



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 26, 2017

Nyack Planning Board
9 North Broadway
Nyack, NY 10960

Tax Data: 65.35-1-17

65.36-1-50

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

Map Date: 2/28/2017

Date Review Received: 9/22/2017

Item: 25 ROUTE 59 - DUNKIN DONUTS (N-149F)

A site plan application to modify the parking area and interior traffic flow of an existing retail fast-food establishment located on 0.52 acres in the CC zoning district.

Southern side of Route 59, northern side of Upper Depew Avenue, approximately 150 feet west of the intersection of Kilby Street and Route 59.

Reason for Referral:

State Route 59, New York State Thruway (I-87/287), Town of Clarkstown

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 Thruway Authority and any required permits obtained.
- 2 A review shall be completed by the New York State Department of Transportation and all required permits obtained.
- 3 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Nyack Fire Inspector, or the Central Nyack Fire District to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

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- 4 Areas designated 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 landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the use of parking spaces meant for customers of this establishment.
- 5 There is insufficient room to parallel park into space #18 due to the retaining wall. The space must not be counted toward meeting the parking demand of the property.
- 6 The parking demand calculation on the site plan indicates that the building currently contains a total of 3,300 sq. ft., while the proposed building contains a total of 3,210 sq. ft. This discrepancy must be clarified.
- 7 The existing ground sign was the subject of a variance application. The proposal to relocate the sign will require an application to the Zoning Board of Appeals. We request the opportunity to review any variance applications necessary for this project.
- 8 The bulk table on the site plan identifies the zoning district as C-2. The GML referral forms indicates the property is in the CC zoning district. All materials must be consistent and the correct zoning district must be clarified. If public notices did not have the correct zoning district, they must be re-issued.
- 9 The new sign schedule is incomplete. Sign faces are not shown. A complete sign schedule must be provided.
- 10 The GML referral form does not have the correct Section, Block, and Lot numbers. This must be corrected and, if necessary, public notices must be reissued.
- 11 The Town of Clarkstown is one of the reasons this proposal was referred to this department for review. The municipal boundary is directly across Upper Depew Avenue to the south. As required under Section 239nn of the State General Municipal Law, the Town of Clarkstown must be given the opportunity to review the proposal and provide any concerns related to the project to the Village of Nyack.
- 12 The site plan must contain a north arrow, and a vicinity map with a scale and north arrow.
- 13 The proposal eliminates a significant portion of the existing landscaping along Route 59. Low evergreen landscaping or a berm must be provided in front of the new interior driveway on the north side of the property to shield headlights from shining into oncoming vehicles traveling on Route 59. Additional landscaping must be added wherever possible on the site.
- 14 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.
- 15 The designated street line for NYS Route 59 must be shown on the site plan and all features kept out of it.
- 16 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.

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17 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.



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

Dominick R. Pilla Associates PC
Town of Clarkstown
Central 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.

