COUNTY OF ROCKLAND

DEPARTMENT OF PLANNING

Building T
Pomona, NY 10970
(845) 364-3434
Fax. (845) 364-3435

EDWIN J. DAY
County Executive

THOMAS B. VANDERBEEK, P.E.
Commissioner

ARLENE R. MILLER
Deputy Commissioner

April 17, 2014

Nyack Planning Board
9 North Broadway
Nyack, NY 10960

Tax Data: 60.77-2-8 60.77-2-7.2 60.77-2-7.1

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

Map Date: 11/8/2013

Date Review Received: 3/21/2014

Item: ***NYACK COMMUNITY AMBULANCE CORP. (N-32A)***

Lot line dissolution for three lots that will be merged into one lot in the TFR zoning district on a total of .57 acres. A site plan is also submitted for the existing ambulance building and theproposed accessory four-family residential structure.

Northeast corner of Sixth Avenue and N. Midland Avenue

Reason for Referral:

Village of Upper Nyack

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 It is not clear as to why these three lots are being proposed to be merged together as one lot. Combining lots 60.77-2-7.1 and 7.2 seems logical since these two lots contain the building and associated parking for the ambulance corps. However, the justification for also combining Tax Lot 60.77-2-8 is unclear. The issue of whether this residential use is an "accessory use" is discussed in item #2 below, and questions if this is legal given the Village's Zoning Ordinance. Additional information must be provided explaining the reasoning behind this three-lot line dissolution, and the legality of allowing a residential structure to be considered an accessory use to the ambulance corps.

NYACK COMMUNITY AMBULANCE CORP. (N-32A)

2 A four-family "accessory" building to the ambulance corps is being proposed on the site plan. The site is located in the TFR zoning district, which permits no more than two-family residences. The Village of Nyack's definition for "accessory building" is that it is "...incidental or subordinate to and customary in connection with the principal building..." It is not clear, as there is no narrative or other supplemental information provided, as to how this four-family residence is considered an accessory building, or how it is incidental or subordinate to and customary in connection to the principal building. Firehouses in the city for example, have housing for the firefighters on site, but the housing is contained within the firehouse, and not as a separate building. What is the intent of this housing? Will only members of the ambulance corps live in this housing? Are there stipulations being proposed? How does this four-family residence qualify as an accessory building? These questions must be addressed before the subdivision and site plan can be finalized.

3 A note appears under the bulk table indicating that a variance is required for conversion of the existing dwelling to a four-family dwelling. This note must be change to indicate that a use variance will be required for the conversion of the residence. In addition, if the intent of the housing is to serve the members of the ambulance corps, then the specific criteria must be provided to, and incorporated into the review for the use variance. Before the subdivision can be finalized, the use variance application must be reviewed by the Zoning Board of Appeals. If this use variance is not granted, then it does not seem logical to undertake the subdivision as proposed.

4 Nine of the parking spaces shown on the site plan are not located completely within the property boundary. These nine spaces along Sixth Avenue cannot legally be counted towards the required parking spaces, as half of the parking space area is contained off-site. The bulk table and parking calculation must be updated to reflect that these parking spaces cannot be counted towards the required onsite parking, and that a variance for parking will be required.

5 As required by the Rockland County Stream Control Act, the subdivision plan must be reviewed and signed by the Chairman of the Rockland County Drainage Agency before the County Clerk can accept the plan to be filed.

6 We request the opportunity to review all variances which are necessary to implement the proposed site plan and subdivision.

Thomas B. Vanderbeek, P.E.
Commissioner of Planning

cc: Mayor Jen White, Nyack
Rockland County Drainage Agency
Sparaco & Youngblood, PLLC
Village of Upper Nyack

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

NYACK COMMUNITY AMBULANCE CORP. (N-32A)

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.