

FEERICK LYNCH MacCARTNEY & NUGENT PLLC
ATTORNEYS AT LAW

ROCKLAND COUNTY OFFICE
96 SOUTH BROADWAY
SOUTH NYACK, NEW YORK 10960
TEL. 845-353-2000 FAX. 845-353-2789

DENNIS E.A. LYNCH
DONALD J. FEERICK, JR.
J. DAVID MacCARTNEY, JR.
BRIAN D. NUGENT*
MARY E. MARZOLLA*

ORANGE COUNTY OFFICE
6 DEPOT STREET, SUITE 202
WASHINGTONVILLE, NEW YORK 10992
(Not for service of papers)

WESTCHESTER COUNTY OFFICE
235 MAIN STREET, SUITE 330
WHITE PLAINS, NEW YORK 10601
(Not for service of papers)

JENNIFER M. FEERICK
STEPHEN M. HONAN**
ALAK SHAH*
PATRICK A. KNOWLES*
JOHN J. KOLESAR III
PATRICK J. MCGORMAN

OF COUNSEL

DONALD J. ROSS
DAVID J. RESNICK
KEVIN F. HOBBS
MICHAEL K. STANTON, JR.

www.flmpllc.com

All correspondence must be sent to Rockland County Office

*LICENSED ALSO IN NEW JERSEY
+LICENSED ALSO IN CONNECTICUT

May 23, 2018

Via E-Mail - dhammond@nyack-ny.gov

Village of Nyack
9 North Broadway
Nyack, New York 10960

Attention: Dr. Don Hammond, Mayor

Re: 245-259 Main Street, Nyack, New York
JED Realty Application

Dear Mayor Hammond:

This letter will confirm that the undersigned has been retained by several residents of the Greater Depew Avenue Area with regard to the Project above-captioned. This Association, Depew Owners Neighborhood Educational Exchange (“DONE”), has previously expressed concerns without the benefit of legal Counsel on the adverse impacts of this Project. I have been retained to provide that legal assistance to the Members of DONE as well as inform the Village Board of various matters that I believe require immediate attention by the Village Board. These issues are as follows.

First, it is my information that the Village Board of Trustees (“Village Board”) has been considering the relinquishment of four (4) parking spaces that have and could continue to benefit residents in the Depew area to provide those public parking spaces for a private developer. The Village Board could not undertake any such action without compliance with SEQRA and certainly has not done so to date. More troubling, however, is what appears to some to be a Village Board complicit in the usurpation of public rights to the benefit solely of a private developer seeking to build for private profit.

FEERICK LYNCH MACCARTNEY & NUGENT, ESQS.
MAY 23, 2018
PAGE TWO

Such an action is both unprecedented in our Village as well as contrary to well established law that the Village Board must act to benefit all residents and not to advance the profit of a private developer.

Second, this unusual consideration of the Village Board in benefiting a private for-profit developer aforesaid regarding the loss of 4 parking spaces to a private developer raises another more troubling question regarding potential conflicts of interest. Information has been supplied that a current Village Employee has been consistently involved in certain land use actions by the Village that are to the direct detriment of Members of DONE. More specifically, an unusual zone change took place that clearly constitutes "spot zoning" and was accomplished without any proper consideration as to the Comprehensive Master Plan ("CMP") mandates. Information is currently being gathered to request a formal investigation with regard to the foregoing. Nevertheless, the Village Board should have been on notice already about this issue, and if not, the Village Board is expressly placed on notice at this time.

Third, in addition to the manifest harm to Members of DONE with regard to any vehicular traffic from the proposed Project either entering or exiting from Depew Avenue, anyone with even passing knowledge of the traffic situation on Depew Avenue knows that the Depew Avenue and Route 9W intersection is a complete traffic intersection failure. Cars backing up from Depew Avenue onto Route 9W is a daily occurrence throughout the weekday and is extremely dangerous both in the morning time as well as later afternoon as traffic seeks to escape the Main Street traffic problems which only add to the Depew Avenue traffic problems. Most troubling of all, however, is that countless young school children traverse the area beginning at the intersection of Route 9W and Depew Avenue and walk down toward the main part of Nyack Village. The potential harm to the safety of those children is something that must be a concern of any elected Official and has not been studied at all to date. The Traffic Impact Study of the Project Sponsor last revised December 15, 2017 completely neglects the over 100 School Children that the NONE count has confirmed of School Children leaving the Nyack Middle School and traveling toward Depew Avenue after the release time for School which is WELL BEFORE THE PEDESTRIAN COUNT WAS STARTED AT 4:00PM in the Study.

Finally, the foregoing are just the highlights of the immediate concerns to be brought to the attention of the Village Board. Other concerns will be brought as further review is completed. Still, what has been presented to date should focus the Village Board's attention on the considerable and immediate health, safety and welfare adverse impacts from this Project.

Very truly yours,


Dennis E. A. Lynch

DEAL/sd

cc: Trustee Donna Lightfoot-Cooper
Trustee Marie Lorenzini
Trustee Louis Parker
Trustee Elijah Reichlin-Melnick
Walter R. Sevastian, Village Attorney
DONE