

III.A Land Use, Comprehensive Plan, Zoning and Community Character

I. Former Project

Land Use

The Project Site contains approximately 17.89 acres, with a 16.68 acre portion of the property situated within a residential single-family home portion of the Town of Ossining and 1.21 acres situated within a residential portion of the Village of Ossining (see Figure 3.A-1). Development is only proposed on the 16.68 acre portion of the Site within the Town of Ossining.

The Former Project proposed a change of use of the site from institutional (the former Stony Lodge Hospital) to multifamily residential. In the Applicant's opinion, the change in land use did not make the Project Site incompatible with surrounding land uses or constitute an adverse impact. The institutional hospital use had resident patients and staff, so there was previously a form of residential occupancy of the Project Site. The elimination of the ten hospital buildings and the construction of one newer building on the central portion of the Project Site would be a change but would not constitute an impact on surrounding land uses as the Site would be well screened from most views from surrounding areas, including abutting residential homes. The routine activities of potential future tenants of River Knoll would be no different from the routine activities of residents of the surrounding neighborhood. Vehicular circulation would be directed to Croton Dam Road, which previously carried traffic associated with Stony Lodge Hospital.

Public Policy

In the Applicant's opinion, the Former Project was consistent with the existing 2002 Town Comprehensive Plan and the update of Town of Ossining's Comprehensive Plan that was adopted on December 15, 2015. The Town of Ossining's 2015 Comprehensive Plan update specifically identifies the Project Site as appropriate for adaptive reuse and/or redevelopment to a use that will be protective of environmental resources and the surrounding residential neighborhoods. The Town of Ossining calls

for an increase in the number of affordable housing units. The Proposed Project provided a minimum of 10 percent of its dwelling units as affordable housing as mandated by Article VI of the Town of Ossining's zoning code.

Community Character

The Former Project would result in the construction of one new building on the upper, central portion of the Project Site with significant landscaped buffers to the adjoining residential properties. The building would be designed in the Hudson Valley architectural vernacular and be an improvement over the existing hospital buildings that are in disrepair.

Zoning

No zoning district in the Town could accommodate the Former Project as envisioned (see Figure 3.A-2 for surrounding zoning). In consultation with the Town, it was determined that the most appropriate zoning mechanism to enable the Former Project to be developed consistent within the Town's overall planning goals of environmental protection of large, underutilized site would be a new zoning district, the Multifamily Residence 2 (MF-2) District.

The Proposed Project required that a new zoning district be adopted to accommodate the use via a zoning code amendment to amend the Town's code to include a multifamily residence district known as the MF-2 zoning district. The amendment would also re-map the Project Site from the One-Family Residence (R-15) District to the MF-2 zoning district.

Multifamily housing would be permitted in this new district as a conditional use subject to approval by the Planning Board.

2. Proposed Project

i. Architectural Features, Intensity and Scale of the Proposed Project, Visual Analysis

The Proposed Project will be a clustered townhouse project that will be situated on areas currently disturbed or improved by the existing hospital buildings, paved areas or other pervious man-made surfaces. The site design has been careful to maintain and create vegetated buffered areas to all adjoining and adjacent properties and great care has been given to maintain the natural greenspace at the front of the property alongside Croton Dam Road (see full-size Drawing L-100 “Landscape Plan”. This area will be improved with stormwater basins to collect rainwater during storm events to provide stormwater management for the project. Appendix ~~I-2H~~ “Visual Analysis” ~~at the end of this volume~~ provides views of the Proposed Project.

The eastern shoreline of the Hudson River is situated approximately 1.4 miles to the west of the Proposed Project, adjacent to the west of the MetroNorth railroad tracks. Any views from the Hudson River itself would be more distant, and mitigated by the distance to the Proposed Project.

The roadways within the Proposed Project generally follow the existing roadways of the hospital buildings and maintain the single front access point on Croton Dam Road.

The Proposed Project’s townhouses will be clustered in rows of three, four, five and six units, and situated to best conform to the contours of the Property (see Figures 3.A-4a through 3.A-4f for project renderings). The architectural design of the units/clusters is in a “modern farmhouse” style which is popular today (see Figures 3.A-4g through 3.A-4j for project precedent studies). The exteriors will be clad in cementitious cladding shingle and plank (Hardie Board) materials with battens, stone-faced chimneys, porches with wood posts and top rails, divided-light gray window frames, and various roof sheds over front entries and

garage openings constructed in standing-seam metal roofing material (see Figures 3.A-4k through 3.A-4q for project precedent farmhouse elements).

The color palette of the Proposed Project exteriors will be in white, light and soft grays, with darker gray accents (see Figure 3.A-4r for project materials selection).

Low intensity and dark-sky compliant lighting will be used for security and wayfinding. Minimal decorative down-lighting will be provided at the entrance to the Site. A sign identifying the name of the Project will be placed at the entrance, and the sign will conform with the Town's code requirements.

Lighting fixtures will comply with dark sky requirements through the use of shielded and directional lighting, to minimize up-lighting and reduce unnatural lighting on nocturnal wildlife. Subsequent to the adoption of the proposed rezoning, an application for Site Plan Approval will be submitted with the specifications for all outdoor lighting along with an illustration and analysis of night-lighting trespass into habitats.

Vehicular access will be provided at the same location as the existing Site driveway via a 26-foot-wide private roadway. Another Site roadway branches off to the north near the clubhouse, and bends around to the east and south to a cul-de-sac. The entry road proceeds to another cul-de-sac on the northeasterly portion of the Site. (see full-sized Site Plan drawings).

An emergency access is proposed between the cul-de-sac and Narragansett Avenue on the northeasterly portion of the Site. The proposed access is 15 feet in width, will be paved, and has a bollard and chain assembly at either end to prevent non-emergency vehicular access. However, pedestrian and bicycle use are anticipated, and this provides a connection from the Project to Veterans Memorial Park.

A second emergency access with the same specifications is proposed between the westerly site roadway and Croton Dam Road on the northwesterly portion of the Site. Pedestrian and bicycle use are also anticipated. No sidewalks are proposed within the Site because of the low anticipated vehicular volume such that pedestrians may walk along the sides of the roadways.

ii. **Existing Conditions**

Figures 3.A-3 and 3.A-3a through 3.A-3e depict the existing conditions on the site.

The properties adjacent to or near the Project Site to the north, east, west, and south, are developed with single-family residential houses. These residential houses are typically two to three story homes, with a driveway, a garage, a front yard, and a backyard. On the western side of the Project Site is a large property obscured from view by a stone wall and heavy woods. This property faces the Project Site, specifically the natural greenspace at the front of the property alongside Croton Dam Road and looks up at the former hospital buildings.

In the Applicant's opinion, the visual character of the Project Site will be in keeping with the surrounding homes and will be buffered from surrounding properties by existing and proposed vegetation. However, instead of the three-story Main Hospital building being surrounded by eight other large hospital buildings, there will be instead, clustered two-story townhouses which will be lower in height.

The existing hospital buildings on-site will be removed. A significant portion of the wooded periphery of the site to the north and east will remain undisturbed as well as a portion of the wooded steep slopes on the western-central portion of the site. In addition, no trees will be removed within the 100-foot buffer zone of the onsite wetlands and the Proposed Project will avoid disturbance to the

wetland and wetland buffer. Some of the currently disturbed areas will be converted to green buffers that help protect adjacent neighboring homes, particularly with homes on Grandview which currently have dilapidated Stony Lodge buildings on their property line and will now have a green buffer.

The Proposed Project will create and preserve approximately 11.8 acres (or 66% of the entire Project Site and 75% of net lot area) of open space, providing visual and natural resources benefits.

The current buildings on the property—previously occupied by Stony Lodge Hospital—are located at the top of a hill and are partially visible from the west side of the property from Croton Dam Road. Existing buildings are shown in Figure 2-2. The northern boundary of the property has structures along the property edge (non-conforming) that are fully visible from the homes situated on Grandview Avenue, and these buildings will be razed and replaced with green buffer. Similarly, the southern boundary has hospital buildings situated near the property edge that can be viewed by the homes on both Second Avenue and Pershing Avenue, and these buildings will also be razed and replaced by green buffer. Lastly, the eastern boundary of the property has structures that are partially hidden from the immediate neighborhoods due, in part, to current landscaping. It is noted that neither Narragansett Avenue nor Pershing Avenue, nor the two dead-end streets closest to the site including First Avenue and Second Avenue, provide views to the upper interior portions of the site.

iii. **Affordable Housing Component**

Article VI of the Town of Ossining's zoning code describes the number of housing options as essential to the long-term health of the community. Furthermore, §200-33 requires new subdivisions or buildings requiring approval to provide 10 percent of the units of the proposed development to be affordable at below-market rate. To achieve this purpose, the code allows for a maximum permitted density bonus of 20 percent on a 10 or more acre property.

The Proposed Project will provide 10 of its 95 dwelling units as affordable housing as mandated by Article VI of the Town of Ossining's zoning code.

In 2019, Westchester County ~~has undertaken~~undertook an Affordable Housing Needs Assessment (the "Study") to establish a data-based foundation for the creation and preservation of affordable housing in Westchester County. The Assessment looks at the County's history of housing policies; lays out the methodology for data analysis; provides findings on a wide variety of demographic, housing stock and housing affordability issues; and provides recommendations, including Best Practices from across the country, to help the County move forward in meeting its affordable housing needs. ~~The Assessment concluded that the total number of new affordable housing units needed in the County is 11,703.~~

The Study also provided data pertinent to the individual villages and towns within the County, including the Town of Ossining. Housing affordability was analyzed for both rental housing and owner housing to create an "out of reach" summary, using both market rents and HUD's Fair market rent values compared with each Ossining's renters wage rate to determine how "affordable" Ossining is and the gap in affordability. For the Town, this gap in affordability for a 2-bedroom market-rate rental is \$1,598 per month at the Town's local renter wage of \$17.25/hour (Table 62 of the Study). A renter wage earner would need to work 111.2 hours per week to afford a 2-bedroom full-market value rental. The data show that every municipality in the County has a gap in affordability when looking at market rents.

iv. Recreation

The Project Site is currently vacant and is not accessible to the public for recreation purposes. In the future with the Proposed Project, the site will continue to be closed to the public for recreational purposes, though a goal of

the site planning has been to provide on-site walking trails which will connect to adjoining trail systems, the Veterans Memorial Park across the street on Narragansett Avenue, and also to neighboring streets. The Proposed Project will offer recreational amenities to residents within a community clubhouse which will include state-of-the-art exercise equipment, a yoga studio, a club room providing gathering areas and a coffee klatch. Adjacent outdoor amenities will include a swimming pool for residents, landscaped terraces overlooking the Hudson River, an outdoor kitchen for private entertaining, and quiet landscaped reading pockets. Therefore, it is the Applicant's intent to provide extensive on-site recreational opportunities so, in the Applicant's opinion, there will be little recreational impacts associated with the Proposed Project. Additionally, the demographic profile of the 55+ focus of the Proposed Project will have residents more focused on non-team sports and interested in the walking activities provided by the trails contemplated. Nonetheless, subsequent to the adoption of the proposed zone change, a determination by the Town will need to be made regarding the adequacy of the recreation facilities proposed for the site, and whether a payment in lieu will be required.

v. **Westchester County Planning Board - "Westchester 2025"**

Westchester 2025 is a county-wide planning effort aimed at demonstrating the importance of planning to the county's communities, as well as making planning resources more accessible to those communities and their residents. In addition, the 2025 Context for County and Municipal Planning and Policies to Guide County Planning was adopted by the Westchester County Planning Board in 2008 and amended in 2010. This document replaces and updates the "Assumptions and Policies" section of Patterns with new principles and policies for development in the County.

Listed below are those principles from the 2025 Context that are most applicable to the Project Site and the Proposed Project, as well as a description of how the Proposed Project is compatible with these policies.

Assure interconnected open space—*Assure a diverse and interconnected system of open space to shape development, to provide contrast in the texture of the landscape, to separate developed areas, and to provide linkages among open space systems of the region.*

The Proposed Project will protect open space with landscape buffers surrounding the site and providing an interconnection with the publicly accessible Veterans Memorial Park. See full-size Drawing L-100 “Landscape Plan” included with this SDEIS which conceptually depicts the many deciduous and evergreen tree plantings that enhance the buffer screening along the perimeter of the Site adjacent to the residential uses. The Sponsor of the Proposed Project will also seek ways to provide trail connections to the nearby Maryknoll Seminary with 230 greenspace acres further to the east, and the nearby Anne Dorner Middle School – Dale Cemetery – Torview Club’s open space areas to the westerly side of the Property.

Nurture economic climate—*Nurture the economic climate of the county with use of municipal, county, state, and federal resources to improve infrastructure, housing, and programs that attract and support business enterprise, with consideration of inter-municipal impacts.*

The Proposed Project will add housing to the currently vacant Project Site. While the site is not tax exempt, it is not currently a large tax revenue generator in its vacant state. By redeveloping the site with a proposed multifamily project, River Knoll will generate significant tax revenues for the Town of Ossining and will bring new residents to the Town, as well as retain those existing 55+-aged residents who might otherwise move out of Town, which will provide additional economic activity through new demand for commercial services, restaurants, stores, health and medical services, and more.

Preserve natural resources—*Preserve and protect the county's natural resources and environment, both physical and biotic. Potential impacts on water resources (water bodies, wetlands, coastal zones and groundwater), significant land resources (unique natural areas, steep slopes, ridgelines and prime agricultural land, and biotic resources (critical habitat, plant communities and biotic corridors) require careful consideration as part of land management and development review and approval.*

Natural resources will be preserved as current out-buildings and impervious surfaces are removed, and these locations are re-vegetated as green buffers with informal, pastoral landscaping.

Support development and preservation of permanently affordable housing—*Encourage a range of housing types that are permanently affordable to renters and home buyers, with the County working with each municipality to address its needs for fair and affordable housing, as well as a share of the regional need.*

The Proposed Project will create a range of housing types on the Project Site with 85 market rate townhouse units and 10 permanently affordable housing units. This project will contribute toward an overall County goal of affirmatively furthering fair housing and advance the public interest of the municipalities of the County of Westchester.

Provide recreational opportunities to serve residents—*Enhance use of Westchester's parks, beaches, and recreation facilities by improving public access and by providing a variety of settings for passive and active use. New recreational opportunities should take into account the recreational needs of higher density population areas and the needs and interests of the county's changing population.*

While the Project Site is not a Westchester County-owned open space resource and will not be open to the public, the Proposed Project will offer numerous recreational amenities to residents including a fitness center for residents with

state-of-the-art exercise equipment, a yoga studio, a club room providing gathering areas and billiards, and both on-site walking paths and connections to surrounding walking trails. Outdoor amenities will include a swimming pool for residents, an outdoor kitchen for private entertaining, extensive landscaping, a dedicated dog walk, and a walkway to Veterans Memorial Park.

Define and Protect Community Character—*Encourage efforts to define the desired character of each municipality and neighborhoods within the broader, diverse palate of Westchester County. Support initiatives to adapt and establish land use policies and regulations that enhance that character through focus on location, setting, aesthetic design, and scale of development, as well as the public context of street life, tree canopy, and utility placement.*

In the Applicant's opinion, the Proposed Project will define and protect community character because it will remove deteriorated and defunct structures and will eliminate a blighting influence to the community character of the surrounding neighborhoods. Landscaped buffers will separate River Knoll from the surrounding residential neighborhoods. It will eliminate adverse impacts to neighborhood character and also will enhance neighborhood character by the removal of blighted and underused conditions.

Maintain Utility Infrastructure—*Maintain safe and environmentally sound systems and policies for waste removal, collection, and treatment, as well as the treatment and distribution of drinking water consistent with the county's land use policies. Programs to reduce and recycle the waste stream, protect water quality, control, and treat storm water, and mitigate or reduce the impacts of flooding must be strengthened.*

The Proposed Project will convey runoff to a new on-site state-of-the-art storm water system and eliminate the current site condition under which storm water runoff is discharged untreated directly to the surrounding neighborhoods. The

Proposed Project will provide a net reduction in the peak rates of storm water runoff and will result in reduced water quality impacts to the Town and Village stormwater systems.

Overall, it is the Applicant's opinion that the Proposed Project is consistent with local and regional policies that promote redevelopment of older properties in a manner that preserves community character, environmental features, and provides for affordable housing.

vi. **The Comprehensive Plan**

2015 Comprehensive Plan

The Town's most recent Comprehensive Plan was adopted in 2015. A 2020 Comprehensive Plan draft is underway. A website search of the Town determined that the 2020 Comprehensive Plan remains a work-in-progress.¹ There is a Draft Objectives & Strategies (D&S) document, dated August 2021, by the Pace Land Use Law Center.² This document notes the need for pedestrian connections between neighborhoods. As noted above, the emergency access proposed between the Project cul-de-sac and Narragansett Avenue on the northeasterly portion of the Site provides a pedestrian connection from the Project to Veterans Memorial Park. In addition, the Project proposes drainage improvements including conventional and green infrastructure stormwater practices, such as infiltration basins with forebays and stormwater planters. The vegetated stormwater practices and overland discharges will also provide opportunities to enhance water quality and infiltration practices. This is consistent with the D&S documents objective of decreasing stormwater runoff from impervious surfaces by implementing green infrastructure practices.

¹ SUSTAINABLE OSSINING Accessed 01/19/2022.

² 210831_WXY_OssiningCompPlan_Objectives_Strategies_FINAL_DRAFT.pdf (squarespace.com) Accessed 01/19/2022.

In furtherance of the D&S objective of prioritizing infrastructure upgrades necessary to mitigate the effects of development projects on Town municipal infrastructure, the Applicant is proposing water system improvements that are similar to those previously prepared in connection with the Former Project which would further improve the function and reliability of the Town/Village water system in the vicinity of the Project Site.

An objective of the D&S document is to provide a range of housing that is diverse both in type and affordability. By proposing an age-restricted multifamily development with affordable housing the Project advances this goal.

Listed below are those principles from the 2015 Comprehensive Plan that are most applicable to the Project Site and the Proposed Project:

- “Preserve and conserve existing open space, acquire new properties for preservation and recreation, and protect the trees, water supply and watersheds, steep slopes, view-sheds, scenic resources, wildlife habitats, and other significant environmental assets to the community” (Environmental Resources Chapter).
- “Preserve the quality, character, and stability of neighborhoods within the Town... make a wide range of housing opportunities available to members of the community... and require suitable buffer areas for non-residential uses and properties abutting neighborhoods and residential areas” (Residential Chapter).
- “Cooperate in efforts to make a wide range of housing opportunities available to members of the community” (Residential Chapter).
- “Promote development and redevelopment to be consistent with the current scale and historic character of the community... (and) preserve residential neighborhoods and protect environmental resources” (Future Development and Redevelopment Chapter).

- “The Town should be open to an analysis of the zoning of the underutilized and non-conforming Stony Lodge Hospital property in order for this property to be adaptively reused or redeveloped in a manner that is feasible and which protects surrounding neighborhoods and environmental resources to the maximum extent practicable.” (Future Development and Redevelopment Chapter).

2022 Draft Comprehensive Plan

A Draft Comprehensive Plan, dated 1/27/2022, is available on the Town’s website. The Plan “creates a blueprint for a more sustainable, equitable, and economically sound Town of Ossining”. The Plan’s goals, objectives, and strategies include a number that are relevant to the Proposed Project. These are as follows:

Housing, Development & Preservation

- Leverage development to ensure projects provide amenities beneficial to all members of the Town of Ossining community, including
 - Mitigate impacts to municipal infrastructure and resources, including roads, sewage, and schools, were new development to occur.

The Applicant is proposing water system improvements that are similar to those previously prepared in connection with the Former Project which would further improve the function and reliability of the Town/Village water system in the vicinity of the Project Site. These improvements included providing a “looped” system between Croton Dam Road and Narragansett Avenue which includes installing a new 8” water main through the Project Site within the new roadways.

Because the Proposed Project is age-restricted, there will be few if any school children sourcing from the Project. Thus, the Ossining Central School District will benefit from an increase in taxes paid by the property of approximately \$690,000 annually, with no increase in expenditures due to additional school children.

- Provide a range of housing that is diverse both in type and affordability.
 - While a specific strategy is not stated, the Proposed Project provides 10 affordable homes, and separately provides a type of diverse housing type that is not currently present within the Town. That is, an age-restricted community. All 95 units will be age-restricted units pursuant to the Housing for Older Persons Act (“HOPA”). The Proposed Project would provide a new and upscale housing community choice type for residents age 55+ who wish to remain in Ossining and the Hudson Valley region.

Sustainable Infrastructure

- Incentivize the use of green building practices and methods in Unincorporated Ossining.
 - Incentivize green building practices in new development.

River Knoll will be designed to meet or exceed the NYS Energy Conservation Code (ECC), which requires the use of energy efficient products in all new construction. The exterior walls of the units will include thermal insulation and an air barrier to reduce heat loss in the winter and heat gain in the summer. Exterior windows will be double-paned insulated glass with low emissivity glazing. Mechanical systems will incorporate economizer cycles for

energy conservation. Motion activated light sensors will be utilized to reduce power consumption in less frequented public areas.

The residential units will utilize energy efficient technologies including:

- White membrane heat-reflective roof lowering surface temperatures by up to 50% at peak times;
 - Energy Star energy-efficient appliances specified for each unit;
 - Heating-ventilation-air conditioning controls to efficiently zone heating and cooling demands throughout the building and within each unit;
 - Smart thermostats incorporated into each residential unit;
 - LED lighting utilized throughout the building, thereby significantly lowering electric demand and minimizing replacement cost;
 - Integrated lighting system (e.g. Siemens Gamma Lighting) allowing for lighting control in common areas that are not in use, most particularly in the garage areas; and
 - Windows and doors that will be Energy Star-rated double-paned insulated glass.
- Encourage the use of green infrastructure, including retrofitting existing drainage systems with advanced stormwater filtration capability.

The existing Project Site has no modern stormwater practices. The Proposed Project will be designed with two infiltration basins to treat for water quality and retain stormwater runoff from the site. In addition, the proposed vegetated practices and overland discharges provide multiple opportunities for water quality enhancement and infiltration in addition to the proposed stormwater management practices.

- Promote dark sky initiatives such as reducing nighttime lighting and updating infrastructure with “dark sky approved”, low-pollution nighttime lights.

Low intensity and dark-sky compliant lighting will be used for security and wayfinding. Minimal decorative down-lighting will be provided at the entrance to the Site. Lighting fixtures will comply with dark sky requirements through the use of shielded and directional lighting, to minimize up-lighting and reduce unnatural lighting on nocturnal wildlife.

vii. Potential impact of Proposed MF zoning district and a comparison to the proposed rezoning of the property to a MF2 zoning district of the 2018 DEIS development

The Project Site is currently zoned R-15, which permits single family homes on 15,000 square foot lots and not multifamily uses. Accordingly, the existing MF “Multifamily District” zoning is proposed to enable this development.

Row or attached dwellings are defined in the Code as “a one-family dwelling with two common or party walls separating it from adjacent units on both sides”.

As noted in Section 200-16.A(3) of the Town Zoning Code, row or attached dwellings are permitted subject to the following requirements:

- a. The maximum number of dwelling units in a group of row dwellings is six.
- b. The minimum distance between principal buildings is to equal two times the height of the highest building, and the minimum distance between a principal and an accessory building is 20 feet.
- c. Any inner court is to have a minimum dimension of 60 feet, and any outer court a minimum dimension of 20 feet and a depth not exceeding its width.

d. There is to be provided on the same lot a suitably equipped and landscaped children's play area with a minimum of 400 square feet for each dwelling unit.

- At least 1/3 of the net site area is to be devoted to permanent open space and/or for sites suitable for recreation as required by Zoning Code Subsection A(2)(d). Undeveloped permanent open space is to be provided and guaranteed at the rate of 1,500 square feet per bedroom.
- In considering such residential developments, the Planning Board shall follow the procedures and requirements set forth in § 200-31, entitled "Cluster developments."

Table III.A-3, below, illustrates the differences/similarities between the existing MF zone and the formerly proposed MF-2 zoning district.

Table III.A-1
Bulk Comparative Zoning Analysis
MF and MF-2 Districts

Description	Proposed Project	MF Multifamily District		MF-2 Zoning	
		Row and Attached Dwellings	Multiple	Row and Attached Dwellings	Multiple
Gross lot area (square feet)	779,179	--	--	--	--
Net lot area (square feet) ³	686,186 ⁴	20,000	20,000	10 acres	10 acres
Net lot area provided per dwelling unit (square feet)	4,002 plus 1,500 per bedroom	4,000 plus 1,500 per bedroom	4,000 plus 1,500 per bedroom	4,250*	4,250*
Lot width (feet)	979.5	20	100	50	250
Lot depth (feet)	665.5	100	150	250	250
Front yard (feet)	30.9	25	50	200	200
One side yard (feet)	50	50*	50	100	100
Both side yard (feet)	100	100*	100	200	200
Rear yard (feet)	40	40	40	100	100
Livable floor area per dwelling unit (square feet)	See below	See below	See below	850	700 per for 1 or more bedrooms
Studio and efficiency dwellings	N/A	450	450		
One-bedroom dwellings	N/A	675	675		
Two-bedroom dwellings	1,575	750	750		
Description	Proposed Project	MF Multifamily District		MF-2 Zoning	

³ As discussed in Section II. Project History and Proposed Project Description, subsection B of the SDEIS, Section 176-18.F of the Town Code specifies that at least 75% of the minimum lot area requirement of a proposed lot is to consist of neither “wetland” nor “extremely steep slope” as these terms are defined in the Code. The net lot area for the Site is 686,186 s.f. as calculated in Section II.

⁴ Combined Town and Village portions of the Site.

		Row and Attached Dwellings	Multiple	Row and Attached Dwellings	Multiple
Three-bedroom dwellings	1,795	1,000	1,000		
Four-bedroom dwellings	N/A	1,200	1,200		
Usable open space as % of Net Lot Area	75% ⁵	Same as § 200-16A(4)	Same as § 200-16A(4)	50%	50%
<u>Minimum Children Play Area per Unit (S.F.)</u>	<u>--</u>	<u>400</u>	<u>400</u>		
Maximum Permitted					
Building Height					
Stories	2 ½	2 ½	2 ½	3	3
Feet	26	35	35	50	50
Building coverage (percent)	18.9%	20%	20%	12%	12%
<u>Building Length (Feet)</u>	<u>N/A</u>	<u>N/A</u>	<u>150</u>		
<u>Max. Number of Dwelling Units in a Row</u>	<u>6</u>	<u>6</u>	<u>6</u>		
<u>Minimum Distance between Principal Buildings (Feet)</u>	<u>30</u>	<u>2 Times Building Height (52 Feet)</u>	<u>2 Times Building Height (52 Feet)</u>		
<u>Minimum Distance between Principal and Accessory Buildings (Feet)</u>	<u>N/A</u>	<u>20</u>	<u>20</u>		

* MF Note: Applies only between buildings and side lot lines.

⁵ 11.8 acres of open space are provided.

The differences in impacts between the two zoning districts include increased density for the formerly proposed MF-2 district with less lot area required per dwelling unit, and no provision for open space based on the number of bedrooms. The MF-2 zone also provided for increased lot width, depth, and front, side and rear yards. The MF-2 district would permit taller maximum building heights and less maximum permitted building coverage.

Table III.A-2
Zoning Table

Description	Proposed Project	MF Multifamily District
		Row and Attached Dwellings
Gross lot area (square feet)	779,179	--
Net lot area (square feet) ⁶	686,186 ⁷	20,000
Net lot area provided per dwelling unit (square feet)	4,002 plus 1,500 per bedroom	4,000 plus 1,500 per bedroom
Lot width (feet)	979.5	20
Lot depth (feet)	665.5	100
Front yard (feet)	30.9	25
One side yard (feet)	50	50*
Both side yard (feet)	100	100*
Rear yard (feet)	40	40
Livable floor area per dwelling unit (square feet)	See below	See below
Studio and efficiency dwellings	N/A	450
One-bedroom dwellings	N/A	675
Two-bedroom dwellings	1,575	750
Three-bedroom dwellings	1,795	1,000
Four-bedroom dwellings	N/A	1,200
Usable open space as % of Net Lot Area	75% ⁸	33%
Maximum Permitted		
Building Height		
Stories	2 ½	2 ½
Feet	26	35
Building coverage (percent)	18.9%	20%

* Note: Applies only between buildings and side lot lines.

viii. Relevance of "Spot Zoning"

~~Section 3.G.B. Zoning of the DEIS for the Former Project contains an extensive discussion of "spot zoning", which is summarized below:~~

⁶ As discussed in Section II. Project History and Proposed Project Description, subsection B of the SDEIS, Section 176-18.F of the Town Code specifies that at least 75% of the minimum lot area requirement of a proposed lot is to consist of neither "wetland" nor "extremely steep slope" as these terms are defined in the Code. The net lot area for the Site is 686,186 s.f. as calculated in Section II.

⁷ Combined Town and Village portions of the Site.

⁸ 11.8 acres of open space are provided.

~~The New York Court of Appeals has defined ‘spot zoning’ as “the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners.”⁹ The Rodgers’ Court went on to state that:~~

~~“...spot zoning is the very antithesis of planned zoning. If, therefore, an ordinance is enacted in accordance with a comprehensive zoning plan, it is not ‘spot zoning,’ even though it (1) singles out and affects but one small plot or (2) creates in the center of a large zone small areas or districts devoted to a different use.”¹⁰~~

~~The real test for spot zoning is whether the zoning change is other than part of a well-considered and comprehensive plan calculated to serve the general welfare of the community.¹¹ Two Appellate Division cases deal specifically with zoning changes to accommodate assisted living facilities. In both cases, the zoning amendments were upheld.~~

~~Subsequently, in a case in the Village of Lynbrook challenging a rezoning, the court followed the long standing principle that “a Village must exercise its zoning power in accordance with a ‘comprehensive plan.’”¹² The court went on to cite a seminal case for the proposition that:~~

~~“[A] comprehensive plan need not be contained in a single document. Rather, all available and relevant evidence of the municipality’s land use policies need be examined to determine whether a municipality has a comprehensive plan.”¹³~~

⁹-Town Law § 263; Village Law § 7-704)

¹⁰-Rodgers v. Tarrytown, 302 N.Y. 115 (1951); see also, Boyles v. Town Board of the Town of Bethlehem, 278 A.D.2d 688 (3d Dept. 2000). Rodgers v. Tarrytown, 302 N.Y. 115 (1951); see also, Boyles v. Town Board of the Town of Bethlehem, 278 A.D.2d 688 (3d Dept. 2000).

¹¹-Collard v. Incorporated Village of Flower Hill, 52 N.Y.2d 594 (1981).

¹²-See Stone v. Scarpato, 285 A.D.2d 467 (2d Dept. 2001).

¹³-Udell v. Haas, 21 N.Y.2d 463 (1968)

~~“Furthermore, [z]oning legislation is tested not by whether it defines a comprehensive plan but by whether it accords with a comprehensive plan for the development of the community. When a zoning ordinance is amended, the court decides whether it accords with a comprehensive plan in much the same way, by determining whether the original plan required amendment because of the community’s change and growth and whether the amendment is calculated to benefit the community as a whole as opposed to benefiting individuals or a group of individuals.”¹⁴~~

Since there is no requirement to adopt a new zoning district, and no amendment to the Zoning Code with respect to the existing district is being requested, the Town-wide impact of rezoning the Site has been eliminated. Any properties that otherwise meet the requirements of the Multifamily (MF) district can apply to be rezoned notwithstanding the Proposed Project. The MF zone is established within the Town Code.

3. **Mitigation**

Full-size Drawing L-100 “Landscape Plan” included with this SDEIS conceptually depicts the many deciduous and evergreen tree plantings that are to enhance the buffer screening along the perimeter of the Site adjacent to the residential uses.

In the Applicant’s opinion, the Proposed Project has been designed to avoid significant adverse impacts on land use, community character, zoning, or public policy. The Applicant has endeavored to create an attractive reuse for residential opportunities on a currently underutilized and blighted site. The green buffers, open space preservation, and landscaping have been strategically designed to minimize land use impacts to the adjacent neighborhood. As previously noted, the Applicant will submit

¹⁴~~Asian Ams. For Equality v. Koch, 72 NY2d 121 (1989).~~

a petition to rezone the site to the MF District to facilitate this project. Therefore, no additional mitigation with regards to land use, zoning, public policy, or community character is required.

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