Rockland County

Ed Day, Rockland County Executive

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 R. Miller
Deputy Commissioner

September 10, 2018

Upper Nyack Planning Board
328 North Broadway
Upper Nyack, NY 10960

Tax Data: 59.12-2-3

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 7/3/2018 **Date Review Received:** 8/15/2018

Item: ***NEW CINGULAR WIRELESS PCS, LLC (UN-12P)***

Site plan for the proposed expansion of an existing monopole located on a 1.8-acre parcel in the LO zoning district so as to permit a new carrier. The proposed additions include the installation of twelve antennas with fifteen associated remote radio heads and three DC6 "squid" surge protectors on a ten-foot extension of the existing 120' monopole. In addition, at-grade equipment for operation of the tower will be included, as well as a natural gas generator for backup power. A variance for height is required for the proposed 10-foot extension.

West side of US Route 9W, approximately 365 feet north of Christian Herald Road

Reason for Referral:

US Route 9W, Town of Clarkstown, Long Path

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 must be completed by the New York State Department of Transportation, any comments or concerns addressed, and all required permits obtained.

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

3 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).

NEW CINGULAR WIRELESS PCS, LLC (UN-12P)

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Karen Tarapata, Upper Nyack
New York State Department of Transportation
New York - New Jersey Trail Conference

ComEx Engineering of NY
Town of Clarkstown Planning Board

**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.