

**Village of Upper Nyack  
Rockland County, New York**

**VILLAGE COMPREHENSIVE PLAN  
FEBRUARY 1999**

**I. INTRODUCTION**

The Planning Board of the Village of Upper Nyack in the early 1980's prepared a comprehensive Community Development Plan for the entire Village as a guide to its future growth and development in accordance with local, county and regional factors and in the interest of maintaining the general health, welfare and safety of village residents. The Board was assisted in this work by the Village Board and by its planning consultants. Pertinent information was assembled and analyzed, public hearings were held and the Plan was reviewed and revised based on comments and suggestions received from the public. It was adopted by the Planning Board in 1985, and remained in effect until the adoption of this amended Plan.

Every community development plan should be reviewed and revised from time to time. Important changes have occurred over the last decade in the living and working patterns of the Village's residents. This updated version, now called the Village Comprehensive Plan, was prepared at the request of the Village Board of Trustees and contains revisions that are intended to address those changes and to provide an outline for more specific action, such as revision of the Zoning Ordinance, and other public and private actions.

There are several important parts of the Village Comprehensive Plan, beginning with the Planning Goals which collectively outline the objectives of the community with regard to the future of the Village. Other key parts of the Plan address land use and density of development, community facilities, open spaces and transportation. The Land Use Plan broadly defines and locates residential, commercial, public and open space/community facilities uses. These are generally similar to those set forth in the 1985 Plan, with the exception of minor adjustments in residential districts to conform more closely to existing neighborhood characteristics, the substitution of a residential conservation district for a slope formula in hillside or scenic areas, and the addition of new bulk requirements for business uses.

**Background**

The Village of Upper Nyack is situated along the Hudson River, just south of an impressive outcropping of rock called Hook Mountain, a National Natural Landmark, which effectively walls-off the northern ends of two of the three major north-south roads. Because Broadway and Midland Avenue are not through streets, the Village has been spared the automobile-oriented land-use pattern known as strip development, in which commercial properties are arrayed along the roads that carry the traffic upon which those businesses depend. Instead, Upper Nyack has always been more residential and less commercial in its basic character.

The third north-south road, State Route 9W, does carry traffic through the Village. Predictably, it is the location of most commercial property in Upper Nyack, a pattern that is unlikely to change as long as it is the main transportation artery.

Its location on the west shore of the Tappan Zee portion of the Hudson estuary gives Upper Nyack spectacular river views and, in turn, makes the village part of the scenic Hudson landscape enjoyed by river and railroad travelers and by our neighbors in Westchester County. The river frontage has also permitted the operation of a major boat building, repair and storage facility and a New York State Park, both of which bring visitors to and through the Village.

The Village also plays a role in the complex environment of the Hudson River. Runoff and erosion from its hilly terrain moves quickly and directly into the Hudson. All land use in the Village — residential, commercial and public — has a potential impact on a tidal estuary that is slowly recovering from decades of severe pollution by industrial and human waste. Future development must be planned with environmental impact in mind.

The Village has been a permanent settlement for hundreds of years. It is mostly developed. Few tracts of land lie vacant, no major changes in the pattern of land use are anticipated. Empty plots of land exist here and there throughout the village and will likely be developed one by one. The purpose of the Community Development Plan is not to change what Upper Nyack is, but to provide a set of guidelines by which those incremental development decisions will be guided to preserve the essential character of the Village.

## **II. PLANNING GOALS**

Based on a review of development patterns since 1985 and the comments made at public hearings on the proposed revision of the Zoning Ordinance, the Planning Board has restated the basic planning goals for the future of the Village. They are viewed as the ends toward which most future planning and development decisions and activities should be directed. These goals are:

- A.** Preserve and enhance the distinctive character of the Village, which is perceived as peaceful, quiet, scenic, suburban and small-town.
- B.** Ensure that future development and changes in land use are compatible with the existing community, with available utilities and with the Village's ability to provide municipal services. In areas where development is virtually complete, zoning should be made consistent with existing land use and density.

- C. Allocate available space to provide opportunity for the development of a reasonable number of new homes in a wide range of cost brackets, consistent with existing neighborhoods.
- D. Provide for an increase in the amount of housing that is affordable to people of limited means, such as retired and younger residents. Provide for an increase in the variety of housing for long term residents of the Village, such as senior residences and controlled accessory apartments.
- E. Eliminate and prevent unsafe and/or illegal dwelling units.
- F. Provide for the addition of a limited amount of tax-producing commercial uses in appropriate locations, and under appropriate controls, designed to preserve the predominantly residential character of the community.
- G. Guide the planning of safe, adequate and efficient public improvements, services and utilities.
- H. Encourage the preservation and maintenance of historic buildings, neighborhoods and sites in Upper Nyack.
- I. Encourage a high standard of architectural, landscape and community design in Upper Nyack.
- J. Protect and restore the natural environment within and around Upper Nyack, including soil, water and air quality, vegetation, animal life, visual beauty and sound. Control drainage and erosion to prevent contamination of the Hudson River.
- K. Protect and enhance recreational opportunities for residents of the Village.
- L. Contribute to the enhancement of the larger community, district, and region of which Upper Nyack is a part.

### **III.LAND USE, COMMUNITY FACILITIES AND OPEN SPACE**

The Village Comprehensive Plan serves as a guide for future development, so one of its key elements is the Land Use Plan, which is depicted on the accompanying map and described in the text below. The Land Use Plan is intended as a general guide or broad outline. The Zoning Ordinance, a separate document that is formally adopted into law by the Village Board, is more specific, setting exact boundaries, district classifications, land use definitions and development requirements. It should be amended by the Village Board in accordance with the goals and guidelines stated in this Comprehensive Plan.

The following proposed land use categories are shown on the Land Use Plan:

## **A. Residential Uses**

- 1. R-40 Low-Density Residential:** Areas for residential use at a density of one single family dwelling per acre. Community facilities and limited home occupations may be permitted by special permit. The density of the areas of the Village proposed for Low-Density Residential development would be equivalent to the current R-1 zoning district which requires a minimum lot size of 40,000 square feet for a single-family dwelling.
- 2. R-80 Residential-Conservation:** Areas that are predominantly steep and/or are of significant scenic value to the community, permitting residential use at a density of one single family dwelling per two acres with special environmental care; otherwise, same as low-density residential.
- 3. R-30 Low-Medium Density Residential:** Areas for residential use at a density of approximately one single family dwelling per three-quarters of an acre; otherwise same as low-density residential. The density of the Low-Medium Density Residential areas of the community plan would be equivalent to the present R-2 zoning district which requires a minimum lot size of 30,000 square feet for a single-family detached dwelling.
- 4. R-20 Medium-Density Residential:** Areas for residential use at a density of approximately one single family dwelling per one-half acre; otherwise same as low-density residential. The density of the Medium-Density Residential areas would be equivalent to that of the existing R-3 zoning district which requires a minimum lot size of 20,000 square feet for a single-family detached dwelling.
- 5. R-10 Medium-High Density Residential:** Areas for residential use at a density of one single family dwelling per one-quarter acre; otherwise same as low-density residential. The density of the Medium-High Residential areas would be equivalent to that of the current R-4 zoning district which requires a minimum lot size of 10,000 square feet for single-family detached dwellings.
- 6. R-7.5 High-Density Residential:** Areas for residential use at a density of one single family dwelling per 7,500 square feet; otherwise same as low-density residential. The density of the High Density Residential areas would be equivalent to that of the current R-5 zoning district which requires a minimum lot size of 7,500 square feet for single-family detached dwellings.

## **7. Special Situations:**

In all residential use areas, one accessory apartment may be allowed in an owner-occupied dwelling by special permit, if appropriate special standards are met, with the special permit being reviewed and reissued on a periodic basis. Those special standards might include age of the existing house, owner occupancy, limitation of accessory apartment size, exterior appearance of the house, provisions for off-street parking and related considerations.

Certain large, older homes and Hudson River-front mansions of significant architectural value and with large landscaped lots, should be preserved. To assist in accomplishing this, provision should be retained for the re-use of these residential structures for multi-family condominium and cooperative ownership, subject to special permit approval based on specified standards and criteria, including incentive provisions designed to encourage preservation.

## **B. Commercial Uses**

Three distinct types of commercial areas exist in the Village. These are shown on the Land Use Map and should be provided for separately in the Zoning Ordinance. New use and bulk requirements should be stated for each to encourage appropriate development and to eliminate undesirable effects on residential neighborhoods and community well-being.

- 1. LB Local Business:** Areas for retail and service establishments intended for service primarily to local or Village consumer needs.
- 2. OB Office Business:** Areas for professional and general office buildings; medical clinics and doctors' and dentists' laboratories and offices; banks, other financial institutions and their offices; research and development laboratories and related office uses; eat-in restaurants and service establishments in support of office use. All uses allowed would be required to be within fully enclosed structures and subject to prescribed buffer and screening requirements and strict environmental standards to reduce any possible adverse impact on adjacent or nearby residential areas.

Changes in business have created new uses that were not anticipated when the zoning ordinance was adopted. Rather than restricting permitted uses in the OB zone to those few originally listed — thereby excluding new but similar uses such as senior living facilities, computer operations, on-line service providers — new zoning language should be adopted to describe a general type of commercial use that is considered appropriate for Upper Nyack. Factors should include minimum impact on nearby residential or institutional uses, low demand for community or infrastructure services, low to moderate levels of vehicular traffic and parking, and reduced visual impact. The requirement for a special permit for each use should continue and can be used to make a final determination of appropriateness without the need for a zoning variance.

- 3. WB Waterfront Business:** Areas devoted to boat yards, marinas, dock facilities and related commercial uses.

## **C. Public Facilities**

The following public facilities are shown on the Land Use Plan. This category includes uses such as the Village Hall, fire house, public works facilities, public schools and Hook Mountain State Park. The Zoning Ordinance should specify appropriate zoning for these sites in case the existing public uses cease and the land reverts to private ownership.

## **D. Open Space and Community Facilities**

The following paragraphs propose a number of ways in which the Village can enhance or protect open spaces and community facilities.

1. Attractive physical features of the Village such as open spaces, areas of natural beauty, open vistas, woods, hills, brooks, and ponds should be preserved. Streams also merit protection from development, which would overload or restrict their capacity as drainage ways, cause erosion and flooding, force their channelization, and destroy their natural beauty. Areas of significant natural beauty which have been identified are: Hook Mountain; the hillside along the western edge of the Village; the Hudson River shore; the land at the base of Hook Mountain, which forms the foreground for views of Hook Mountain; Spook Hollow Pond; and the properties through which a brook flows paralleling Old Mountain Road, including "The Glen." Also, the Village is included in the Tappan Zee Scenic District, established by The New York State Department of Parks, Recreation, and Historic Preservation. The Village should support the goals of the District by guiding public and private actions to be consistent with those goals. Where appropriate, public ownership of these features should be considered.
2. As a result of the Village's residentially supported tax base, the protection of significant physical features and streams and the preservation of open spaces will need to rely primarily upon methods which minimize Village capital expenditures. One such method is to control density as necessary through zoning to reduce the potential adverse impact of development. Another is the encouragement of property owners to voluntarily donate scenic or conservation easements. By easement, the owner gives up permanently the right to construct further buildings, but keeps all other rights of private ownership; no right of public access is necessarily given. The owner benefits by decreased tax assessment, by a charitable deduction, and by the preservation of property values which would be eroded by overdevelopment. The public gains by the preservation of an identified area of natural beauty.
3. In addition, average density land planning should be used whenever property containing identified areas of natural beauty or drainage importance is developed. Average density involves a form of development for single-family residential subdivisions that results in a portion of the land area being devoted to open space. This is brought about by controlled reduction in lot area requirements with no increase in the number of lots permitted under a conventional subdivision. Construction should be located to minimize adverse impact, and features of value to the community should be protected by easement, deed restrictions or, where offered, by dedication to a public body or a homeowners association. The use of average density development should be at the discretion of the Planning Board in the course of all subdivision approval, and would be subject to specific standards set forth by the Village Board in the Zoning Ordinance. Among others, the standards should require: that the overall density on the land in question remain exactly the same as it would be without averaging; that the resultant dwelling type should be single-family detached residences; and that the lot size reduction should be no greater than fifty percent (50%) of the prescribed minimum lot size in each district.
4. The Land Use Plan shows the proposed expansion of the Village, through annexation, in a westerly direction, incorporating lands now in the unincorporated area of the Town of Clarkstown, which are on the hillside enclosing the Village. Control over development in this area, currently beyond the present Village borders, is critical to the drainage system of the Village. It

is also important from an aesthetic and general environmental standpoint. If and when the proposed annexation is accomplished, the land should be zoned in a new R-160 Conservation District with use and bulk requirements similar to those in effect in the Town of Clarkstown zoning.

#### **IV. CIRCULATION PLAN AND TRANSPORTATION**

The framework that ties the Village together is the streets, highways, and walkways which serve the varied land uses in the Village. At present, the Village is served by a State highway, Route 9W, on the west, a network of Village streets and a few private roads. Some of the Village streets have sidewalks to provide for pedestrian circulation, particularly through the southerly part of the community.

Assessing the transportation framework, the Planning Board has defined a classification system for existing roads and highways based on relative function and volume and type of traffic. In addition, the Board has also attempted to address concern with relatively heavy volumes of traffic on certain streets and with excessive through-traffic. The Board sees no need to incorporate any new roads in the Village Comprehensive Plan, but notes that some may be necessary in the future to reach the interior lots of subdivisions. With respect to walkways, the Board is proposing a modest expansion of the sidewalk system and the addition of some paths that would connect with important community facilities such as schools and recreation sites.

The following list specifies an existing transportation network upon which future development and improvement should be based.

##### **A. Road Classification System**

Upper Nyack has several kinds of roads: 1) Major or Through Roads; 2) Secondary Roads; 3) Collector Roads; and 4) Local Roads. These roads are described and listed below. The Village Street specifications should be reviewed and updated with respect to each type of road controlled by the Village.

- 1. Major Roads:** This type of road generally carries relatively large volumes of inter-municipal traffic that is usually not destined for the local community; it also tends to serve

commercial or industrial land uses. The only example of such a road in Upper Nyack is Route 9W, also called Highland Avenue.

**2. Secondary Roads:** Such roads generally serve intra-community access purposes, connecting the residential areas of the Village with other facilities and also connecting with Major Roads. They carry a high degree of through traffic. Roads of this type in the Village are Midland Avenue (south of Old Mountain Road); Broadway (south of Castle Heights Avenue); Castle Heights Avenue; Old Mountain Road (between Midland Avenue and Christian Herald Road); and Christian Herald Road.

**3. Collector Roads:** These roads primarily collect traffic from the local street system and deliver it to the Secondary Roads of the Village; they also pick up traffic from residential uses that abut them. The Collector Roads in Upper Nyack are: Highmount Avenue and Birchwood Avenue (between Midland Avenue and Route 9W); Midland Avenue (north of Old Mountain Road); and Broadway (north of Castle Heights Avenue).

**4. Local Roads:** All the other roads in the Village fit this classification; such roads provide direct service to the properties (primarily residential) that abut them

## **B. Traffic Concerns**

In preparing the Circulation Plan, the Planning Board has identified certain situations in the Village posing significant traffic concerns which the Board feels should be reviewed and studied for possible improvement. These are:

1. The northwestern leg of Old Mountain Road which intersects Route 9W and Christian Herald Road at an acute angle.
2. The acute angle intersection of Old Mountain Road with Midland Avenue.
3. The excessive through traffic along the eastern leg of Old Mountain Road between Midland Avenue and Broadway.

## **C. Sidewalks/Bikeways/Trails**

**1. Sidewalks and Paths:** There is and should be a modest system of walks serving the residents of the Village and providing safe access from residences in the Village to community and recreation facilities, and particularly for school children traveling to and from the local schools. The walks should be of two types: *sidewalks*, paved either in concrete or asphalt as most of the existing sidewalks in the Village are at present, and *paths*, gravel-surfaced and more informal in nature. It should be recognized that residents have chosen their neighborhoods in part because of preferences for or against sidewalks, so no overall change in sidewalk distribution is proposed.

Existing sidewalks are located along the following roads: Route 9-W (east side, from the Southern Village border to Birchwood Avenue); Broadway (from the southern Village border to Locust Drive on the east side and to Birchwood Avenue on the west side); Midland Avenue (from the southern Village border to Old Mountain Road on the east side); Highmount Avenue (north side); Castle Heights Avenue (south and part of north side); School Street (north and west side); Van Houten Street; and Ellen Street (west side).

Proposed locations on the Circulation Plan for future Paths are: Midland Avenue (from Old Mountain Road to Larchdale Avenue on the east side); Larchdale Avenue (north side); Broadway (on the east side from Locust Drive to Hook Mountain Park).

2. **Bikeways:** There is a designated bikeway along Broadway and on the shore path in Hook Mountain Park. This should be retained.
3. **Trails:** The Long Path, a major hiking trail that roughly parallels the Hudson River, passes along the western side of the Village. It is mapped and maintained by the New York-New Jersey Trail Conference and member organizations. The Planning Board supports the Conference's proposed relocation of the trail from the shoulder of Christian Herald Road and Route 9W to a safer and more scenic location along the ridge. The present branch will be retained for local access to the main trail.

The Hudson Shore Path, a project of Hudson River Greenway, follows the shore through Hook Mountain State Park and is located on Broadway through the developed part of the Village.

A blazed hiking trail called the Upper Nyack trail exists from Midland Avenue near its north end to the Long Path near Route 9W. This serves to connect the Hudson Shore Path to the Long Path. It may need to be relocated as development occurs. A permanent easement should be created if possible.

All of these trails should be protected by appropriate means.

4. **Bus Service:** Presently, inter-community bus service to Village residents is supplied via the Red and Tan Lines' Route 9A traveling from the George Washington Bridge to New City. In the Village, it runs along North Broadway, Castle Heights Avenue, Midland Avenue, Old Mountain Road and Route 9W. Local service was provided by the Nyack "trolley" bus, but since that was discontinued, the Planning Board recommends that local bus service be augmented by arranging for the Clarkstown mini-bus to enter the Village and provide service for senior citizens, non-drivers and the youth of the Village.
5. **Train Service:** The Plan supports the re-institution of rail passenger service on the West Shore line, with a West Nyack station and adequate commuter parking, with service to mid-town Manhattan.

## V. IMPLEMENTING THE PLAN

The proposal and adoption of the Village Comprehensive Plan is an important step for guiding future Village planning. Adoption of the Plan is based on the following factors:

A community is developed over the years as a result of many private individual and group decisions to buy and subdivide land and build houses or commercial establishments, as well as by decisions made by community officials to improve and create new public facilities and to regulate private development. Whether or not all of these decisions, made separately and over a relatively long period of time, will add up to a convenient and attractive community depends on how well they are

related to the community's basic development goals as expressed through a well-considered village comprehensive plan.

For the Village of Upper Nyack, the preparation of a Village Comprehensive Plan is a major step. The next step is a continuing implementation program to see that the provisions of the comprehensive plan are carried out.

The Village Law of the State of New York provides that the Village Comprehensive Plan may be adopted by the Village Planning Board. It should be emphasized, however, that the plan does not in itself change any zoning or assure the carrying out of any community plan proposals. The adopted plan becomes an advisory document which is designed and intended to guide all public and private actions to insure the orderly, proper and attractive development of the Village.

The Village has at its disposal a variety of effective legal tools for implementing an adopted comprehensive plan, which are actually within the province of the Village Board. The four most important of these are 1) the zoning ordinance, 2) the official map, 3) subdivision regulations, and 4) the capital improvement program. Each of these tools should be presented to the public before it is adopted or amended by the Village Board.

#### **A. Zoning Ordinance and Land Use Controls**

Zoning is the most significant planning tool available to the Village. It regulates and controls private uses of land in order to maintain desirable land use patterns that exist today, and it guides future development.

1. The Village's existing zoning ordinance has served the Village well. However, modern development techniques and concepts require modified tools carefully geared to the realities of the areas to be developed and the physical and fiscal constraints of the Village. With the adoption of the Village Comprehensive Plan, revisions incorporating Plan goals are recommended. These revisions are necessary to reflect both the changes in potential land use embodied in the plan and to accommodate the system of desirable, up-to-date land use control. Provisions should be made in the Zoning Ordinance for continuance of non-conforming uses and structures, for reconstruction of damaged non-conforming structures within a reasonable period of time, and for construction on a separately-owned, single lot made non-conforming by amendments to the Ordinance. In addition, it is recommended that the minimum livable floor area requirements in the current zoning ordinance not be included in the revised zoning code. The code should be amended to include revised provisions for coverage and height. Additionally, map changes should be considered, particularly to reflect actual development patterns and to achieve open space and environmental objectives.
2. Historic preservation provisions should be adopted, either as part of the Zoning Ordinance or as a separate ordinance. Procedures should be included for identifying significant historic structures, sites, and districts; for establishing criteria; and for reviewing proposed construction, demolition, alteration, or other actions affecting such structures, sites, and districts. The role of the Architectural Review Board should be expanded to include historical review.

#### **B. Official Map**

The official map is another means made available by State law for a municipality to implement portions of a community plan. The official map adopted by the Village Board is a definitive document with respect to the location and width of existing as well as proposed streets, drainage systems and the location of parks.

1. The first step in adopting an official map is for the Village Board to establish by resolution a map showing the streets, parks and drainage systems "theretofore laid out, adopted, and established by law" (Village Law, Section 7-724). Once this is accomplished, the Village Board may, after public hearing, amend the official map. Once adopted, no building permit may be issued for a building in the bed of any street shown on the Village official map except in accordance with prescribed procedures.
2. The Village Planning Board has several roles to play in the official map process. State law provides that the Village Board shall refer all proposed changes to an existing official map to the Village Planning Board for its study and report. The Village Planning Board also has the responsibility to insure that all land subdivisions be designed to conform with an adopted official map.
3. It is recommended that the adopted Official Map for the Village be reviewed in light of the Comprehensive Plan objectives and be amended wherever appropriate, as part of the implementation of the Comprehensive Plan.

### **C. Subdivision Regulations**

When a tract of land is divided into smaller parcels, the process is known as "subdivision." In some cases, the subdivision of land requires the laying out of one or more new streets to serve some or all of the new lots created. Since the manner in which new lots and/or streets are laid out has a direct effect not only on the land directly involved, but on the adjoining or nearby properties and the entire surrounding community, there is a wide interest in the design and creation of each new subdivision.

The State's planning laws permit municipalities to review subdivisions to see that good subdivision design is obtained. In addition, the local government can insure, among other things, at the time of subdivision approval, that street improvements meet local standards, and that open space is suitably located in accordance with an overall comprehensive plan.

The need for improved subdivision and, more particularly, the advisability of curtailing speculative activity when there is not a market for new lots, led the State legislature to enact an enabling statute authorizing Villages to adopt local rules and regulations controlling the design and improvement of new subdivisions. The Village of Upper Nyack should adopt such regulations.

The Village Planning Board will be submitting a set of subdivision regulations to the Village Board for its consideration. These will be consistent with contemporary subdivision design standards and approval procedures and with the goals of the Village Comprehensive Plan.

### **D. Capital Improvement Program**

Planned improvements are intended to be carried out over a period of years. In order to decide what can be done now and in the future years, two questions must be considered: First, how much can the Village afford to spend on public

improvements now and in the future and, second, which improvements are the most important and should receive the highest priority?

The Village Board, with the assistance of the Planning Board, should develop a capital improvement plan identifying needed facilities and assigning priorities as a guide for future actions.

To some extent, the public facility improvements recommended by this plan can be achieved without expense to the Village or its taxpayers, either by private developers during the course of subdivision or through outside funding and grants. In addition, it is recommended that money in lieu of land for recreation purposes be required of subdividers when appropriate. Other improvements will require carefully considered Village expenditures. The most effective use of limited Village resources requires strategic programming.