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DEPARTMENT
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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.

TZ VISTA, LLC (N-64B)

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]i. 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.