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September 10, 2008

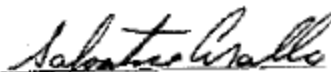
Steven Knowlton, Esq., Chair
Village of Nyack Zoning
Code Revision Committee
9 North Broadway
Nyack, NY 10960

SUBJECT: Informal review of Working Draft for Comment,
Village of Nyack Zoning Ordinance

Dear Chairman Knowlton and Members of the Committee:

Thank you for giving us the opportunity to provide informal comments on the June 2008 working draft of revisions under consideration for the Village of Nyack Zoning Ordinance. The attached informal comments on a portion of the current draft are being provided outside the requirements of the New York State General Municipal Law, Section 239-m (3)(a)(ii). These comments are based upon discussions that occurred during meetings that a member of our staff had last month with Committee Members Robin Brown and Bill Hodges.

Should you have any questions, please contact Eileen Miller at 364-3449.


Salvatore Corallo
Commissioner of Planning

c Mayor John Shields, Nyack

September 10, 2008

Informal review comments on June 2008 Working Draft for Comment of Village of Nyack Zoning Ordinance, based upon meetings with Committee Members Robin Brown and Bill Hodges on August 27, 2008 and August 29, 2008:

1. Beginning on page 33, Article 3 "Use Regulations" and Table of Permitted Uses, Table 3-1:
 - a. **Dwelling multifamily (4+ units)** is listed as a Permitted use in the Downtown Mixed Use (DMU) zone. Is this consistent with the intent of the Downtown Mixed Use zone?
 - b. **Dwelling mixed use** is listed as a Permitted use in the Multi-family Residential (MFR) zone. Given that home occupations are already to be allowed in this zone, is it appropriate to have more intense mixed uses permitted in the Multi-family Residential zone?
 - c. **Conversion of single-family to two-family development** is listed as a Prohibited use in the Two-family Residential (TFR) zone. Is this a typo, with the actual intent to list this use as Permitted?
 - d. **Retirement home, nursing home or assisted-living facility** is listed as a Special use in the Corridor Commercial (CC) zone. While it was explained that such a use currently exists in an area planned to be in the Corridor Commercial zone, the question arises as to whether this use is consistent with intent of this zone and of the possibility of making the existing facility a pre-existing, non-conforming use instead.
 - e. **Adult uses** are listed as a Special use in the Manufacturing (M) zone. Compatibility of such uses with other manufacturing uses is a question and there may also be a question of rationale for placing such uses in this zone.
 - f. **Arts/crafts studio** is listed as Permitted in the mixed-use zones and the Corridor Commercial zone, as a Special use in the Waterfront (WF) zone and as Prohibited in the Manufacturing zone. In reviewing the definition of the use, it appears that it may appropriately be Permitted in a Manufacturing zone.

The question also arises as to why it would be a Special use in the Waterfront zone, but Permitted in the each of the three mixed-use zones and the Corridor Commercial (CC) zone? The committee may wish to reconsider the impacts and benefits of such uses and where and under what circumstances they should be permitted.

- g. **Bank** is listed as Permitted in the Residential Mixed Use (RMU) zone. Given the buffer function intended for this zone, the committee may wish to confirm that a bank, which may include a drive-through, is consistent with the intent of this zone and whether placement of this use in the other more commercial zones would be adequate for the future.

If it is to be Permitted in the Residential Mixed Use zone, should it have Use-Specific Standards for the drive-through?

- h. **Bar or tavern** is listed as Permitted in the Residential Mixed Use zone and Prohibited in the Office Mixed Use (OMU) zone. Given the buffer use of the Residential Mixed Use zone, is it appropriate to allow this use in this zone? It was explained that this was seen as possibly desirable as some street life in the Residential Mixed Use zone is desired, but that there may be consideration of contracting the Downtown Mixed Use and possibly other zones as there are questions of ability to sustain economic viability of a larger area of uses within the main, central part of the Village and this issue might be reviewed in combination with the issue of the bar or tavern use being permitted in the residential and office mixed-use zones.

If the Bar or tavern use is Permitted in the Downtown Mixed Use (DMU) zone and the Residential Mixed Use zone, why would it be appropriate to prohibit it in the Office Mixed Use zone?

- i. No Use-Specific Standards are provided for the **Bar or tavern** use. Might some, possibly related to noise, be appropriate, particularly if the use is to be allowed in the Residential Mixed Use zone?
- j. **Bus or train station** is listed as Permitted in the Residential Mixed Use zone but Prohibited in the Office Mixed Use zone. This use should be included in the definitions section and describe the scale and parking to be associated with this use.

The question arises regarding whether this use is compatible with the intent of the Residential Mixed Use zone?

- k. **Office-Research and Development** use may need to be revisited altogether. First, given the definition of this use in the definitions section, the word "office" might be appropriately removed from the use name, as the intent of the zone is to provide for laboratory-type uses, with offices allowed only as support to the laboratory use.

Second, this use is listed as a Special use in the mixed-use zones and the Corridor Commercial zone, yet as Prohibited in the Manufacturing zone. The committee may wish to revisit the rationale for prohibiting this use in the Manufacturing zone.

- l. **Restaurant** is listed as Permitted in the Residential Mixed Use zone, as Prohibited in the Office Mixed Zone and as a Special Use in the Waterfront zone. The committee may wish to revisit the rationales for these designations, including whether a restaurant should be allowed in the Residential Mixed Use zone (due to this zone's buffer function), and whether this use should be a Permitted use, rather than a Special use, in the Waterfront zone (given the intent of the Waterfront zone).
- m. **Waterfront facilities**, as described in the definitions section, seem incompatible with the Single-Family and Two-Family residential zones, but waterfront facilities are listed as Permitted uses in these zones. It has been explained that Memorial Park and possibly future parks have or may appropriately have waterfront facilities and that the parks have always been located in residential zoning districts. However, waterfront facilities on private property would probably be incompatible with these residential zones. The committee may wish to look at a variety of possible solutions to this, such as establishing a Public Park zone or placing the existing waterfront parks into a Waterfront zone.
- n. **Day care center or nursery school** is listed as a Special use in all of the exclusively residential zones. Since commercial day care and nursery schools can reach a scale as to potentially be incompatible with some residential zones, the Special use criteria or the definition should address limitations on scale in such zones, particularly in the Single-family zone.

Also, the definition should be revised to address adult day care.

- o. **Hospital, clinic or related health care facility** is proposed to be Prohibited in all zoning districts. Since a hospital is currently located in the Village, it would become a pre-existing, non-conforming use, once the proposed zoning ordinance is adopted. We are concerned that this approach will leave the Village without any standards to use should the existing hospital petition for any expansion or other change. Other approaches to addressing impacts of concern should be thoroughly considered.
- p. **Vehicle related uses, general**, which includes gas stations and car washes, are listed as a Special use in the Downtown Mixed Use zone. A few questions came up in discussion of allowing such uses outside the Corridor Commercial Zone. It has been explained that there are a few

such uses that exist in areas proposed for the Downtown Mixed Use zone and there is no intent to eliminate these existing uses. However, there may be a question as to whether additional such uses would be desirable outside the Corridor Commercial zone. The committee may wish to revisit this issue and consider whether it would be desirable to make the existing general vehicle-related uses pre-existing, non-conforming uses under the new zoning ordinance.

The question also arose as to whether these uses would be effectively prohibited outside the Corridor Commercial zone due to the design requirement for buildings to be flush with the street frontage in other zones. The committee may wish to verify whether this is the case and evaluate the potential impact of allowing additional such uses outside the Corridor Commercial zone.