

Planning Board Work Session

3. **Revised proposed Text Amendment for the WF Zoning District. For Planning Board review and recommendation to the Board of Trustees per the requirements found in Article V VON § 360-5.6 B.**

Village Attorney-- The Village Board of Trustees has generated a revised proposed Text Amendment for the WF Zoning District, which amendment purports to incorporate the Planning Board's suggestions made in its previous review of proposed text amendment language in the Board's recommendation issued on June 11, 2015. Village Code section 360-5.6(B).

Board Review-- Local Law #1 of 2016 A Local Law to amend Section 360-2.5 (B) of the Zoning Ordinance of the Village of Nyack as pertains to the WF Zoning District. On April 2, 2015, the Nyack Village Board received a Petition (and supporting documentation) from an entity known as TZ Vista, LLC, seeking to amend section 360-2.5(B) of the Zoning Code of the Village of Nyack, which section contains the zoning requirements applicable in the Waterfront Development District (WF Zoning District) in Nyack. Upon receipt of the Petition, the Village Board, in compliance with the provisions of its local law governing Petitions to amend the zoning text, referred the Petition for review and comments to the Nyack Planning Board (required by Village Code section 360-5.6(B)(3)(a)), and to the Rockland County Department of Planning (required by Village Code section 360-5.6(B)(3)(b), and General Municipal Law 239 (L) & (M)). Additionally, the Village Board sought comments on the Petition from the Village of Nyack Planning Consultant Robert Galvin, as well as from BJF Planning Consultants (an experienced private consulting firm previously retained by the Village of Nyack to provide professional expertise in planning, design, environmental analysis, real estate and transportation).

We note that the Village Board engaged BFJ Planning to incorporate many of the recommendations set forth in the Planning Board's previous review of June 11, 2015, most notably:

1. *A reduced Building height from the original proposal as recommended by the PB is included (now limited to 52' **only if** reduction of building width is reduced or step-back design is adopted).*
2. *A reduced increase in FAR is included (with a capped residential density #) **only if** more detailed Waterfront improvements are provided, such as an expansion of the nature and scope of required public access to the waterfront - 30 foot wide access along the whole property length, pedestrian access a minimum of every 200 feet from the nearest adjacent west-west streets, restaurant*

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*inclusion, **and only if** detailed extensive design guidelines physically set forth in the law are incorporated into the project.*

3. *Modified parking requirements available **only if** parking is built underground.*

Chairman Klose-- Upon review of the Proposed Local Law #1 2016, and all of the proposed text amendments to such law, the Planning Board notes that many of our recommendations were considered and a modified version adopted in the updated proposed legislation; and Planning Board would move to support this version of the text amendment based upon the Planning Board's recommendations which were adopted by the Village Board, and also based upon the Planning Board's findings and recommendations from its prior review (June 11, 2015) and report to Village Board dated July 9, 2015; and would encourage the Village Board to plan and adopt responsible development of this Zoning District to enhance our community through responsible guidelines as outlined by the design concepts and zoning requirements of the Local Law. The Planning Board, however, again requests that the Village Board consider, analyze and otherwise comment and adopt a fee or other financial contribution requirement by a developer based upon a per square foot of bonusable and incentivised gross floor area (here from 0.9 FAR to 1.5 FAR) to be granted only upon payment to be used for off-site development for improvements and to fund public benefit off-site and at other public areas. The Planning Board would also suggest that the viewsheds and building setbacks as seen down the Village Streets (not just from Gedney) and that are within the viewsheds be stepped back to permit the widest possible viewshed at the highest point of the building to avoid the canyon effects of over sized tall buildings as we look toward the River. Seconded by Voletsky (Vote 5-0).



**COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING**

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February 19, 2016

Nyack Village Board
9 North Broadway
Nyack, NY 10960

Tax Data: 66.39-1-1 66.39-1-2

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

Map Date:

Date Review Received: 1/20/2016

Item: **TZ VISTA, LLC (N-64B)**

Zoning Code Amendments to change specific bulk requirements in the Waterfront Development (WF) District. Specific changes to the proposed amendments since last review include the development of design guidelines for inclusion in the text of the zoning regulations. These changes focus on the following: 1) the inclusion of a provision for Development Incentives to be granted to a developer by Special Permit; 2) a building height incentive that is specifically tied to the incorporation of waterfront access; and 3) an increased FAR incentive that is specifically tied to the incorporation of the Design Guidelines.

West side of the Hudson River and east side of Gedney Street, from Ackerman Place south to Main Street

Reason for Referral:

Town of Orangetown (at the Hudson River)

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:

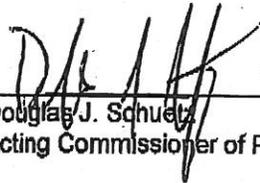
****Recommend the following modifications***

- 1 The revised Section 360-2.5B(2)(b)[1] has eliminated how building height is measured. To avoid confusion, a definition of building height should be provided, as was done with the previous zoning code amendment version.
- 2 Landscaping and trees are listed as two requirements to screen parking if it is located within the view corridor in Section 360-2.5B(2)(b)[4][c]. This requirement should be more specific, such as the requirement that it be evergreen, so that the parking is screened year round.

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- 3 The maximum building height was increased from 45 feet to 52 feet in Section 360-2.5B(2)(c)[1]. It is not clear as to why 52 feet was selected for the maximum height if the other criteria are met. Is this to account for higher than average ceilings or other architectural features? This should be clarified.
- 4 Section 360-2.5B(2)(c)[2] permits the maximum width to be 60% of a parcel if more than one view corridor is provided. Can the height be increased by five feet with each five percent width reduction as discussed in Section 360-2.5B(2)(c)[1] if more than one corridor view is provided? It must be clarified if the building width increase is allowable with more than one view corridor.
- 5 Section 360-2.5B(2)(c)[4][c] discusses the provision of resident parking spaces for public use. It is indicated that a minimum of 10% additional parking spaces shall be provided on site or within 200 feet of the site. How will the off-site parking be provided if this land is not owned by the applicant? Is this off-site parking referring to street parking or municipal lots? This must be clarified.
- 6 Design Guidelines are listed under Section 360-2.5B(2)(c)[6]. The Location and Orientation Section for Gedney Street cites minimum and maximum setback requirements from the property line, however no "orientation" criteria are provided under Section 360-2.5B(2)(c)[6][a]. At a minimum, it should be noted that the orientation of buildings on Gedney Street should not have a rear facing façade. If no criteria are cited, then this section should be renamed to just "Location."
- 7 Parking structures facing a public street are discussed in Section 360-2.5B(2)(c)[6][a]iii.e. One of the acceptable architectural building techniques cited includes the use of solar panels as a façade treatment. These panels are usually reflective and darkly tinted, and would therefore contradict with Section 360-2.5B(2)(c)[6][a]iii.d. which prohibits the use of reflective glass (excluding low-E glass, Solarban, and similar lightly tinted glass types). The Village should determine whether the use of solar panels for parking structure facades is appropriate. This comment also applies to Section 360-2.5B(2)(c)[6][c]iii.f.
- 8 Section 360-2.5B(2)(c)[6][b] discusses the Location and Orientation of buildings on Main Street. A minimum setback is provided, but not a maximum, as was done for Gedney Street. Does the Village want to ensure a maximum setback as well? This should be clarified.
- 9 The wording for Section 360-2.5B(2)(c)[6][b]i.b. is confusing and is difficult to understand its intent. This should be reworded so that it is easier to understand what is meant by this paragraph.
- 10 The wording for Section 360-2.5B(2)(c)[6][c]i.b. is confusing and is difficult to understand its intent. This should be reworded so that it is easier to understand what is meant by this paragraph.
- 11 Public access criteria are discussed in Section 360-2.5B(2)(d). It is indicated that the access, in the form of a permanent easement, shall be at least 12 feet wide for at least 75% of its length. This is contradictory to Section 360-2.5B(2)(c)[6][c]i.b in which it is stated that "a pathway shall be provided of a minimum of 15 feet...". The access easement must be wider than 12 feet to accommodate the minimum width of 15 feet for the pathway. This discrepancy must be corrected.
- 12 Typographical errors 1) on Page 8, there is an extra period in front of the word "In" in Section 360-2.5B(2)(c); 2) on Page 8 the letters under 360-2.5B(2)(c)[1] are in parentheses instead of brackets - these should be changed to avoid confusion; and 3) on Page 9 the letters under 360-2.5B(2)(c)[3] are in parentheses instead of brackets - these should be changed to avoid confusion.

TZ VISTA, LLC (N-64B)



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Jen White, Nyack

Town of Orangetown

"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.