

**DEPARTMENT OF PLANNING**

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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene Miller**  
*Deputy Commissioner*

June 12, 2020

South Nyack Village Board  
Village Hall  
282 South Broadway  
South Nyack, NY 10960

**Tax Data:** 65.52-1-18

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

**Map Date:** 7/12/2018

**Date Review Received:** 5/14/2020

**Item:** *NYACK COLLEGE - 106-170 SOUTH HIGHLAND AVENUE (SN-168B)*

An application to amend an existing Special Permit to allow the conversion of existing structures within a Private Educational Campus to residential use. The property consists of eleven structures on 18.75 acres in the R-18 zoning district. No changes to the building exteriors or footprints are proposed.

The northwestern corner of the intersection of South Highland Avenue, South Boulevard, and Terrace Drive

**Reason for Referral:**

Towns of Orangetown and Clarkstown, Village of Nyack, Sean Hunter Ryan County Park, Bradley Parkway/South Highland Avenue (CR 38), Blauvelt State Park, Long Path Trail, NYS Thruway (I-87/287), Hillside Avenue (US Route 9W)

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:

***\*Disapprove***

1 The narrative provided by Attorney Lino J. Sciarretta, dated April 17, 2020, for this and several other parcels states that "the College seeks an amendment to its special permit for the conversion of a private educational campus use to existing multifamily and single-family use of the College's existing buildings and structures." The various parcels within the Village of South Nyack owned by Nyack College are within the R-18 and RG-8H/R-12H zoning districts. Private Educational Campuses are allowed by Special Permit within both districts. However, the current proposal is not a modification or amendment to the existing special permit use, but represents a proposed new use. The various structures owned by Nyack College exist as part of the larger Private Educational Campus use. The use of these structures, therefore, must either continue as part of a Private Educational Campus, or otherwise comply with the allowed uses within the zoning district. Multifamily residential use is not allowed by right or by special permit within the R-18 zoning district. A multifamily dwelling that is not a part of the existing Private Educational Campus special permit use requires a use variance or a zoning text amendment. The proposed use cannot be allowed by modifying the existing special permit use. The application must be disapproved.

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2 The application does not adequately state what is the proposed use. The narrative provided states that there are no plans to alter the exterior of any of the existing buildings or expand the footprints. There is, however, no explicit statement about changes to the interior of the structures, and the proposed use of the existing buildings throughout the campus is simply described as "residential." A schedule of existing campus buildings identifies two of the eleven structures on the parcel and describes them as having a total of 45 student housing units. No information regarding the proposed number of residential units is provided. The proposed use of the subject property must be stated explicitly. Any interior modifications must, at a minimum, be described. Without this information, the land use impacts of the proposal cannot be assessed, and the application must be disapproved.

3 The subject parcel consists of eleven structures, including non-residential buildings such as the Field House. No information regarding the proposed use of these structures has been provided. Does the applicant intent to convert these structures to residential use, as well? Will they be used for purposes that are accessory to residential use? Will these structures be demolished? Will they be used for a separate, non-residential use? Until clear and definitive answers to these questions are provided, the land use impacts generated on the parcel cannot be assessed. The application is incomplete and must be disapproved.

The following comments address our additional concerns about this proposal.

4 The Towns of Orangetown and Clarkstown, and the Village of Nyack, are three of the reasons this proposal was referred to this department for review. The Orangetown boundary is adjacent to the western property line of the site. The Clarkstown boundary is adjacent to the northwestern corner of the site. The Nyack boundary is approximately 400 feet north of the site. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and countywide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner that is supportive of the goals and objectives of the general area.

The Towns of Orangetown and Clarkstown, and the Village of Nyack, must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact these municipalities Town of Orangetown must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

5 A review must be completed by the County of Rockland Department of Highways and any required permits obtained from them.

6 A review must be completed by the County of Rockland Department of Health and any required permits obtained from them.

7 A review must be completed by the County of Rockland Division of Environmental Resources and any concerns addressed.

8 A review shall be completed by the New York State Department of Transportation and any required permits obtained.

9 A review shall be completed by the New York State Thruway Authority and any required permits obtained.

10 A review must be completed by the New York - New Jersey Trail Conference and any concerns addressed.

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11 A review must be completed by the Palisades Interstate Park Commission and any comments or concerns addressed.

12 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.

13 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. A letter from the public water supplier, stamped and signed by a NYS licensed professional engineer, shall be issued to the municipality, certifying that there will be a sufficient water supply during peak demand periods and in a drought situation.

14 If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed by the Rockland County Department of Health prior to construction. In order to complete an application for approval of plans for public water supply improvements, the water supplier must supply an engineer's report pursuant to the "Recommended Standards for Water Works, 2003 Edition," that certifies their ability to serve the proposed project while meeting the criteria contained within the Recommended Standards for Water Works. These standards are adopted in their entirety in 10 NYCRR, Subpart 5-1, the New York State regulations governing public water systems. Further, both the application and supporting engineer's report must be signed and stamped by a NYS licensed professional engineer and shall be accompanied by a completed NYS Department of Health Form 348, which must be signed by the public water supplier.

15 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.

16 A landscaping plan must be provided.

17 The site plan provided has several inadequacies. The site plan must be stamped and signed by an engineer or surveyor. A bulk table, map notes with district information, and parking calculation must be provided. Any areas of steep slopes must be identified and calculations for lot area deductions must be included.

18 The site plan indicates that street access and part of the parking area is shared with the adjacent western property. Access easements must be filed on land records and indicated on the site plan.

19 Multiple parking areas are provided throughout the site. Parking spaces must be assigned to specific buildings to ensure that an adequate number of spaces are provided in close proximity to their respective uses. In addition, the parking demands of student housing may differ widely from those of multifamily residences or other uses. Vehicles ownership rates will likely be higher among the general public compared to that of students, who have less need of, or are sometimes even prohibited from keeping, a vehicle. The applicant must confirm that adequate parking is provided for all uses on site.

20 All proposed signage shall be indicated on the site plan and shall conform to the village's sign standards.

21 We request the opportunity to review any bulk variances, use variances, site plan reviews, or zoning text amendments that may be needed to implement the proposal, as required by New York State General Municipal Law.

22 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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23 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 Bonnie Christian, South Nyack  
Rockland County Department of Health  
Rockland County Department of Highways  
Rockland County Division of Environmental Resources  
Palisades Interstate Park Commission  
New York - New Jersey Trail Conference  
New York State Department of Transportation  
New York State Thruway Authority  
  
LMS Surveying Ltd  
Town of Orangetown Planning Board  
Town of Clarkstown Planning Board  
Montalbano, Condon & Frank, P.C.

**Rockland County Planning Board Members**

*\*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.*