

PUBLIC HEARING  
SPECIAL MEETING  
June 8, 2006

A Special Meeting of the Board of Trustees of the Village of Upper Nyack was held at the village hall on Thursday, June 8, 2006 at 7:30 PM.

**Those present:** Mayor Esmay, Trustees Anderson, Malcolm & Morgan, Village Attorney Robert P. Lewis Jr., Village Clerk Carol G. Brotherhood; Village Engineer Dennis Letson, **Absent:** Trustee Tarapata  
**Others identified:** Norwell Therien, Robert Wilder-Wilder Balter Partners; Tom Imperato-Courtyard at Upper Nyack

PUBLIC HEARING - ZONE TEXT AMENDMENT

Mayor Esmay noted the Board would be considering amending Articles of the 1962 Zoning Code.

Mayor Esmay opened the public hearing. The Clerk read the public hearing notice. The Clerk then read the following letters received in response to referrals sent by the village.

- 1) County of Rockland, Dept. of Planning dated 5/25/56
- 2) Town of Clarkstown Dept. of Planning Dated 5/26/06
- 3) State of New York Dept. of Transportation dated 5/9/06
- 4) County of Rockland, Dept. of Planning dated 5/25/06 regarding amendment to Cluster Development law.

The Mayor opened the hearing to questions from the public:

Those who spoke:

Mr. Wilder, Wilder Balter Partners, questioned the Board about the EAF and whether the Board would do one?

Mayor Esmay asked Village Engineer Letson what would be the procedure to declare Lead Agency. Mr. Letson noted that a Lead Agency declaration usually requires a 30 day notification to other agencies. Since only the Board can amend the Zoning Code, then only the Board can be Lead Agency. A "long form" environmental review (EAF), telling the impact of adding the use in the OB Zone district will be required since with more than 25 acres, it would be a Type I action.

Trustee Morgan made a motion that the Board of Trustees of the Village of Upper Nyack declare itself lead agency for the environmental review of the

proposed OB Zone text and Cluster Development amendment which affect more than 25 acres and is therefore determined to be a Type I action requiring completion of the Full EAF as required under SEQRA, seconded by Trustee Anderson and so moved.

AYES: Mayor Esmay, Trustees Anderson, Malcolm & Morgan

NOES: None

ABSENT: Trustee Tarapata

The Board reviewed and filled out a Full EAF (Environmental Assessment Form). Trustee Morgan filled out the form and signed it as “preparer” and Mayor Esmay also signed the form.

The Board, Village Attorney and Village Engineer discussed elements considered by the Board in deciding to make changes to the OB Zone and the resulting potential development (relevant issues and impact).

Specifically, Trustee Morgan asked if anyone thought any of the Boards discussion, including those with the Planning Board, had identified any potentially harmful impact with the change?

Trustee Malcolm stated no.

Trustee Anderson thought the impact would be less with reduced parking needs and less lot coverage with residential development compared to “as of right” commercial development.

Mayor Esmay agreed the impact would be less.

Dennis Letson, Village Engineer talked about adaptive reuse which allows for flexibility in future uses.

Trustee Malcolm believes it enhances and improves the quality of life in Upper Nyack with allowing residential.

This proposal came after much discussion with the Planning Board.

Trustee Morgan noted that this would be called “mixed use zone” in most zoning codes. In essence it already is a mixed use area, with residential uses mixed in with commercial uses.

Trustee Anderson also feels it gives the village greater control and enhances the quality of life.

Trustee Anderson motioned to close the public hearing. Seconded by Trustee Morgan and so moved with all in favor.

AYES: Mayor Esmay, Trustees Anderson, Malcolm and Morgan

NOES: None

ABSENT: Trustee Tarapata

After discussion on the environmental impact of the zone text amendment, Trustee Morgan made a motion that;

WHEREAS the Village Board has proposed a Zone Text Amendment to the Office Business (OB) Zone to permit a residential use by special permit and the Board has determined that this Type I action requires environmental review under SEQRA, and

WHEREAS the Board has discussed the environmental impact and noted that a Full EIF for a commercial development in the OB Zone was recently completed by the Planning Board which revealed potential adverse impact by the proposed commercial development, and

WHEREAS the Board has determined that permitting residential use could mitigate some of the potential adverse impacts noted in the EIS, and

THEREFORE the Village Board of Trustees of the Village of Upper Nyack has completed a Full Environmental Assessment Form (EAF) on the proposed zone text amendment and has determined that the potential impact of the Zone Text Amendment is not significant and therefore makes a negative declaration,

Seconded by Trustee Malcolm and so moved and on a call for a vote:

AYES: Mayor Esmay, Trustees Anderson, Malcolm, and Morgan

NOES: None

ABSENT: Trustee Tarapata

The Board of Trustees then reviewed and discussed the comments and recommendations of the County of Rockland in a letter to the Board dated May 25, 2006 and determined that the recommendations noted were determined to have been already incorporated into the overall zoning ordinance.

Trustee Morgan made a motion that;

WHEREAS the Village Board of Trustees and the Planning Board have met on several occasions to discuss the concept of adding residential use by special permit in the OB Zone to reduce potential adverse environmental impact, and

WHEREAS the Village Board has obtained the services of Dennis Letson, Village Engineer and of an outside Planning Consultant Robert Geneslaw, and

WHEREAS the Village Board has declared itself lead agency and has completed a “Long Form” environmental review, and

WHEREAS the Village Comprehensive Plan calls for a provision of a range of housing types, and

WHEREAS the OB (office business) Zone is already characterized by mixed residential and commercial use, and

WHEREAS the proposed amendment will allow the Planning Board more alternatives to manage drainage and other issues in the OB Zone, and

WHEREAS the recommendations of the County Planning Board have been reviewed and have been found to be addressed in the law as written,

THEREFORE the Board of Trustees adopts local law # 2 of 2006 amending Article IV, Section 15:03 (c) and Article VII Cluster Development Seconded by Trustee Malcolm and with no further discussion and on a call for a vote:

AYES: Mayor Esmay, Trustee Anderson, Malcolm and Morgan

NOES: None

ABSENT: Trustee Tarapata

Trustee Anderson made a motion that the Board of Trustees delegate Planning Board Chairman William Pfaff to select from three (3) technical consultants for wireless communications candidates who have submitted proposals to the Planning Board and that the fee is to be paid for by the applicant as outlined in our zoning code, seconded by Trustee Morgan and so moved with all in favor.

AYES: Mayor Esmay, Trustee Anderson, Malcolm and Morgan

NOES: None

ABSENT: Trustee Tarapata

PUBLIC HEARINGS-MORATORIUMS- After a brief discussion on the lack of control for these types of uses in the current zoning, the Board decided to set dates for public hearings on the imposition of temporary

moratorium on applications for permits for wireless communication towers, churches and schools in order to allow for the study and development of appropriate controls for these uses in the Zoning Ordinance. The Village Attorney confirmed that the local law text for the moratorium would have to be given to the Board 10 days prior to the hearing and the notice published 5 days prior.

Trustee Anderson made a motion that the Board of Trustees schedule a public hearing on 7/20/06 concerning a temporary moratorium on permit applications for wireless communication towers, seconded by Trustee Morgan and so moved.

AYES: Mayor Esmay, Trustee Anderson, Malcolm and Morgan

NOES: None

Trustee Anderson made a motion that the Board of Trustees schedule a public hearing on 7/20/06 concerning a temporary moratorium on permit applications for churches, seconded by Trustee Morgan and so moved.

AYES: Mayor Esmay, Trustee Anderson, Malcolm and Morgan

NOES: None

Trustee Anderson made a motion that the Board of Trustees schedule a public hearing on 7/20/06 concerning a temporary moratorium on permit applications for schools, seconded by Trustee Morgan and so moved.

AYES: Mayor Esmay, Trustee Anderson, Malcolm and Morgan

NOES: None

RESOLUTION- Pace University School of Law-Land Use Seminar- Trustee Morgan made a motion seconded by Trustee Malcolm and so moved. (Resolution Attached)

FENCE- The Board received a letter from Lisa Sokolov, 327 North Broadway, regarding a fence in front of her property, requesting to be allowed to install a fence in the village right-of-way.

Pursuant to the letter and a copy of the survey showing the original fence in the right-of-way, Trustee Malcolm made a motion to allow the residents of 327 North Broadway to install a new fence, seconded by Trustee Anderson and so moved. Resident is to be informed by letter, noting that the fence is on Village property and may be removed by the Village if the need arises.

AYES: Mayor Esmay, Trustees Anderson, Malcolm and Morgan

STANDARD SCHEDULE OF FEES- Trustee Anderson presented the Board with revision to fee schedule for review. The Board voted to table for further discussion at the next workshop.

Trustee Anderson made a motion to close the meeting, seconded by Trustee Morgan and so moved.

The meeting was adjourned at 10:00 PM.

Respectfully submitted,

Carol G. Brotherhood  
Village Clerk

~~TOWN, VILLAGE, CITY, OR COUNTY OF~~ Upper Nyack  
**RESOLUTION OF THE LEGISLATIVE BODY**

WHEREAS, comprehensive planning, land use regulation and the review and approval of land development proposals are among the most important functions of local governments in the State of New York;

WHEREAS, members of local administrative boards such as the planning board, zoning board of appeals, and conservation advisory boards consider and dispose of many important applications for permits, variances and interpretations of local land use regulations;

WHEREAS, local legislative bodies are authorized to use their delegated authority under state law to adopt a wide variety of land use regulations, controls and incentives to provide for the balanced and harmonious development of the community;

WHEREAS, land owners, developers, and leaders of local civic organizations are regularly involved in testifying regarding matters pending before these legislative and administrative bodies;

WHEREAS, knowledge of the authority of local governments regarding land use control and responsible decision-making regarding these matters is important to the quality of life and future success of the communities; and

WHEREAS, the Land Use Law Center of Pace University School of Law has established an exemplary program of training and supporting local officials, private sector representatives and civic leaders in land use decision-making;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATIVE BODY OF THE  
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THAT it supports the continuation and expansion of the local land use leadership alliance training program of the Land Use Law Center,

THAT it offers its official sponsorship of the training sessions conducted under the Center's programs, and

THAT it encourages other cities, towns and villages in the Hudson Valley Region to offer their support and sponsorship of these land use training programs and to nominate local leaders for participation in these programs.