

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 28, 2016

Nyack Village Board
9 North Broadway
Nyack, NY 10960

Tax Data:

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

Map Date:

Date Review Received: 7/1/2016

Item: VILLAGE OF NYACK - ZONING MAP & TEXT AMENDMENTS - COMP. PLAN (N-157B)

Zoning Code and Map amendments as part of the Village of Nyack's Comprehensive Master Plan update. Amendments include: 1) creation of two new zones, DMU-1 and DMU-2, which will replace the DMU and DMU Overlay Zone; 2) Rezoning an area which is currently zoned RMU to DMU-2; 3) Rezoning the Oak Hill Cemetery from TFR to SFR-1; 4) Replacing text referencing the DMU Overlay zone or the DMU district; 5) Adding language for the regulation of solar energy collectors; 6) Modifying requirements pertaining to natural and scenic resource protection standards; 7) Expanding allowable sustainability amenities eligible for density to include car-sharing services and provision of electric vehicle charging stations; 8) Modifying site development plan requirements; 9) Adding a section that requires applicants to post performance bonds; 10) Clarifying project phasing and improvements requirements; 11) Providing a building floor area bonus program; and 12) Adding several definitions and amending the definition for Significant Tree.

DMU-1 & DMU-2 - Generally along Main Street between N. Highland Avenue and Gedney Street; along Broadway between First Avenue and the village line; Oak Hill Cemetery - west side of N. Highland Avenue, north side of Sickles Avenue, east and south of the village boundary

Reason for Referral:

Villages of South Nyack & Upper Nyack, Town of Clarkstown, Long Path, Mountainview Nature Park, 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 On page 3 of 4 of the BFJ Planning Memorandum it states that brew pubs, live/work spaces and microbreweries are now permitted in the DMU, RMU and OMU districts, and that the change will be that brew pubs and microbreweries are allowed by special permit in the DMU and RMU districts. Since the DMU district is being eliminated, this reference should be to the DMU-1.

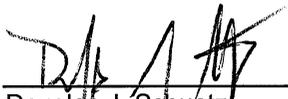
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2 The material submitted with the application shows in Section 360-2.4 D. the Office Mixed Use (OMU) replacing the existing Residential Office (RO). Neither the Existing Zoning Map or the Proposed Zoning Map illustrate either of these zoning districts. The maps must be updated to accurately illustrate the existing zone (RO) and the new proposed zone (OMU). In addition, the narrative submitted with the application, does not cite this as one of the proposed amendments, nor gives reasons for the zoning district renaming. Is this name change reflective of a previous district renaming which was not changed throughout the zoning ordinance, or is it a new named district? Other text in the zoning ordinance seems to already refer to the OMU zoning district. If this is a new district name, then all relevant sections of the Village of Nyack Zoning Ordinance must be updated to reflect the OMU zone instead of the RO zone. This must be clarified.

3 Table 3-1 must be amended to reflect that there are now two DMU zoning districts: DMU-1 and DMU-2. The permitted and special permit uses within each of these zones must be allocated.

4 Table 4-2 must be amended to include both the DMU-1 and DMU-2 zoning districts.

5 The unit of measure must be provided in Table 4-1 for the minimum usable open space - such as square feet per dwelling unit.



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 Division of Environmental Resources
New York - New Jersey Trail Conference

Town of Clarkstown
Villages of South Nyack & 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.*

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.