

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

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: 65.60-1-2

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

Map Date: 8/2/2018

Date Review Received: 5/15/2020

Item: *NYACK COLLEGE - 5 UPLAND DRIVE (SN-168G)*

An application to amend an existing Special Permit to allow the conversion of an existing structure within a Private Educational Campus to residential use on 0.44 acres in the R-18 zoning district. No changes to the building exterior or footprint are proposed.

The northern side of Upland Drive, approximately 400 feet east of South Highland Drive

Reason for Referral:

Town of Orangetown, Blauvelt State Park, South Highland Avenue (CR 38)

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. According to the materials provided, the existing structure on the subject parcel is a two-family dwelling, which is not allowed by right or by special permit within the R-18 zoning district. The use of this property for a private two-family residence, and not as part of the existing Private Educational Campus special permit use, requires a use variance, a text amendment, or modifications to the site and structure to comply with allowed uses and requirements. 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." The materials provided include what appears to be original architectural plans by Schofield Colgan Architects, dated November 15, 1982, which depict a two-family dwelling. The proposed use of the subject property, as well as the other structures throughout the campus, 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.

The following comments address our additional concerns about this proposal.

3 The Town of Orangetown is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 250 feet west 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 Town of Orangetown 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 the Town of Orangetown must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

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

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

6 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.

7 The site plan indicates that a pedestrian walkway extends through the property and there are several parking spaces that appear to serve the adjacent property. These features must be removed or the site plan must be amended to include access easements.

8 Adequate parking for any proposed use must be provided on site.

9 The site plan provided includes parcels 65.60-1-1 and 65.60-1-25. A separate review for parcel 65.60-1-25 was forwarded to this department for review. No application for parcel 65.60-1-1 has been received for our review. Any proposal for this parcel must be forwarded to the Rockland County Planning Department for review, as per the New York State General Municipal Law.

10 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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11 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 Highways
Palisades Interstate Park Commission

LMS Surveying Ltd
Town of Orangetown 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.