



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
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October 30, 2017

Nyack Planning Board
9 North Broadway
Nyack, NY 10960

Tax Data: 65.44-2-9

65.44-2-8

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

Map Date: 9/8/2017

Date Review Received: 9/21/2017

Item: *249-259 MAIN STREET (N-183)*

Site plan for the demolition of two existing houses, merging of two tax parcels, and construction of a 26-unit, four-story multi-family housing development. The parcels are located within the DMU zoning district on a total of .3834 acres. Access for the development will be obtained utilizing an easement over a residential parcel located in the TFR zoning district, south of the property. Variances are required for a 4-story building where 3 stories are permitted, and having a driveway access through property in the TFR zone for properties located in the DMU zoning district.

South side of Main Street, approximately 233 feet west of Midland Avenue, and 364 feet east of N. Highland Avenue

Reason for Referral:

N. Highland Avenue (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 A review shall be completed by the New York State Department of Transportation, any concerns addressed, and any required permits obtained.
- 2 A review must be completed by the New York State Thruway Authority and any required permits obtained.
- 3 The comments in the September 26, 2017 letter from the Rockland County Department of Health must be met.
- 4 A re-subdivision, or lot line disclaimer must be done for this site. Once this is done, 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.

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5 The parking layout is very constrained and requires stacked parking in order to accommodate all of the parking needs of the site. In addition, there are several other issues that indicate that too many units are being proposed on the site. These include the following:

a) Turnaround areas are not provided for the parking spaces that are adjacent to the sidewalk at the northern end of the parking lot, or the three spaces located on the eastern portion of the site. Turnaround areas must be provided in order to allow vehicles to easily and safely maneuver out of the parking spaces.

b) The three parking spaces located at the northern end of the parking lot must drive over the handicap accessible ramp. Not only is this not ideal due to the slope of the ramp, but the special materials that must be used for the ramp will be subject to an accelerated rate of deterioration. The ramp must have a firm, stable, and slip-resistant surface to comply with the American Disabilities Act (ADA). This special surface used on the ramp will be compromised from both the vehicular turning movements over the material, and the weight of vehicles. These parking spaces must be relocated so that do not conflict with the handicap accessible ramp.

c) The slope of the ramp has not been provided. According to the ADA standards, the route cannot be greater than 1:12. The applicant must provide the slope for the ramp.

d) Only one handicap parking space is provided for the site. According to ADA standards, two accessible parking spaces must be provided for a parking lot of 26 to 50 parking spaces, with one being van accessible with a minimum access aisle width of 96". One additional parking space must be provided, which includes a van accessible space.

e) The accessible parking space must be located on the shortest accessible route of travel to the accessible facility entrance. As designed, the handicap space must be located at the northernmost end of the parking lot. The parking lot must be redesigned to accommodate the ADA requirements.

These deficiencies in the parking layout demonstrate that too many units are being proposed for the site. The number of units must be reduced so that all parking can be contained on site, can be easily and safely accessed, and the required ADA parking is provided.

6 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Nyack Fire Inspector, or the Nyack Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

7 No emergency access, fire lanes or zones have been provided on the plans. 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 A variance is required to access the proposed development located in the DMU zoning district over a proposed easement located in the TFR zoning district. This would require a much higher volume of traffic from the proposed multi-family dwelling to get access over an easement that exits onto a street located in a predominantly one and two-family neighborhood. The Village of Nyack must assess the impact of allowing this access on the character of the neighborhood if this exit were permitted. The DMU zoning district generally fronts on busier streets, thereby not affecting the lower density areas. The Nyack Planning Board should determine if the site can be redesigned so that the access is obtained from Main Street, as intended for this zoning district.

10 A lighting plan shall be provided that shows fields of illumination. This plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.

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11 The site plan submitted with the application is almost completely covered with impervious surfaces - building, parking, and access. The planting areas are very small in nature, some being only five feet wide, as in Planting Area 4. The Village of Nyack should review the landscaping plan to ensure that it meets all Village requirements. In addition, the applicant must provide pervious materials where possible, thereby reducing the amount of runoff from the site.

12 Areas dedicated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. This will help to protect the landscaping, being placed around the periphery of the parking area, from being broken from the weight of the snow and from causing salt intrusion to the plants. In addition, designating specific locations on the site for the snow piles, will eliminate the loss of parking spaces meant for the residents of the residential building.

13 The second variance needed for this application is for the number of stories for the proposed multi-family development. This section of the village is characterized by generally two story buildings, with an occasional three-story building. Permitting a four-story building would change the character of this area. In addition, it would set a precedent for other uses to also request an additional story, which is not the intent in this zoning district. Lastly, given the site constraints, the parking issues, and access through a residential zone, the Village Planning Board should weigh whether this proposal is an overdevelopment of the site, and require that not only the number of stories be reduced, but that the footprint of the building be scaled back.

14 A plan showing the utilities (water, sewer, etc.) must be provided.

15 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of \$2,000 per day.

16 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. The water system must be evaluated to determine if the additional water supply demands of the proposed development can be met. Domestic and fire demands of the project must be determined by a Licensed Professional Engineer and provided to the supplier of water for analysis. Demand calculations and results of the analysis must be provided to the Rockland County Department of Health for review.

17 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.

18 There shall be no net increase in the peak rate of discharge from the site at all design points.

19 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

20 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

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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
Rockland County Drainage Agency

S&Co Architecture + Design
Bart M. Rodi, Engineer
Nyack Fire District

**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.