

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

January 15, 2019

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

Tax Data: 59.16-2-2

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

Map Date: 11/19/2018

Date Review Received: 12/17/2018

Item: *FLORA FOR FAUNA (UN-32A)*

Site plan to permit a proposed café in an existing building located on 1.1 acres in the OB zoning district. Twelve seats or less are proposed and two full-time and three part-time employees are anticipated. A parking variance will be required for the site.

West side of N. Highland Avenue (US Route 9W), opposite Birchwood Avenue

Reason for Referral:

N. Highland Avenue (US Route 9w), Town of Clarkstown

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 We are concerned with the need for a variance for parking. The site will be deficient by 30%. This is especially concerning since the site is located on a heavily traveled, busy State highway. The Village must be assured that adequate parking will be available for all of the uses on the site. Monitoring must be done of the site to ensure that all vehicles are being contained on site. Under no circumstances can vehicles be parked within the State right-of-way.
- 3 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. This will help to protect the landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by customers.

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- 4 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.
- 5 All proposed signage shall be indicated on the site plan, properly set back from the State highway, and shall conform to the municipality's sign standards.
- 6 The site plan indicates that an existing landscaped buffer exists along the northern property line. Aerial photography from 2016 shows that macadam exists almost up to the property line, with little vegetation. The landscaping must be supplemented if an insufficient landscaped buffer does not exist.
- 7 Map notes, including district information, must be provided on the site plan.
- 8 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: Mayor Karen Tarapata, Upper Nyack
New York State Department of Transportation
Rockland County Department of Health

Kier B. Levesque RA
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.