

MEMORANDUM

TO: Town of Orangetown Town Board

CC: Hybrid Zoning Committee

FROM: Laberge Group

RE: Response to Public Comments and County Planning Review on South Nyack Hamlet Zoning Proposal (Local Law of 2022 Amending Chapter 43 of the Town Code)

DATE: August 15, 2022

This Local Law will modify the Town Zoning Law and Zoning Map by adding new zoning districts, a table of regulations, definitions, supplemental standards, and other regulating criteria covering the South Nyack (SN) hamlet area. This location is now directly part of the Town due to formal dissolution of the former Village earlier this year.

This memo recommends responses to items in the General Municipal Law Review (GML 239 L & M) by the Rockland County Department of Planning in the attached 4-page, May 12, 2022 letter referenced by the County as O-2442. The 16 items below address comments under “Recommend the Following Modifications” heading in the County’s letter, on its pages one through three. Furthermore, this letter addresses other public comments received in oral and written form during the hearing, so there are also suggested responses for them woven in.

POTENTIAL RESPONSES TO ROCKLAND CO. DEPT. OF PLANNING MAY 12, 2022 COMMENTS TO RECOMMEND THE FOLLOWING MODIFICATIONS

- 1) There has been consideration to sustain and include Run-Off Critical Environmental Area (CEA) on Orangetown’s Zoning Map. Reasons why the Run-Off CEA is not proposed to continue are:
 - A. The whole former Village was designated as some type of CEA. Assigning the whole Village and especially this subarea as CEAs establishes a complex and rigorous zoning framework. It causes any development, even actions like constructing sheds, to receive Planning Board site plan review. It does not seem every single land use should be subject to this level of scrutiny. There are roughly equivalent development densities in places like Pearl River that are not regulated as in this fashion or as intensely. It is believed there can be development provided for, in this area, without potential for an adverse impact, if the SEQRA framework is adjusted as proposed. This is especially the case in terms of smaller-scale, incremental residential development. The rationale for saying this is that this form of land use is needed since the region seems to be experiencing major housing needs and shortages. It seems reasonable not to retain the CEA designation for the whole hamlet footprint. The predominant use type in the former village is residential, and it is noted that per SEQRA regulations, residential one and two family structures are generally classified as Type II (exempt) per SEQRA, so there is a body of evidence supporting an assumption these can be provided land use and building regulation without a need for SEQRA review in all parts of the Village.
 - B. Retaining this CEA could slow growth in a location suitable for infill. It is suggested that having an added layer of land use review bureaucracy would not achieve a more beneficial management of potential impacts. One reason is because there are not specific standards, or much guidance in this CEA’s text. Moreover, the

Town already regulates stormwater in qualifying developments per Town Code Chapter 30C Stormwater Management. Also, the proposed Town smart growth comprehensive plan recommends in its Parks & Open Spaces, Sustainability & Climate Resiliency section, March 28, 2022, in Recommendation #4, p6-1, developing guidelines for stormwater discharges from construction activities in order to reduce pollutants in runoff from construction activities that disturb 5,0000 square feet or more. Standards like these are focused and would be uniformly applicable, meaning they probably will be easier to administer.

- C. NY State SEQRA regulations provide individual agency procedures to implement SEQR at 6 NYCRR 617.14. Its (g)(1) establishes that to be designated as a CEA, an area must have exceptional or unique character. Recognizing the environmental character and context of this location and its existing built form, it is reasonable to recommend there does not seem to be highly unique features here compared with places like the Hillside CEA, which is proposed to be retained as a CEA.

It is acknowledged at some point since August 2, 2022, documentation now resides on the hamlet CEAs directly on NY State DEC's website at <https://www.dec.ny.gov/permits/6184.html>.

The above comments, it is recommended, also provide a sufficient rationale for addressing related public comments on this aspect of law made by Shane Kite (July 12, 2022) and Andrew Goodwillie and Jerry Ilowite (July 10).

- 2) The reason why a smaller footprint Hudson River CEA is proposed on Orangetown's Zoning Map is:
 - A. For generally the same reason as in #1, this CEA was reduced in area. It is recommended that it seems relatively more important to focus on potential for identifying and avoiding severe potential impacts from building within the area closest to the actual Hudson River shoreline.
 - B. Given the Town's regulatory framework, we recommend another reason why this CEA should be reduced in area is to not overly restrict one or two family residential growth. It is the case throughout most of the rest of the Town that this type of residential building can occur by-right.

The above comments, also provide a rationale for addressing related public comments on this aspect of law made by Shane Kite (July 12, 2022) and Andrew Goodwillie and Jerry Ilowite (July 10).

- 3) This proposed Local Law is focused on a footprint encompassing the former Village of South Nyack. It is recommended there are not resources allocated for planning other parts of Orangetown directly in conjunction with this initiative. There is concurrent Town-wide sustainable planning to update the 2004 Orangetown Comprehensive Plan. As the legislative body that will consider Comprehensive Plan adoption, the Town Board may use that process to decide whether other portions of the Town may be considered for designation as CEAs.
- 4) The term noted as incorrectly labeled is changed to "Swimming Pool Structure" in the local law, so it is corrected. The whole definition from the former Village Zoning for "Swimming Pool" has been placed in the local law as applicable to the new hamlet where the former Village was.
- 5) A recommended response to this multipart and at times general comment is as follows:
 - A. See pools treatment in #4.
 - B. Text from §330-18. 'Use of water rights', is not codified exactly the same way as previously, but its whole substance is included in 10.22 'Permits', 10.223(g) amendments for [2.] Hudson River CEA. See its [2.][d.] Development Criteria and [2.][b.]Application subsection i.
 - C. For 'Protection from glare', it is recommended there are functionally equivalent protective lighting regulations already existing in the Town which would be applicable.

- D. For 'Parking of commercial vehicles' it is suggested there are functionally equivalent protective standards covering such activity already existing in the Town which would be applicable.
- E. General and professional offices, funeral parlors and sale of arts, crafts and antiques in RG-OA Districts was added as §18.25 and a typographic reference to it in the Use Schedule in the local law is upgraded.
- F. The effort at-hand has an objective to blend two distinct zoning codes so it is not necessary to regulate using two separate codes simultaneously. It is suggested the approach used selects important performance standards and retains them as applicable to the Village. Yet, it is also suggested it is reasonable to work towards blending the codes, rather than having a large body of hard to manage criteria separately applicable only to this hamlet. Thus, the law was developed with an effort to minimize the amounts of inconsistent regulations. For the following regulations and activities it is recommended there are already functionally equivalent standards in the Town which would be applicable and adequate. As indicated under particular items as follows, the addition rationales and alternative treatments are proposed:
 - a. Screening of mechanical equipment on the roof of a structure;
 - b. Trailers and recreational vehicles;
 - c. The Fences standard in the Town (§5.226) regulate at heights over 4.5 feet, while the Village did so at 3.5 feet. It is not considered advisable to use two different but relatively similar standards. Likewise, it was confirmed by the staff in the Town Office of Building, Zoning, Planning Administration & Enforcement that retaining walls are regulated in a generally similar way.
 - d. Business and School hours of operation
 - e. Graffiti
 - f. Discarded materials
 - g. The Village had a solid waste receptacle standard. It is suggested rather than have a standard for this in Town Zoning, it is instead recommended to add an equivalent standard into the Property Management Code in order to cover residential multifamily housing of three or more units.
 - h. Home occupations – While there were specific regulations in the Village, it seems the Town's definition is adequate. Users can site these type uses. While the Town standard may seem restrictive, holding to it can help sustain residential character and underpin a vibrant nonresidential real estate market and prompt successful, growing businesses to move to and occupy nonresidential zones and spaces, rather than operating in and potentially impacting residential neighborhoods.
 - i. External Equipment Noise Limit – It is suggested it is not feasible to adopt this standard. One reason is the former village standard limiting audible levels would be hard to enforce. It was indicated by Town Codes staff that one problem is that in some locations in the hamlet existing ambient background noise levels already exceed the standards. Also, the Town does not use site plan review to regulate one and two family housing and enforcement staff is not typically involved in regulating residences for factors like this.
 - j. Community residence facilities
 - k. Renting of rooms – It is recommended this probably is not a type of use the Town leaders may want to entertain. We make this suggestion based on dialog with the hamlet Zoning Committee. If there is potential interest in enabling this type use, this could be a type of topic to refer to the zoning implementation undertaken in conjunction with the Townwide master planning.
 - l. Merger of lots – There is not a clear rationale for the intent or purpose of this standard. It is not clear why these were organized in a fashion to prohibit consolidation of some larger lots. Since the Town has mostly functional equivalent standards in its code, this is not suggested to advance.
 - m. The rationale for an override is, considering there may be zoning changes advanced in conjunction with the new comprehensive plan, this could be a topic to consider for adoption under that future process of updating the whole comprehensive zoning law.

The above comments, also provide a rationale for addressing related public comments on aspects of law made by Andrew Goodwillie and Jerry Ilowite (July 10).

- 6) It is suggested there are roughly equivalent standards regulating hours of operation for nonresidential uses like this in the Town. Moreover, nonresidential uses in the Town are provided site plan approval, so on a case basis there is an opportunity to add stipulations that reasonably limit the hours of operation in South Nyack Hamlet's sub-zones for that set of uses. Thus, it is not recommended to carry over these regulations. It is contemplated that existing Town general standards in Zoning and in the Town Code would be sufficient. Also, in 18-23 basic sign regulation standards for the Hamlet have been added into the proposed local law.

The above comments, also provide a rationale for addressing related public comments on aspect of law made by Andrew Goodwillie and Jerry Ilowite in a July 10, 2022 letter.

- 7) The typographic error was addressed with clarification provided in the codification of the proposed local law.
- 8) There was reconsideration of restoring items identified.
 - A. It is recommended that in existing Town codes there exist equivalent regulations to the 'Obstructions to vision at street intersections' standard, so it is deemed unnecessary to sustain the village criterion.
 - B. Side yard adjustment for lots providing more than minimum required street frontage is considered to be a difficult to regulate standard, so it is not recommended to sustain it. There can be monitoring of land use performance and regulation. This can inform a future consideration as to whether to potentially establish such regulations. 'Bulk requirements applicable to places of worship' were put back into the proposed local law, at §18.24.

The above comments, also provide a rationale for addressing related public comments on aspect of law made by Roger Seiler on July 1, 2022 in an email and Andrew Goodwillie and Jerry Ilowite in a July 10, 2022 letter.

- 9) It is recommended there is consideration to make the stated change; however, there is also a suggestion not to effectuate it, but instead use the established framework available in the Town's existing regulatory framework. The term "Special Permit Granting Authority (SPGA)" was removed from §18.42 and the term "Board" was used. This substitution of phrase was also applied in §18.44.
- 10) The 300 feet of river frontage standard was added into §18.4. 'Special or conditional permit uses', as §18.47, and there is a minimum parking standard that is generally the same as was applicable in the former Village.
- 11) The bed-and-breakfast standard is not recommended to be carried forward. Doing so aids consistency of districts regulation. Understanding is there are not any existing B&B uses; yet, if one(s) are lawfully established, non-conforming use regulations would be applicable.
- 12) In the proposed law, there was an adjustment in applicable code standards – see §18.41 and applicable schedule components in §3.13, 43 Attachment 19.1-19.9. The former framework is generally sustained for the hamlet. The rationale for not following the County comment is a special permit review process is retained that jibes with the former Village framework.

On July 1, 2022 Roger Seiler wrote that the former Village law was incomplete, that a fuller regulatory framework was never fully adopted, and the commentor requested removing this. However, it is the recommendation of the Zoning Committee that the arrangement provided establishes a regulatory framework, including which can be refined and built upon.

- 13) Some basic supplemental regulations drawn from South Nyack's former zoning are now provided in proposed §18.23 and are meant to serve until such time as there may be a decision to upgrade sign standards.
- 14) It is recommended all of the Village's Article X standards must not remain in place. It is suggested functionally equivalent aspects of the Code of the Town, including in its general zoning standards, can be reasonably used to generally and safely regulate the layout and alteration of off-street parking, loading facilities, and driveways, when criteria for regulating these attributes are not already provided for in this proposed law. Similarly, it is suggested that functionally equivalent Town standards exist which can be used to regulate topics like but not only including surface treatments of driveway/ curb cuts, associated drainage, and management of lines of sight, and avoidance of obstructions to rights of way. It is suggested the Town should monitor how parking and access regulation in the hamlet area goes using the Town standards. This can help inform whether and how to refine or upgrade these type standards. It is registered that dimensional and performance regulations may in the future need upgrades to deal with topics unique to the hamlet area, like for loading and aisle widths.

The above comments, also provide a rationale for addressing related public comments on aspect of law made by Andrew Goodwillie and Jerry Ilowite in a July 10, 2022 letter.

- 15) As noted, the Town is establishing its own at least temporary regulating standards for South Nyack and these could apply for a reasonably foreseeable future. It is acknowledged that a coverage standard may be a useful way to aid in the management and regulation of Town ambiance and environmental quality. However, it is recommended that the Townwide comprehensive planning and zoning implementation that could go along with it would seem to be a more appropriate process to use for identifying desired zoning performance changes, like for a lot coverage standard. Perhaps the application of these standards in this hamlet by Town land use bodies and Town staff and agents can provide insight about the organization of coverage regulations in other Town Zoning Districts.
- 16) The recommendation for an override is based on the fact that a best effort was made to identify entities to engage in this regulatory process. Parties were also notified of proceedings through other notification steps, including publication of the notice of hearing on this zoning change.

OTHER PUBLIC COMMENTS

- 17) On July 1, 2022 Roger Seiler wrote wondering whether the definition of Deck should be included or if it is covered by the Town definition for Structure. It is recommended that the latter is the case.
- 18) On July 1, 2022 Roger Seiler wrote that there was omission of the Nonconforming Use Permit standards. It is recommended there is not a specific need for a regulation for this. There is functionally equivalent regulation in the Town. Definitive records from the former Village were retained. There is Town staff understanding as to which properties this applies to.
- 19) On July 1, 2022 Roger Seiler advocated for sustaining the telecommunications tower provisions in the Village; yet, multiple aspects of the law in the Town are directly the same as the text in the former Village. It is recommended that there is functional equivalence of regulation and these standards need not be retained. Uses with valid permits would continue.
- 20) Andrew Goodwillie's and Jerry Ilowite's July 10, 2022, letter, page 3, suggest any use not listed for a district shall be deemed prohibited; yet, it is recommended such a prohibition already exists in the Town's law.

- 21) Andrew Goodwillie's and Jerry Ilowite's July 10, 2022, letter, page 6, advocates for retaining the 330-34.F 'Cluster development standard'. It is recommended that NY State Town Law enables communities to provide flexibility to cluster; it is recommended specific new standard is not needed in the Town Zoning.
- 22) Andrew Goodwillie's and Jerry Ilowite's July 10, 2022, letter, page 7, suggests a role for the ZBA in the appeals of variances. It is recommended that this would not fit well with the review processes in the Town. It could be legally challenging to administer, could be applied inconsistently, and could add significantly to record keeping.
- 23) Per Andrew Goodwillie's and Jerry Ilowite's July 10, 2022, letter, page 8, there was clarification in the Bulk Tables/ schedules with a note added to identify that accessory permitted uses in each particular zone apply to all principal uses in it.

CONCLUSION

It is noted there was one piece of correspondence also forwarded to Laberge Group on "The History of South Nyack Through the History and Rediscovery of the South Nyack Brook Please Use This Version...". It is our recommendation that while this is valuable background information on this location, there is not specific commentary in the correspondence on the proposed "Hybrid Zoning". It is our recommendation that no action is needed to contemplate that content.

We look forward to any questions or comments. Town staff was supplied with an adjusted Local Law proposal.

***Attachment:** General Municipal Law Review (GML 239 L & M) made by the Rockland County Department of Planning in a four page letter dated May 12, 2022 and referenced by the County as O-2442.*



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Helen Kenny Burrows
Deputy Commissioner

May 12, 2022

Orangetown Town Board
26 Orangeburg Road
Orangeburg, NY 10962

Tax Data:

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

Map Date:

Date Review Received: 4/15/2022

Item: TOWN OF ORANGETOWN - ZONING IN SOUTH NYACK (O-2442)

Local Law to adopt zoning regulations for the Hamlet of South Nyack. Certain provisions of the former Village of South Nyack's Code will also be repealed.
Hamlet of South Nyack

Reason for Referral:

County and State highways and parks; Long Path Hiking Trail; adjacent municipalities

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 former Village of South Nyack was split into three Critical Environmental Areas (CEA): Hudson River Area, Run-Off Area, and Mountainous Area. The Hudson River and Mountainous Areas have been included in the new portion of the Orangetown zoning code, however the Run-Off Area was omitted from the zoning amendment and the March 21, 2022 map of the hamlet (revision #4). On April 28, 2022, the Town Attorney sent our department an older map that was dated March 3, 2022 (revision #2) and included the Run-Off CEA. This CEA is shown on the previous map to extend between South Broadway and Route 9W and is unique in that the steep hillsides to the west result in significant water run-off and drainage concerns. The NYS Thruway also runs through this area, making pollution, noise, and traffic additional concerns. It must be stated why the Run-Off CEA was not included, and reconsideration should be made to also include this section of the hamlet. If the CEA is returned to the official map, the Town shall ensure that the Run-Off CEA is also added to Section 10.233(g) of the Town Code, and that all appropriate traits, regulations, and development criteria are included. The Town of Orangetown zoning map shall also be updated to include this CEA as part of the Orangetown Critical Environmental Area.

2 Section 4 of the Local Law describes the proposed western boundary for the Hudson River CEA to be along the eastern side of the centerline of Piermont Avenue. This is also depicted on the March 21, 2022 map. However, in the former Village of South Nyack, the western boundary was along the western side of the centerline of South Broadway. The March 3, 2022 map also reflected the former Village's boundary of the CEA. It must be stated as to why this CEA has been reduced in area between the second and fourth revisions of the map.

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3 The Town Board should take this opportunity to determine whether the Hudson River CEA could be modified to include other portions of the Town, particularly the area along the Hudson River between Tallman Mountain State Park and Palisades State Park.

4 Section 18.12 of the Local Law provides definitions for terms that are defined in the South Nyack Zoning Code, but not in the Orangetown Zoning Code. One of these terms is "swimming pool." However, the definition provided is for "swimming pool structure" from the South Nyack Code. The term should be corrected in the amendment. In addition, the Orangetown code only provides a definition for "swimming pool, private." South Nyack included a general definition for a "swimming pool," and further broke it down into "swimming pool, private" and "swimming pool, other." The Town should consider adopting this more complete definition.

5 Section 18.2 of the Local Law imports some of the supplemental use regulations found in Article VI of the South Nyack zoning code. However, only two of the 18 sections have been brought over to the Orangetown Code: "Sale of arts, crafts & antiques; general or professional office" and "Community residence facilities." Some of the other provisions, such as "Business hours of operation" are already regulated within the Town's code and are therefore, not included, and "Swimming pools" has been moved to the section for supplemental bulk regulations. However, others such as "Use of water rights" and "Protection from glare" are not covered in the Orangetown code and regulations for "Parking of commercial vehicles" and "General and professional offices, funeral parlors and sale of arts, crafts and antiques in the RG-OA [now known as SN_RG-OA] Districts" apply to specific districts that only exist in the hamlet of South Nyack. It must be stated why these sections, as well as the other supplemental use regulations, have not been included in the Local Law, as they are important regulations that should be kept.

6 Section 18.21 regulates the "Sale of arts, crafts & antiques; general or professional office." The South Nyack Code included provisions for signage and hours for the sale of arts, crafts, and antiques, neither of which appear in the Local Law. These additional regulations are important in maintaining the character of the hamlet and should be included in the amendments.

7 Section 18.23 is titled "xx" and does not include any text. This shall be removed.

8 A majority of the supplementary bulk regulations found in Article VII of the South Nyack Zoning Code have been included in Section 18.3 of the Local Law. However, "Obstructions to vision at street intersections," "Bulk requirements applicable to places of worship," and "side yard adjustment for lots providing more than the minimum required street frontage" have not been incorporated in the amendment. Regulations such as the obstructions to vision at street intersections are important in an area like the Hamlet of South Nyack where it may be difficult to see whether there are other vehicles approaching an intersection due to the incline of most streets, particularly given the pedestrian activity in the heart of the hamlet center. The Town should reconsider also adding these important supplementary bulk regulations to the amendments.

9 Article VII of the Orangetown Zoning Code establishes the procedures for conditional uses on approval by the Planning Board. Although the Town grants special permits through the Town Board and Zoning Board of Appeals (ZBA), there is no portion of the zoning code that details the procedures for granting special permits. To that end, the Town shall consider adopting Sections 330-38 through 41 of the South Nyack Code, or a modified version thereof. These sections define the Special Permit Granting Authority (SPGA) and their powers and duties (the SPGA is mentioned in Section 18.42 and 18.44 of the Local Law without being formally established in the Orangetown Code), as well as procedures for granting special permits and requirements applicable to all special permit uses. This will only strengthen Orangetown's Code by explicitly establishing the powers of the Town Board and ZBA as special permit granting authorities, as well as the procedures under which they can grant these permits. Setting these requirements for all special permit uses also holds these uses to a higher scrutiny by the SPGA, similar to Section 8.1 of the Orangetown Zoning Code that includes the general standards for conditional uses.

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10 The special or conditional permit uses for the Hamlet of South Nyack, found in Section 18.4 of the Local Law do not include the regulations for private boat or yacht clubs or bed-and-breakfast establishments. However, the Table of Hamlet of South Nyack General Use, Bulk & Parking Regulations indicates private boat or yacht clubs are a special permit use in the SN_R-12 zoning district. The special permit requirements for this use must therefore be included in Section 18.4.

11 As noted above the special or conditional permit uses do not include bed-and-breakfast establishments. This use also does not appear on the Table of Hamlet of South Nyack General Use, Bulk & Parking Regulations, but was permitted in several zoning districts in the former Village. If this was an oversight, it must be added back to the Table, and the special permit regulations for the use added to Section 18.4. If bed-and-breakfasts are no longer permitted in the new hamlet, it must be stated whether any existing establishments will be permitted to operate as a non-conforming use.

12 The Table of Hamlet of South Nyack General Use, Bulk & Parking Regulations lists private schools and private educational campuses as separate uses. Private schools are a special permit use granted by the Zoning Board of Appeals and are subject to the requirements of Section 18.41. Private educational campuses are special permit uses granted by the Town Board, but are not subject to specific special permit requirements. The former Village of South Nyack Zoning Code previously included special permit requirements for these campuses, but has since repealed them. The Town shall continue to require a special permit for private educational campuses, and should consider establishing special permit standards specific to this use.

13 Orangetown regulates signage through Chapter 31C of the Town Code, as well as for individual zoning districts in Column 5 of the Table of General Use Regulations. Article IX of the South Nyack Zoning Code regulated signs in the former Village, and has not been brought over in the Local Law. The Table of Hamlet of South Nyack General Use, Bulk & Parking Regulations also does not include regulations for signage in the new hamlet. Article IX from the South Nyack Zoning Code must be included in the Orangetown Code to regulate signs in the new zoning districts established for the Hamlet of South Nyack, or Chapter 31C of the Orangetown Town Code must be amended to include such.

14 Article X of the South Nyack Zoning Code regulated off-street parking and loading facilities and driveways. This was not included in the Local Law since the Table of Hamlet of South Nyack General Use, Bulk & Parking Regulations established parking requirements for each use in the new hamlet and Article VI of the Orangetown zoning code currently includes provisions for off-street parking and loading. The remainder of Article X of the South Nyack Zoning Code also provides differing regulations from Article VI of Orangetown's zoning code. The Town Board must determine whether all or some of these different requirements should remain in place for the Hamlet of South Nyack.

15 Included on the bulk table for South Nyack is the lot coverage standard. This standard has been kept for the Hamlet on the Table of Hamlet of South Nyack General Use, Bulk & Parking Regulations. Lot coverage is an important regulation since it limits the amount of impervious surface on a site, thereby preserving (or establishing) greenspace and reducing run-off. The Town currently does not have a lot coverage standard. This must remain in place in the Hamlet of South Nyack in the future. In addition, the Town should use this opportunity to establish a lot coverage standard for the existing zoning districts throughout the Town. Now is an ideal time to develop this standard as the Town of Orangetown is currently undergoing an update to the Comprehensive Plan.

16 Resolution No. 180 provides a listing of interested or involved agencies for the adoption of the proposed zoning regulation. This list must be expanded to include the following agencies, since facilities under their jurisdictions are either within the Hamlet of South Nyack or within 500 feet of its boundary: New York State Department of Environmental Conservation; New York State Department of Transportation; New York State Thruway Authority; New York-New Jersey Trail Conference; Palisades Interstate Park Commission; and Rockland County Division of Environmental Resources. In addition, the Referral Agencies listed on the Referral Form for General Municipal Law (GML) Reviews should be expanded to include the above listed agencies.

17 The following additional comments are offered strictly as observations and are not part of our General Municipal Law (GML) review. The board may have already addressed these points or may disregard them without any formal vote under the GML process:

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17.1 The Lead Agency Coordination Letter from the Town of Orangetown, dated April 15, 2022, states that the Town Board has determined that the amendment to Chapter 43 by adding Article XVIII for zoning in the Hamlet of South Nyack is an "Unlisted" action under the State Environmental Quality Review Act (SEQRA). However, Resolution 180 states that the proposed action was determined to be a "Type I" action. Section 617.4(b)(1) of the SEQRA regulations indicates that the initial adoption of a municipality's comprehensive zoning regulations is one of the criteria for a Type I action. Therefore, it seems that the adoption of the zoning regulations for this new section of the Town of Orangetown would meet this criterion. All information must be consistent. The Town must amend the appropriate document to cite the correct SEQRA action.

17.2 Resolution No. 180 lists the involved and interested agencies in the review process for the amendment of the Town's zoning ordinance. The Town of Ramapo is listed as one of the municipalities. It is not clear why this municipality is listed since it does not abut, nor is within 500 feet of, any portion of the Town of Orangetown or the Hamlet of South Nyack.

17.3 The Referral Form for the GML Review indicates that the lot acreage for the application is 0.46 acres. It is unclear as to what this is referencing since a new Article is being amended to Chapter 43, which includes the Hamlet of South Nyack in its entirety. This must be corrected.



 Douglas J. Schuetz
 Acting Commissioner of Planning

cc: Supervisor Teresa Kenny, Orangetown
 New York - New Jersey Trail Conference
 New York State Department of Environmental Conservation
 New York State Department of Transportation
 New York State Thruway Authority
 Palisades Interstate Park Commission
 Rockland County Department of Health
 Rockland County Division of Environmental Resources
 Rockland County Highway Department
 Town of Clarkstown
 Villages of Chestnut Ridge, Nyack, &
 Grand View-on-Hudson

"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.