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March 10, 2016

By email: bobgalvin@nyack-ny.gov

Mr. Bob Galvin
Village of Nyack
9 N. Broadway
Nyack, NY 10960

Subject: Local Law #1 of 2016: Consistency with Nyack's Comprehensive Master Plan and Revitalizing Hudson Riverfronts

Dear Mr. Galvin:

Scenic Hudson is writing to provide comments on Local Law 1 of 2016, which is intended to amend certain provisions of Nyack's important WF zoning district. We offer these comments in the context of Local Law #1 of 2016 as it relates to Nyack's Comprehensive Master Plan and guidance provided by *Revitalizing Hudson Riverfronts*, our award-winning, Smart Growth Guide for riverfront conservation and development.

These comments are not intended to address the merits of any proposed development project in the WF District. Such projects should be evaluated through the Village's approval process.

Nyack's Comprehensive Master Plan

Adopted in 2007, Nyack's Comprehensive Master Plan <http://nyack-ny.gov/dev/wp-content/uploads/2011/06/nyackfinalcmp.pdf> was its first in 40 years. Generally, master plans outline a community's shared vision. Local laws, including zoning must be consistent with the master plan.

Nyack's Comprehensive Master Plan addresses four issues: Downtown, Gateway, Residential and Waterfront. The Waterfront component identifies four objectives:

- Protect views and improve connections between the waterfront and the rest of the Village, particularly downtown;
- Enhance Memorial Park, with better lighting, security, access, and amenities;
- Provide additional waterfront parks and access opportunities; and
- Make Nyack more of a destination for low-impact boating and other water-oriented activities.

The plan recommends that Memorial Park remain the central gathering place for village residents and visitors with a wide array of activities, but also states that, when possible,

decentralizing certain recreational uses would reduce impacts on immediate neighbors and provide opportunities elsewhere on the waterfront. The plan also calls for a Riverwalk along the entire village waterfront. In addition, the plan recommends creating small viewing point parks at the foot of Fourth Avenue, Second Avenue, First Avenue and at the northern tip of Gedney Street. According to the plan these parks would be pursued only in connection with redevelopment or other privately initiated actions on these sites.

The plan also recommends public acquisition of undeveloped parcels along the waterfront, stating that Nyack is deficient in waterfront parkland. The plan identifies a possible County or Town riverfront park north of Main Street. However, the plan also recognizes the financial constraints related to acquiring these privately-owned parcels. Hence, the plan states until these parcels can become a park—or if the parcels cannot become parkland—that existing zoning should remain in place for these parcels and that additional guidelines should be adopted that promote extension of a riverside walkway.

The plan recommends other objectives, including the purchase of development rights from adjoining recreational sites such as the Nyack Boat Club, preservation of water views from upland cross-streets, and creation of architectural comparable to the upland historic district. The plan also recommends that additional water-oriented activities such as watercraft rentals, water taxi stops, tour, boat launches, and beaches be established along the waterfront.

In late 2015 Nyack embarked upon a public process to update its Comprehensive Master Plan. The plan includes in its vision statement an objective “to enhance its Hudson River waterfront as a vital and attractive resource that should be fully accessible and enjoyed by all.” The Village of Nyack’s website makes many planning documents available to the public, including a village survey, timelines, meeting summaries, and drafts several chapters. This should help the public to meaningfully participate in the Comprehensive Master Plan update process.

Ideally, the Comprehensive Master Plan update should be completed before amendments are made to individual zoning districts. However, if there are compelling reasons to adopt text amendments before the Master Plan update is complete, the amendments should be consistent with the existing Comprehensive Master Plan.

Revitalizing Hudson Riverfronts

As a preface to this analysis, it is important to understand some of the key principles of Revitalizing Hudson Riverfronts and how they relate to Nyack’s waterfront. These principles—strategies, tools, and techniques—should be used as guidance and are not intended to be applied as inflexible engineering standards. The ideas offered in this guide are intended to provide the foundation for a robust public planning process that will result in healthy, prosperous communities.

First and foremost, *Revitalizing Hudson Riverfronts* is based on the “Smart Growth” premise that directs development to existing built areas that are served with public infrastructure, such as the WF District. Chapter 1 contains strategies, tools, and techniques that encourage development of infill parcels with a mix of uses, development near transportation hubs, and

remediating brownfield sites so they can be reclaimed and put back to productive use. While Chapter 1 recognizes the need for development in areas with existing infrastructure, it is equally important that the quality and scale of development fits the community and that meaningful public access is provided continuously along the shore.

Waterfront land, such as the WF District, is in short supply and balances must be struck between competing uses. As a result, Chapter 2 encourages water-dependent uses (such as ports, marinas, ferry terminals, etc.) that require a waterfront location as well as water-enhanced uses. Water-enhanced uses do not require direct access to the water but their waterfront location adds to the public's use and enjoyment of the water's edge. These uses include restaurants, museums, hotels, parks, or a mix of uses such as residential, office and/or retail.

Chapter 2 also recommends 75 to 100' setbacks from the shoreline where feasible to avoid the sense of buildings looming over the shoreline. In addition, adequate width is essential to provide room for a riverfront greenway, public access and for a waterfront resilient to sea level rise, storm surge and flooding. It should be noted, however, that some riverfront sites do not provide sufficient width for these setbacks and in such cases design guidelines that outline building design, heights, should be used to mitigate shorter setbacks where necessary.

Connecting people to the Hudson River has long been a goal of Scenic Hudson. Hence, Chapter 3 outlines a variety of ways that access can be provided, such as a waterfront esplanade, park, fishing pier, "get down," or boat launch. Note that it is not necessary that every parcel provide each type of access. Local officials, developers, residents, and stakeholders should work together to identify the appropriate locations and uses as per the needs of the community and financial feasibility of each opportunity.

Protecting Natural Resources (Chapter 4) applies to both rural and urban areas. In urban areas, such as Nyack's WF District, the guide offers guidance with respect to effectively managing stormwater. This is best accomplished by minimizing the amount of impervious surfaces by using low impact development techniques and green infrastructure. It is also important to minimize size of surface parking lots—or better yet, use structured or underground parking or porous pavement. Whenever possible waterfront sites should incorporate "soft" vegetated shoreline treatments that provide aquatic habitat. Vertical bulkhead and sheet piling should be avoided unless necessary for port facilities.

Chapter 5 provides guidance on protecting scenic resources. In urban areas such as the WF District, maintaining view corridors down streets perpendicular to the shore helps provide views of the Hudson River and avoids the "wall of buildings" effect. Building heights should reflect and enhance community scale and character. *Revitalizing Hudson Riverfronts* recognizes that each community is different and does not prescribe maximum building heights. These should be determined on a case-by-case basis through an open public planning process. Finally, visual analyses, including computer generated visual simulations should be prepared in order that planning boards and the public understand what a project will look like in its context and that there are no surprises when development occurs.

Chapter 6, Promote Good Urban Planning and Urban Design, ties together many of the Smart Growth principles throughout the guide. Much of the guidance in Chapter 6 applies to Nyack's WF District: encouraging infill development, using public planning processes to make planning decisions, promoting a mix of uses (including a diversity of housing options), providing prominent public spaces to support community life, creating strong connections to the river and pedestrian-friendly streets and spaces, promoting designs that complement local architecture and heritage, incorporating innovative parking solutions, and low impact lighting. Chapter 6 also encourages sustainable building design by developing buildings that meet LEED (Leadership in Energy and Environmental Design) Standards. This is important to lower our carbon footprint and help mitigate against the climate change.

Local Law #1 of 2016

Local Law #1 of 2016 is intended to address a serious deficiency in the existing WF District related to building setbacks from the Hudson River and the Village's ability to require continuous and meaningful public access along the shore. As a result, the text amendment provides greater consistency with Nyack's Comprehensive Master Plan and *Revitalizing Hudson Riverfronts*. For example, under the provisions of the current WF District, the existing zoning allows an average riverfront setback of 50 feet and, if the Planning Board deems necessary, buildings as close as 15 feet to the river (Section 360-2.5 (B) (2) [b] [3]). This is problematic as it could result in an unnecessarily narrow public riverfront with awkward pinch points private and restrict the public's enjoyment of the Hudson River.

Under the provisions of the proposed Local Law #1 of 2016 (Section 360-2.5.B.(2)(c)), a Special Permit could be granted that would enable applicants to receive development incentives in exchange for amenities that have been identified in the Village Comprehensive Master Plan as goals for the waterfront. These goals, including enhanced public access and design guidelines, are also consistent with *Revitalizing Hudson Riverfronts* principles. The incentives would allow an increase in building heights from 45 feet to 52 feet and increase permitted Floor Area Ratio (FAR) from 0.9 to 1.5. In exchange for these incentives, applicants would be required to provide a 50-foot minimum setback, 30 feet of which must be open to the public. In addition, a 15-foot wide continuous walkway must be provided. This offers a substantial improvement over the existing provisions in the WF District and helps advance the goals of the Village's Comprehensive Master Plan and *Revitalizing Hudson Riverfronts*.

In addition, the text amendment requires (Section 360-2.5. B. (2) (c) [5]) that the public riverfront is permanently protected under a conservation easement, that it may be designated as parkland, and that the upkeep and maintenance of the open space shall be the responsibility of the developer and/or Homeowners Association. The requirement for maintenance of the public open space is extremely important as it has been our experience that when parks are created, a mechanism is not always in place for ongoing maintenance. This can result in poorly maintained—and possibly dangerous—parks that the public may not use.

In order for an applicant to avail themselves of the development incentives, underground parking must be provided and strict design guidelines must be met. Provision of underground

parking is important because this limits the amount of impervious surfaces and stormwater runoff, as well as avoids the visual impact of large expanses of parked cars on the riverfront. Both of these are objectives of *Revitalizing Hudson Riverfronts*. The design guidelines are comprehensive and cover architectural design, building setbacks, massing, landscaping, facades and massing, and pedestrian access.

We recommend that the design guidelines also include provisions to ensure that site plans provide for resilience to sea level rise, storm surge and flooding. In the WF District a 75-foot mostly vegetated greenway corridor should be provided, where feasible. Along the shoreline a vegetated buffer should be left intact or provided (*Revitalizing Hudson Riverfronts*, page 18). In addition, the design guidelines should require soft shoreline treatments and rip rap. Engineered or vertical sheet pile bulkheads should be prohibited unless the shoreline is needed for the docking of vessels (*Revitalizing Hudson Riverfronts* on pages 55-58).

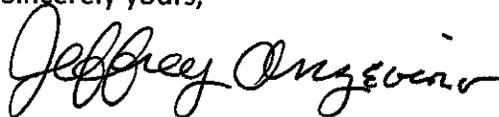
Scenic Hudson believes that the tradeoff between development incentives and additional waterfront open space should be assessed by the Village, local residents and other stakeholders on a case by case basis as applications are received. Local Law #1 of 2016 requires (Chapter 360-2.5 b (2) [4] (c)) that Site Plan applications and Special Permit applications must be accompanied by an Environmental Assessment Form (EAF) that evaluates the environmental impacts of the exceptions to the bulk regulations. This should provide a level of review that can help decision makers and others identify potential impacts and address those impacts under the provisions of SEQRA.

Conclusion

Local Law #1 of 2016 is consistent with both Nyack's Comprehensive Master Plan and Scenic Hudson's *Revitalizing Hudson Riverfronts*. The text amendments provide development incentives related to height and FAR and, in exchange, provide the Village leverage to require additional and more meaningful open space and setbacks, design guidelines, and underground parking.

Thank you.

Sincerely yours,

A handwritten signature in black ink that reads "Jeffrey Anzevino". The signature is written in a cursive, flowing style.

Jeffrey Anzevino, AICP
Director of Land Use Advocacy