

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

June 7, 2019

Clarkstown Town Board
10 Maple Avenue
New City, NY 10956

Tax Data:

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M

Map Date:

Date Review Received: 5/16/2019

Item: TOWN OF CLARKSTOWN - NANUET TOD CREATION (C-3637)

Zoning Code Amendment, Zoning Map Amendment, and Town Official Map Amendment to establish the Nanuet Transit Oriented Development zoning district in the Nanuet Hamlet area. The intent is to develop a vibrant, walkable, and aesthetically pleasing mixed-use neighborhood that better connects Nanuet's Hamlet Center to surrounding neighborhoods, encourages public transit use, discourages automobile dependency, and provides high-quality, affordable, and sustainable housing. Four zoning districts will be created: Hamlet Commercial - Nanuet (HC-N); Transit Oriented Development 1 (TOD 1); Transit Oriented Development 2 (TOD 2); and Transit Oriented Development 3 (TOD 3). The TOD areas consist of 67 parcels on 40.89 acres that are currently located in the HC, LIO, MF-1, and R-15 zoning districts.

East and west sides of S. Middletown Road/Main Street, north and south sides of Prospect Street near the Nanuet Train Station, west side of Fisher Avenue, and along the railroad right-of-way

Reason for Referral:

NYS Route 59, Nauraushaun Brook, S. Middletown Road/Main Street (CR 33), Old Middletown Road (CR 33A), Convent Road (CR 46)

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 type of road should be indicated for the Official Map Amendments since the town has several road types (Local, Collector, or Secondary).
- 2 Section 290-7.8G.(5) permits the following uses as of right in the HC-N, TOD1, TOD2, and TOD3: "restaurant, bar or tavern, micro-brewery or brew pub with outdoor seating." As written, it is not clear if outdoor seating must be provided to permit these uses, or if outdoor seating is permitted in any of these uses. This should be clarified.

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- 3 Section 290-7.8K provides requirements and dimensional standards for off-street parking. Reductions are permitted by the Planning Board if it is shown that the uses have staggered demand schedules over the course of a typical day. This section should also discuss the importance of planning locations for snow piles to ensure that adequate parking is provided at all times, especially if reductions are given. The snow piles should not be located in required parking spaces or in landscaped areas as visibility and safety issues, inadequate parking, and damage to the plantings can result. Specific guidelines for the location of snow piles would be beneficial.
- 4 Table L-1 lists exterior materials that are recommended and prohibited. The second and third lines under the Prohibited Materials list the parking standard requirement based on square footage. These two lines seem to be erroneously listed in the table, and should be removed or replaced with the appropriate information.
- 5 The Town of Clarkstown must provide the Rockland County Planning Department with a copy of the resolution and amended zoning map following the zone changes so that we can update our records and tax maps.
- 6 A review must be completed by the New York State Department of Transportation, and any comments or concerns addressed.
- 7 A review must be completed by the County of Rockland Drainage Agency and any comments addressed.
- 8 A review must be completed by the County of Rockland Department of Highways and all concerns addressed.
- 9 A review must be completed by the County of Rockland Department of Health, any comment or concerns addressed.
- 10 The comments in the May 16, 2019 letter from the Rockland County Sewer District No. 1 must be met.
- 11 A review shall be done by the Rockland County Department of Public Transportation and any comments or concerns addressed.
- 12 A review must be completed by New Jersey Transit and any concerns addressed.
- 13 A review must be completed by the Metropolitan Transportation Authority and any concerns addressed.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown
Rockland County Department of Highways
New York State Department of Transportation
Rockland County Drainage Agency
Rockland County Sewer District #1
Rockland County Department of Health
Rockland County Department of Public Transportation
New Jersey Transit
Metropolitan Transportation Authority
Rockland County Planning Board

Attention Kathleen Houlahan, Town Attorney's Office
Justin Sweet, Town Clerk
Clarkstown Planning Board, Attention Joe Simoes

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**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.

