Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 25, 2019

Orangetown Planning Board
21 Greenbush Road
Orangeburg, NY 10962

Tax Data: 73.20-1-1.2

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 6/25/2019 **Date Review Received:** 7/2/2019

Item: ***DYNAMIC PRODUCTIONS USA SITE PLAN (O-1104Z)***

Site plan to permit exterior modifications to an existing warehouse building site located on 3.475 acres in the LIO zoning district. The modifications include new concrete pads, a new canopy over the existing loading dock, installation of permanent intermodal storage containers, placement of planters on the site, new propane gas cabinets, installation of a 4-foot high chain link fence, and new 18-foot high steel shelving. A variance for side yard will be required.
Southwest corner of Hunt Road and Blaisdell Road

Reason for Referral:

Blaisdell Road (CR 17)

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 As indicated in the February 13, 2019 letter from the Rockland County Highway Department, a road work permit must be obtained prior to any commencement of construction activities on the site.

2 As indicated in the March 1, 2019 letter from the Rockland County Department of Health, if a stormwater management system is required, then an application must be made to them to ensure compliance with the County Mosquito Code.

3 Outdoor storage is being proposed for the site. Section 3.11, Table of General Use Regulations, Column 7, 2. Additional Use Regulations states "All offices, laboratories, manufacturing of prototype products, accessory storage and all accessory off-street loading berths shall be within completely enclosed buildings". The Town Planning Board must determine if the proposed outdoor storage is permitted. If it is determined that this is not a permitted use, then the applicant must apply for a use variance before the Zoning Board of Appeals.

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4 If it is determined that the proposed outdoor storage is permitted, the applicant must meet the requirement for landscaping as outlined in Section 3.11, Table of General Use Regulations, Column 7, 2.(a) which states: "All areas not used for building or for accessory off-street parking shall be suitably landscaped and maintained in good condition. Screening shall be provided in the manner required by any board or town agency having jurisdiction, and prior to the issuance of the Building Permit, the proposed screening plans shall be submitted to and approved by any board or town agency having jurisdiction." Additional landscaping must be provided to help screen the materials to be stored from view.

5 The project narrative mentions "Equipment transportation trucks enter and leave the site as required by the timing of produced events." Section 3.11, Table of General Use Regulations, Column 7, 2.(c) states: "No shipping or receiving of goods shall be carried on between 11:00 p.m. and 6:00 a.m." The applicant must comply with this timeframe or they must apply for a use variance before the Zoning Board of Appeals.

In order for a use variance to be granted, an applicant must prove that applicable zoning regulations and restrictions have caused unnecessary hardship. To prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

A. The applicant cannot realize a reasonable return, provided the lack of return is substantial as shown by competent financial evidence.
B. The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.
C. The requested variance will not alter the essential character of the neighborhood.
D. The alleged hardship is not self-created.

A determination must be made as to whether the proposed outdoor storage is a permitted accessory use. The timing of the equipment transportation trucks entering and leaving the site must also be evaluated.

6 We request the opportunity to review any variances that may be needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Chris Day, Orangetown
Rockland County Department of Health
Rockland County Department of Highways

LAN Associates

**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.

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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.