Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 22, 2016

Clarkstown Planning Board
10 Maple Avenue
New City, NY 10956

Tax Data: 65.08-1-1

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 6/7/2016 **Date Review Received:** 8/4/2016

Item: ***CAPITAL TELECOM OAK HILL CEMETERY (C-3567)***

Site plan and special permit for the proposed construction of a wireless telecommunications facility, consisting of antennas mounted on a 160-foot stealth tree monopole, and related equipment at the base in a 2,400 sq. ft. compound area. The tower will be located within a 3,844 sq. ft. leased area of an 11.27-acre parcel, that is part of an existing cemetery.

East of Gail Drive, north of the NYS Thruway, south side of Mountainview Nature Park (eastern extension), and west of the Nyack border

Reason for Referral:

Village of Nyack, Mountainview Nature Park, NYS Thruway, NYS Route 59, Long Path

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

***Recommend the following modifications**

1 The Village of Nyack is one of the reasons this proposal was referred to this department for review. The municipal boundary is along the eastern boundary of the parcel, directly adjacent to the site. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and countywide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner that is supportive of the goals and objectives of the general area.

CAPITAL TELECOM OAK HILL CEMETERY (C-3567)

The Village of Nyack must be given the opportunity to review the proposal and its impact on community character, visual effects, and drainage. The areas of countywide concern noted above that directly impact the Village of Nyack must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

2 A review must be completed by the New York - New Jersey Trail Conference and any concerns addressed.

3 A review must be completed by the County of Rockland Division of Environmental Resources and any concerns addressed.

4 A review must be completed by the New York State Thruway Authority and any required permits obtained.

5 The applicant must obtain any necessary permits from the New York State Department of Environmental Conservation's Division of Air Resources for the proposed generator.

6 The preliminary screening criteria includes the fall zone of the proposed structure. As the structure is proposed to be 160 feet in height, the fall zone must be a minimum of 1.5 times the height, or 240 feet. The fall zone area should be depicted on the site plan.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown
New York State Department of Transportation
New York State Thruway Authority
Rockland County Division of Environmental Resources
New York - New Jersey Trail Conference

Tectonic
Village of Nyack Planning Board
Robert D. Gaudioso, Snyder and Snyder, LLP

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.

Pursuant to New York State General Municipal Law §239-m(6), the referring body shall file a report of final action it has taken with the Rockland County Department of Planning within thirty (30) days after final action. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.