# COUNTY OF ROCKLAND

DEPARTMENT OF PLANNING

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May 4, 2015

Nyack Zoning Board of Appeals
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-171A)***

Variances to allow the 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. Needed variances include: less than the required number of parking spaces, and greater than permitted density.
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.

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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. If the structural supports conflict with parking spaces, than the parking variance may be further exacerbated.

5 The need for both parking and density variances are reflective that the site is too small to accommodate the number of units proposed. The number of units must be reduced, whereby the need for both the parking and density variances could be eliminated.

6 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.

7 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. In addition, if the public hearing notice states that 41 spaces are provided whereas 43 spaces are required, it must be amended to reflect the true 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 Office of Fire and Emergency Services
Rockland County Planning Board
Bart M. Rodi - Engineer
New York State Department of State,
Division of Code Enforcement & 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.*