

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

February 1, 2018

Nyack Planning Board
9 North Broadway
Nyack, NY 10960

Tax Data: 65.44-2-8 65.44-2-9

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

Map Date: 12/22/2017

Date Review Received: 1/3/2018

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

Site plan for the demolition of two existing houses, merging of two tax parcels, and construction of a 26-unit, three- and four-story multi-family housing development, with 31 parking spaces. 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***

Since our initial review of the site plan and variance applications, we have met with the applicants and the architect for this project. To address many of our concerns, revisions have been made, resulting in a better layout of the site, and in particular, the parking lot. Turnaround space has been provided, the handicapped parking space is located closest to the entrance, and the need for the ramp has been eliminated.

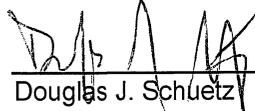
The layout for the parking is preferred on the Cover Sheet, A-001 as it provides fire vehicle access, fire vehicle staging, a dumpster and a recycle bin area, and the parking is less constrained. The layout of the parking area on the Site Plan - Main Street Entry Alt, A-001 does not provide for these important features.

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- 1 As indicated in the December 27, 2017 letter from the New York State Department of Transportation, if any work is proposed within the New York State right-of-way, a review and highway work permits must be 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.
- 5 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.
- 6 The fire department connections shall be designated on the site plan and kept clear for easy access by the emergency response vehicles.
- 7 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.
- 8 A plan showing the utilities (water, sewer, etc.) must be provided.
- 9 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.
- 10 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.
- 11 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.
- 12 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 13 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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14 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 Donald N. Hammond, 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.

