mixed Use and WF Waterfront Zoning Districts, additional development potential in the form of floor area can be earned for a project through the payment of a fee as specified herein. The bonus floor area amount is additional to the maximum floor area ratio in the WFrespective Ddistrict. The fee associated with a special permit to allow bonus floor area shall be calculated at a minimum of 10% of the market value of the bonus floor space proposed, as determined by the Town Assessor.

(2) In the DMU-1 Downtown Mixed Use District, use of the height incentive specified in § 360-2.4B (2)(b) may result in a fourth floor not allowed as-of-right. Any floor area created by the allowance of the fourth floor shall not result in total floor area that exceeds the maximum allowable under the DMU-1 District, as specified in 360 Attachment 2, Table 4-1 (Dimensional Standards). Use of the height incentive shall be dependent upon the payment of a fee, in addition to provision of the amenities specified in § 360-2.4B (3). Such fee shall be calculated at a minimum of 10% of the market value of any additional fourth-floor space proposed, as determined by the Town Assessor.

(2) The fee associated with a special permit to allow bonus floor area shall be calculated at a minimum of 10% of the assessed value of the bonus floor space proposed, as determined by the Village Assessor.

(3) All funds collected as part of any special permit to allow bonus floor area shall be kept by the Village in a separate account dedicated to one or more public improvements that will be specified when the special permit is granted. Said public improvements will be located in a specific geographic area within the Village as specified by the Planning Board and with regard to the location of the permitted bonus floor area.

Definitions

§ 360-6.1 Words defined.

As used in this chapter, the following terms shall have the meanings indicated:

BREW PUB

A restaurant containing a microbrewing facility for the brewing and storage of beer only, primarily for consumption on premises. Such brewing facilities shall be accessory to a restaurant.

DMU OVERLAY ZONE

~~A special overlay zoning district which reflects the downtown streets in the Village's core retail area as specified in the Comprehensive Master Plan. The DMU Overlay Zone is identified on the map in Chapter 360 Attachment 6.~~

~~[Added 5-8-2014 by L.L. No. 2-2014]~~

LIVE/WORK SPACE

A building or spaces within a building used jointly for commercial and residential purposes where the residential use of the space is secondary or accessory to the primary use as a place of work.

MICROBREWERY

A brewing establishment which brews fewer than 15,000 barrels or fewer than 30,000 kegs per year.

SOLAR ENERGY COLLECTOR

A device or combination of devices which relies upon solar radiation as an energy source and that is employed for the purpose of heating or cooling a building, the heating of water or the generation of electricity.

TREE, SIGNIFICANT

~~A tree at least ~~eight~~ twelve (12) inches in diameter as measured at breast height and located within a Public Right of Way or within five (5) feet of a property boundary, six inches above the highest root stem; or a tree, shrub, hedge or plant shown or described to remain or be planted on a proposed or approved planting plan, landscape plan, site plan, subdivision plan or a plan approved by the Planning Board or Zoning Board of Appeals; or a tree, shrub, hedge or plant required to be planted in satisfaction of the requirements of § 360-4.7 of this chapter.~~

USABLE OPEN SPACE

An unenclosed portion of the ground area of a lot which is not devoted to driveways or parking spaces, which is free of structures of any kind, of which not more than 25% is roofed for shelter purposes only, the minimum dimension of which is 20 square feet and which is available and accessible to all occupants of the building or buildings on the said lot for purposes of active or passive outdoor recreation. Accessory building roof space may be substituted for ground space, provided that such space is available and accessible to all said occupants.

Attachments:

[Attachment 1 - Table 3-1, Permitted Use](#)

Amend header for Mixed Use District "RO" to read "OMU"

Commercial	DMU	RMU	OMU
Brew Pub	S	S	-
Live/Work Space	P	P	P
Microbrewery	S	S	-

[Attachment 2 - Table 4-1, Dimensional Standards](#)

	DMU-2
Minimum front setback (feet)	5(p)

(p) In all cases the building must be set back at least 10 feet from the curb line.

Attachment 3 - Table 4-2, Minimum Parking Requirements

Commercial

	DMU	RMU
Bank	<u>1 per 300</u> <u>square feet</u>	<u>1 per 300</u> <u>square feet</u>

Attachment 4 - Zoning Map

Attachment 5 - View Protection Corridors

~~Attachment 6 - DMU Overlay Zoning District Map~~

360 Attachment 2
Village of Nyack
Table 4-1 Dimensional Standards

	SFR-1	SFR-2	TFR One-Family	TwoFamily/TFR Not-ForProfit Ambulance Facilities and Accessory Apartments	MFR-1	MFR-2	MFR-3	DMU-1	DMU-2	RMU	OMU	CC	WF	M	H
Minimum lot area (square feet)	7,500	5,000	5,000	10,000	20,000	20,000	40,000	—	—	7,500	7,500	7,500	—	—	40,000
Minimum lot width (feet)	50	50	50	75	100	100	100	—	—	25	50	60	25	50	200
Minimum street frontage	100	100	100	—	25	50	60	25	25	50	—	—	—	—	—
Minimum lot depth (feet)	—	—	—	100	100	100	—	—	—	—	—	—	—	—	200
Minimum front setback (feet)	(c)	(c)	(c)	(c)	30	30(a)	20(b)	—	5(p)	—	—	15 (q)	10	20	(n)
Minimum side setback (one) (feet)	(l)	(l)	(l)	(l)	25	20(a)	20	(f)(k)	(f)(k)	10	10	(f)(k)	10(i)	20	(n)
Minimum side setback (both) (feet)	(e)	(e)	(e)	(e)	50	20	40(b)	(f)(k)	(f)(k)	20	20	-(k)	20	40	(n)
Minimum rear setback (feet)	(d)	(d)	(d)	(d)	30	25(a)	20(b)	(g)(k)	(g)(k)	15	25	25(k)	—	20	(n)
Building height (stories)	2	2	2	2	3	4	8	3	3	2	2	2	n/a	2	3 1/2
Building height (feet)	32	32	32	32	40	50	85	40	40	32	35	35	35	35	40(o)
Maximum building length (feet)	—	—	—	—	160	160	160	—	—	—	—	—	—	—	—
Maximum floor area ratio	—	—	—	—	—	—	—	2	2	0.75(h)	0.5	0.5(j)	0.65	1	1.2
Minimum usable open space (per du)	1,500	1000	1000	500	360	100	100	—	—	—	—	50	—	—	n/a
Maximum density (du/acre)	—	—	—	—	14	30	50	50	50	18	—	24	—	n/a	—
Minimum dwelling unit size (square feet)	900	900	900	750	600	600	600	600	600	600	600	—	600	—	—
Accessory buildings															
Minimum front setback	See §360-3.2E(1)														
Maximum building height	12	12	12	12	12	12	12	12	12	12	12	12	12	12	—
Maximum building coverage	7%	7%	7%	7%	—	—	—	—	—	—	—	—	—	—	31%

Dimensional standards table notes:

- (a) Or 1/2 the height of the building, whichever is greater
- (b) In all MFR-3 districts where federal or state-assisted housing developments are involved the Planning Board may vary the minimum parking requirements (not to exceed a fifty-percent reduction of the minimum requirement), without the need for a variance, so as to achieve proper development of the site.
- (c) The front setback should be 20% of lot area divided by lot width.
- (d) 30% of lot area divided by lot width
- (e) 30% of lot width.
- (f) None required, but if provided a minimum of five feet is required.
- (g) A rear yard is not required for the first story or 17 feet, whichever is less, but there shall be a fifteen-foot minimum under other conditions.
- (h) For a lot 15,000 square feet or greater in area, the maximum floor area ratio may be increased from 0.75 to 1.0 with a special permit from the Planning Board for mixed use. The Planning Board shall also be permitted to provide a third story at a maximum height of 40 feet for a project that is certifiable under an appropriate LEED or similar program.
- (i) For properties with water frontage, the applicable yard requirements shall be measured from the mean high-water line.
- (j) For a lot 40,000 square feet or greater in area, maximum floor area ratio shall be 0.6 and maximum building coverage shall be 45%.
- (k) Side and rear yards that are adjacent to residential zones must have a minimum setbacks of 15 feet including a landscaped buffer.
- (l) The minimum side yard shall be five feet or 10% of the lot width, which ever is larger.
- (m) The minimum habitable floor area in an efficiency dwelling unit shall be 450 square feet and 600 square feet for a one-bedroom unit.
- (n) The minimum setback from the street line must be a minimum of 15 feet except where a structure in an H district faces a street occupied by one- or two-family residences on the opposite side, the structure must be set back a minimum of 25 feet.
- (o) Building height may be increased two feet for each additional foot of setback from surrounding streets, provided that in no case shall a structure exceed six stories or 72 feet.
- (p) In all cases, the building must be set back at least 10 feet from the curb line.
- (q) In all CC districts, the minimum front setback from the street line must be a minimum of 15 feet, with a maximum setback of 25 feet.