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Local Law #1 of 2016

A Local Law to amend Section 360-2.5 (B) of the Zoning Ordinance of the Village of Nyack as pertains to the WF Zoning District.

Legislative Statement:

On April 2, 2015, the Nyack Village Board received a Petition (and supporting documentation) from an entity known as TZ Vista, LLC, seeking to amend section 360-2.5(B) of the Zoning Code of the Village of Nyack, which section contains the zoning requirements applicable in the Waterfront Development District (WF Zoning District) in Nyack.

Nyack Zoning Code section 360-5.6, entitled "Amendments to this chapter", together with other provisions of the New York State Village Law, govern amendments to municipal zoning ordinances, and authorize a Village Board to consider zoning text amendments proposed by Petition to the Board.

Upon receipt of the Petition, the Village Board, in compliance with the provisions of its local law governing Petitions to amend the zoning text, referred the Petition for review and comments to the Nyack Planning Board (required by Village Code section 360-5.6(B)(3)(a)), and to the Rockland County Department of Planning (required by Village Code section 360-5.6(B)(3)(b), and General Municipal Law 239 (L) & (M)). Additionally, the Village Board sought comments on the Petition from the Village of Nyack Planning Consultant Robert Galvin, as well as from BJJF Planning Consultants (an experienced private consulting firm previously retained by the Village of Nyack to provide professional expertise in planning, design, environmental analysis, real estate and transportation).

Furthermore, the Village Board sought comments from the public on the Petition, and held a noticed (and very well attended) "Public Intake Session" relative to the Petition on October 1, 2015, at which time the Village Board received and considered extensive comments from both the Petitioner and members of the public on the Petition itself, as well as comments as to the public's opinions regarding any potential development in WF Zoning District under both the current and proposed zoning text itself. It was very clear that there were a wide range of opinions expressed at the Public Intake Session, both in support of and in opposition to the text amendment proposed in the Petition. Additionally, there were varied opinions expressed on the general issue of development in the WF Zoning District, both in support and in opposition to development in general (including opinions that the land should be acquired by the Village and designated as parkland).

The comments of the aforementioned Boards, individuals, and entities, as well as the transcript from the public meeting held on October 1, 2015, are incorporated by reference into this Legislative Statement.

The recommendations and comments referenced in this Legislative Statement were purposefully sought by the Village Board because the Board sought to assess all input and opinions, from the Planning Board, from objective professional planners (both public and private), as well as from members of the public, prior to even deciding whether the Board would schedule a Public Hearing to consider adopting the text amendment set forth in the Petition.

On October 8, 2015, at a regularly scheduled meeting of the Village Board, the Board reported on the status of the Petition, and decided:

1. That it would not proceed to schedule a Public Hearing on the Petition for a zoning text amendment submitted on April 2, 2015 by TZ Vista, LLC;
2. That while much of the land located within the WF Zoning District is developed, there is undeveloped private land within the district on which multi-family residential development is permitted by right under current zoning regulations, with limited municipal control over the design and public access features of such development; and,

3. That although the Village Board would not proceed with a Public Hearing the TZ Vista, LLC text amendment Petition, it was in the best interest of the Village as a whole for the Village Board itself to develop and propose, in consultation with its design professionals and staff, text amendments in the WF Zoning District that would focus on what the Board concluded in their legislative capacity were the most significant issues raised in the professional and public input on the potential for development in the WF Zoning District:

- (i) The development and inclusion of design guidelines applicable any proposed development in the WF Zoning District, including but not limited to building design, materials, underground parking, and building height, and
- (ii) Inclusion of better defined provisions for meaningful public access and amenities to be provided with any development in the WF Zoning District.

Therefore, following the October 8, 2105 Village Board meeting, the Village Planner and Planning Consultants developed design guidelines for inclusion in the text of the zoning regulations for the WF Zoning District.

Local Law #1 of 2016

A local law to amend Section 360-2.5(B) of the Zoning Ordinance of the Village of Nyack as pertains to the Waterfront Development District

Chapter 360-2.5 of the Zoning Code, entitled "Other Districts", specifically, section 360-2.5(B), entitled "Waterfront Development District (WF), shall be amended to read as follows:

...

B.

Waterfront Development District (WF).

(1)

Purpose. The purpose of the WF District is to provide for and encourage uses along and near the Hudson River related to and appropriate for a waterfront area. The zoning district is intended to encourage a proper balance of uses in and near the waterfront by facilitating water-dependent uses where public access will be provided, and to preserve the aesthetics and ambiance of the area. In order to provide a district in which commercial uses at the shoreline will be compatible with other waterfront uses and objectives and encourage the overall development of the Village, the specific intent of this section is to:

(a)

Maximize the utilization of waterfront land by water-oriented uses which require a waterfront location.

(b)

Regulate uses that may be enhanced by a location along or near the shoreline but do

not require a waterfront location.

(c)

Maximize physical public access from the land to and along the Hudson River shoreline.

(d)

Protect water quality, fish and wildlife, scenic views and natural vegetation and enhance aesthetic resources to the greatest feasible extent.

(e)

Encourage the development of permitted uses to incorporate the Development Incentives and Design Guidelines set forth in §360-2.5(B)(2)(c).

(2)

District specific standards.

(a)

Site development plan approval. All buildings and other uses of land within the WF District shall be subject to review by the Planning Board in accordance with the provisions of § [360-5.7](#), and subject to review by the Village Board if an application for development in the WF Zoning District seeks a Special Permit under §360-2.5(B)(2)(c). In addition to the considerations set forth in § [360-5.7](#), the Planning Board shall consider the following factors for review:

[1]

The quality and extent of views from the adjacent public streets through the property to the Hudson River.

[2]

The design and relationship of development to the waterfront as viewed from the

Hudson River.

[\[3\]](#)

The design and function of any easement or other access provided to the water's edge, including new bulkheading.

[\[4\]](#)

The eligibility of proposed development to utilize any of the development incentives set forth in § [360-2.5B\(2\)\(c\)](#).

[\[5\]](#)

The consistency of such incentive features with the Village's Comprehensive Master Plan and related studies and plans adopted by the Village Board of Trustees.

[\[6\]](#)

The quality of design of the proposed development to the extent that the the design incorporates Development Incentives or Design Guidelines set forth in §360-2.5(B)(2)(c), or as determined by the Architectural Review Board in accordance with its review in accordance with § 360-5.15C.

[\(b\)](#)

Special bulk requirements. The following requirements shall apply to all development within the WF District:

[\[1\]](#)

Building height. No buildings or structures shall be erected to a height in excess of 35 feet, except as provided in § [360-2.5B\(2\)\(c\)\[1\]](#). In the WF zone, height shall be measured from the curb line of the street abutting the front yard and parallel to the Hudson River.

[\[2\]](#)

Building width. The total cumulative width of buildings, structures, fences or walls

more than 30 inches in height shall not occupy more than 50% of the width of a parcel as measured along a line parallel to the adjacent street measured at the front yard. Of the remaining open area, one uninterrupted space shall be at least 30% of such parcel width, unless the parcel provides more than one view corridor as required in § [360-2.5B\(2\)\(b\)\[4\]](#).

[\[3\]](#)

Riverfront setback. An average setback of 50 feet shall be provided from any buildings or structures on a lot to the normal high-water line of the Hudson River unless its design requires a location closer to such water line, as determined by the Planning Board. No part of any building or structure shall be closer than 15 feet to the normal high-water line.

[\[4\]](#)

View corridor. In addition to any general requirements required by the View Protection Overlay District established in § [360-4.4B](#), the following specific requirements apply within the WF District:

[\[a\]](#)

A view corridor to the Hudson River shall be maintained at the intersection where each street intersects Gedney Street or Piermont Avenue and at the northerly end of Gedney Street.

[\[b\]](#)

Such view corridor shall have an unobstructed width of at least 50 feet at the street line and 100 feet at a distance 300 feet from such street line, measured perpendicular to the center line, extended, of such intersecting street. Such view corridor shall be unobstructed as to height; however, buildings may be located in this corridor if their highest elevation is below that of the mean elevation of the adjacent street line.

[\[c\]](#)

No parking shall be allowed in the view corridor unless it is screened from view, and any landscaping within the view corridor shall be maintained at a height no greater than four (4) feet from the mean level of the street line within the view

corridor. Landscaping, trees, trellises, and hedges may exceed four feet with Site Plan approval; evergreen landscaping shall be required.

(c)

Development incentives by Special Permit. In order to encourage development which promotes the purposes for which the WF District has been established and to achieve the Design Guidelines outlined in §360-2.5(B)(2)(c)[6], the following exceptions to the bulk requirements set forth above and in the lot and bulk regulations for the WF District may be permitted by the Village Board by the issuance of a Special Permit approving the same. Any Development Incentives approved by the Village Board are applicable only to the Site Plan Application for which they have been approved. Such Site Plan application and Special Permit application must be accompanied by an Environmental Assessment Form (EAF) that evaluates the environmental impacts of the exceptions to the bulk regulations. Viewsheds shall be preserved per §360-2.5(B)(2)(b)(4).

[1]

Building height may be increased to no more than 52 feet under the conditions as follows:

[a] Maximum height may be increased by five feet for each five-percent reduction of maximum permitted average building width, up to a maximum of 52 feet (e.g., if average building width is 45%, maximum permitted height is 35 feet; if average building width is 40%, maximum permitted height is 40 feet); and,

[b] For the any front yard step back, A at a height of 22-24 feet, the building must step back 5 feet and at a height of 40-42 feet the building must step back an additional 5 feet. Alternatively, the building may step back a total of 10 feet at a height of 40-42 feet.

[c] Notwithstanding the provisions of this subsection, in the case of a building exceeding 40 feet in height, the exceptions to height limitations set forth in § 360-4.2C(2), as amended, shall not apply be limited to four feet except for a stairwell bulkhead.

[\[2\]](#)

Building width may be increased to a maximum of 60% of the width of a parcel if the parcel provides more than one two view corridors and a maximum of 70% of the width of a parcel if the parcel provides three or more view corridors as required in § [360-2.5B\(2\)\(b\)\[4\]](#).

[\[3\]](#)

Floor Area Ratio (FAR) and density. FAR may be increased to no more than 1.50 if the Site Development Plan:

[a] Provides Special Waterfront Improvements open to the public specifically incorporating the Development Incentives set forth in §360-2.5(B)(2)(c)[5]; and

[b] Incorporates the Design Guidelines for the Waterfront as set forth in §360-2.5(B)(2)(c)[6][a]-[c].

[c] Notwithstanding the provisions of this subsection, residential density shall not exceed 35 residential units per acre.

[4] Parking located underground.

[a] Required parking spaces per unit, when provided underground, shall be:

1.0 per EU

1.25 per 1 BR

1.75 per 2 BR

2.0 per 3 or greater BR

[b] All resident parking in excess of one space per unit shall be unreserved and available for shared parking use.

[c] In addition to the resident parking spaces required by § 360-2.5B(2)(c)[4][a], a

minimum of 10% additional public parking spaces shall be provided on site or within 200 feet of the site (written proof of the availability of such parking in a form acceptable to the Village Attorney shall be provided to the Building Department) .

[5] Waterfront Access. Waterfront access shall be provided per requirements in the WF Design Guidelines, including a pedestrian walkway, one water dependent amenity and a retail, /restaurant, coffee shop or other food and beverage related use adjacent to the pedestrian walkway. Setback from the Hudson River shall comply with section § 360-2.5(B)(2)(b)[3] but shall specifically meet the following:.

[a] Minimum 50 foot setback of any buildings from the normal high-water line of the Hudson River.

[b] Of the 50 foot setback, 30 feet must be open to the public.

[c] Of the 30 feet open to the public, a 15 foot wide continuous walkway must be provided.

[d] For the above public space, an open space easement shall be provided, acceptable to the Village Attorney, that guarantees held by an independent third party entity must be provided to guarantee that the public area is maintained as open space in perpetuity. Such open space may also be designated as parkland. The upkeep and maintenance of the open space shall be the responsibility of the developer and/or Homeowners Association.

[6] Design Guidelines. In determining whether to approve the Development Incentives identified in §360-2.5B(2)(c)[1]-[5], the Village Board of Trustees will consider the extent to which the following Design Guidelines are achieved.

[a] Gedney Street

i. Location and Orientation.

a. Buildings should be set back a minimum of 10 feet and a maximum of 15 feet from the property line, and no building on Gedney Street should have a rear facing facade.

- ii. Landscape Treatment.
 - a. Front yards should be landscaped with appropriate transition elements between the sidewalk and the adjacent ground level private dwelling units.
 - b. Front yards should be designed in a manner consistent with the front yards of other residential front yards in the area north of Main Street.

- iii. Building Facades and Massing.
 - a. Building façade materials should be comprised of stone, stone veneer, brick, fiber cement panels, or wood. Stucco, exterior insulation finishing systems (EIFS) are discouraged.
 - b. Facades along Gedney Street may have a maximum of fifty percent glass below thirty-five feet and a maximum of seventy-five percent glass above thirty five feet.
 - c. Visual impact of larger windows should be reduced through the use of vertical subdivision of frames
 - d. Reflective glass (excluding low-E glass, Solarban, and similar lightly tinted glass types) is prohibited.

 - e. Parking structures facing a public street or other publicly accessible area should be architecturally integrated into the principal building using techniques such as an exterior clad in brick, architectural metal panels, solar panels, a window-like facade treatment, or “liner” buildings, i.e. buildings located in front of the parking garage that screen the garage from public view.

[b] Main Street

- i. Location and Orientation.
 - a. Buildings should be set back a minimum of 10 feet from the sidewalk.
 - b. Buildings along Main Street should address the corner of Main Street and

Gedney Street, while allowing for access and views out to the river from Main Street approaching the corner of Main and Water Street.

ii. Landscape Treatment.

a. Main Street frontage should have a maximum of one curb cut for garage access and refuse vehicles.

b. Curb cuts should be a maximum of twenty four feet wide.

c. Landscaped area along Main Street should be designed to orient and distribute pedestrians to either the Claremont Pier or the new waterfront walkway and create a gateway to both of these riverfront places.

d. The entrance to the pedestrian access to the riverfront should be designed to clearly communicate the public nature of the pedestrian path. The entrance may include a landscape feature such as a gate, trellis, and/or a small seating area.

e. Access lanes for fire trucks and other public safety vehicles may be incorporated into the pedestrian paths and are encouraged to incorporate grass-crete/cellular grass paving system or similar treatment to avoid the appearance of excessive pavement

iii. Building Facades and Massing.

a. Buildings along Main Street should step back a minimum of ten feet over a height of thirty-five feet from the adjacent grade.

b. Materials should be comprised of stone, stone veneer, brick, fiber cement panels, or wood. Stucco, exterior insulation finishing systems (EIFS) are discouraged.

c. Facades along Main Street may have a maximum of fifty percent glass below thirty-five feet and a maximum of seventy-five percent glass above thirty five feet.

- d. Visual impact of larger windows should be reduced through the use of vertical subdivision of frames
- e. Reflective glass is prohibited. Parking structures facing a public street or other publicly accessible area should be architecturally integrated into the principal building using techniques such as an exterior clad in brick, architectural metal panels, solar panels, a window-like facade treatment, or “liner” buildings, i.e. buildings located in front of the parking garage that screen the garage from public view.

[c] Waterfront

i. Access.

a. Pedestrian access to the riverfront should be provided a minimum of every 200 feet from the nearest adjacent east-west street, and preferably align with streets east-west streets intersecting with Gedney.

b. A public waterfront area shall be provided of a minimum of 30 feet wide along the entire length the waterfront. Within that public area, a pathway shall be provided of a minimum of 15 feet or as dictated by the fire department to ensure access for emergency vehicles.

ii. Landscape Treatment.

a. Entrance to the pedestrian access to the riverfront should be designed to clearly communicate the public nature of the pedestrian path. The entrance may include a landscape feature such as a gate, trellis, and/or a small seating area.

b. Access path should: incorporate a small seating/passive recreation area a maximum of 75 feet from Gedney Street right of way; use landscape elements such as planting, grading, garden walls, or decorative fencing to establish an implied transition between the public right of way and adjacent private dwelling units; incorporate trees/planters for shade and pedestrian comfort, a minimum of every thirty feet.

- c. Vertical transition to the riverfront should employ steps incorporating landscaping, terraces, and garden walls.

- iii. Building Facades and Massing.
 - a. Facades located more than thirty-five feet from Gedney Street may have a maximum of seventy-five percent glass.
 - b. Visual impact of larger windows should be reduced through the use of vertical subdivision of frames.
 - c. Reflective glass is prohibited.
 - d. Penthouses should be incorporated into the overall massing concept of the building.
 - e. Buildings should be massed to create a distinctive roof silhouette characteristic of downtown Nyack buildings
 - f. Parking structures facing a public street or other publicly accessible area should be architecturally integrated into the principal building using techniques such as an exterior clad in brick, architectural metal panels, solar panels, a window-like facade treatment, or “liner” buildings, i.e. buildings located in front of the parking garage that screen the garage from public view.

[\(d\)](#)

Determination of lot area. To determine the maximum number of residential dwelling units that can be allowed on a parcel of land within the WF District, and for all other uses, the lot area of the site shall be determined by subtracting from the gross acreage of the site the following:

[\[1\]](#)

Land below the normal high-water line of the Hudson River.

[\[2\]](#)

Land shown to be in the floodway or coastal high-hazard area (A and B Zones) of the Federal Emergency Management Agency's Flood Boundary and Floodway Map or Flood Insurance Rate Map.

[3]

Land located within an easement that precludes development.

(e)

Public access. Permanent public access must be provided from the adjacent public street to and along the Hudson River if the property is used for any of these uses: multifamily dwellings, art gallery, arts/crafts studio, bar or tavern, bed-and-breakfast, inn, hotel or motel, office-general, restaurant, retail sales and service, or public utility structure. Such access, in the form of a permanent easement, shall be at least 12 feet wide for at least 75% of its length and shall extend along the normal high-water line of the Hudson River for the width of the property and shall be part of a continuous connection between the north and south boundaries of the property. Porous pavement material, such as cobblestone, brick, etc., suitable for pedestrian use, at least six feet wide, shall be provided for the entire length of the easement; suitable landscaping shall also be provided. The access easement shall provide for permanently unobstructed views or vistas of the Hudson River along its entire length. Provision satisfactory to the Village Board shall be made by the property owner for maintenance of the public access.

(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.

This Local Law shall be effective immediately upon filing with the Secretary of State.