



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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EDWIN J. DAY
County Executive

DOUGLAS J. SCHUETZ
Acting Commissioner

ARLENE R. MILLER
Deputy Commissioner

May 4, 2015

Nyack Planning Board
9 North Broadway
Nyack, NY 10960

Tax Data: 65.44-2-6

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

Map Date: 3/25/2015

Date Review Received: 4/6/2015

Item: *NYACK POINT APARTMENTS (N-171)*

Site plan for the proposed demolition of an existing building, and construction of a proposed 33-unit rental apartment on a .49-acre parcel in the Downtown Mixed Use (DMU) and Two-Family Residential (TFR) zoning districts.

South side of Main Street, north side of Depew Avenue, approximately 240 feet east of S. Highland Avenue (US Route 9W)

Reason for Referral:

US Route 9W, NYS Thruway

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 site is located partially within the Downtown Mixed Use (DMU) zoning district and partially within the Two-Family Residential (TFR) zoning district. The majority of the site is within the DMU district, while the southern portion of the site is within the TFR zoning district. Multi-family dwellings are a permitted use in the DMU zoning district, but they are not a permitted use in the TFR zoning district. Either a use variance or a zone change must be done prior to approval of the site plan for the portion of the site in the TFR zoning district. Rezoning is a more appropriate zoning tool to achieve the desired land uses than a use variance, as bulk regulations for the zoning district provide standards that can be used to determine compliance.

2 The bulk table should provide requirements for both the DMU and TFR zoning districts, since the parcel and proposed structure are located within both. All required variances must be highlighted in the bulk table. In addition a parking calculation must be provided, as well as calculations for the density requirements. Lastly, the tax parcel identification number must be provided on the site plan.

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- 3 The Nyack Zoning Ordinance requires that side and rear yards that are adjacent to residential zones must have a minimum setback of 15 feet, including a landscaped buffer. Since the property is adjacent to the TFR zoning district, a residential zone, then we believe that this 15 foot yard setback is required. If that is the case, then a variance for side setback will be required. This must be clarified.
- 4 The location of all support piers for the parking garage must be shown on the site plan. It must be illustrated that their location will not impede the use of any of the proposed parking spaces.
- 5 A review must be completed by the County of Rockland Department of Health and any required permits obtained.
- 6 A review must be completed by the Rockland County Office of Fire & Emergency Services and any raised comments or concerns addressed.
- 7 The fire zones must be clearly marked on the site plan. Access to the fire zones shall be unimpeded by other parking areas and maneuverability on the site feasible.
- 8 The fire department connections shall be designated on the site plan and kept clear for easy access by the emergency response vehicles.
- 9 Enhanced evergreen landscaping should be provided to the southeastern portion of the site that is adjacent to an existing residential use.
- 10 All signs shall be shown on the site plan and comply with the village's sign ordinance.
- 11 A lighting plan shall be provided that shows fields of illumination. Lighting shall not shine beyond the property line.
- 12 A review must be completed by the New York State Department of State, Division of Code Enforcement and Administration, to ensure compliance with the New York State Uniform Fire Prevention and Building Code.
- 13 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.
- 14 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 15 The referral form indicates that 43 parking spaces are required and that 41 spaces are proposed. The site plan illustrates only 40 parking spaces. The referral form must be corrected to reflect the actual number provided.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Jen White, Nyack
New York State Department of Transportation
New York State Thruway Authority
Rockland County Department of Health
Rockland County Office of Fire and Emergency Services
Rockland County Planning Board

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Bart M. Rodi, Engineer
New York State Department of State,
Division of Code Enforcement and Administration

**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.

