Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 15, 2018

Airmont Planning Board
251 Cherry Lane
P.O. Box 578
Tallman, NY 10982

Tax Data: 55.12-1-54

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 2/13/2018 **Date Review Received:** 2/16/2018

Item: ***ALLEGRO OFFICE BUILDING (A-194B)***

A site plan application to construct two, 3-story commercial buildings on 2.314 acres in the NS and R-40 zoning districts. Building 1 is proposed to have 10,350 square feet of medical office space. Building 2 is proposed to have 12,000 square feet of business office space. 129 parking spaces are proposed.
The eastern side of South DeBaun Avenue, approximately 480 feet south of NYS Route 59.

Reason for Referral:

NYS Route 59

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 This property is located within both the NS and R-40 zoning districts. Confusion has arisen over the split zoning, resulting in litigation. Section 210-7.H of the Airmont zoning regulations states "If a lot shall be in two or more zoning districts, the more restrictive use and bulk requirements shall apply." It is our understanding that the Airmont Building Inspector had determined, for an earlier proposal, that the NS zoning district is the more restrictive district and, therefore, is the appropriate standard to apply to this parcel. Subsequent legal challenges to this decision have been rejected by the court system. This department recommends that the Village consider revising its regulations regarding split-zone parcels in order to avoid confusion, provide clearer guidance, and promote predictable results regarding allowed uses and bulk requirements.

2 In a letter dated April 15, 2016, the New York State Department of Transportation stated that although the proposed project does not abut a State Highway, it is anticipated that the State Highway system will be impacted. For this reason, an updated review shall be completed by the New York State Department of Transportation and any required permits obtained.

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3 The applicant must comply with all comments made by the Rockland County Sewer District #1 in their letter of February 22, 2018.

4 The applicant must comply with the conditions of the Rockland County Health Department's letter of January 9, 2018.

5 A review must be completed by the United States Environmental Protection Agency and the New York State Department of Environmental Conservation since the site has been designated as an Environmentally Sensitive Area.

6 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. A letter from the public water supplier, stamped and signed by a NYS licensed professional engineer, shall be issued to the municipality, certifying that there will be a sufficient water supply during peak demand periods and in a drought situation.

7 Public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Department of Health prior to construction.

8 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Guidelines for Urban Erosion and Sediment Control.

9 There shall be no net increase in the peak rate of discharge from the site at all design points.

10 The proposed monument sign must conform to the municipalities sign standards.

11 A review of the fire truck turning plan must be completed by the County of Rockland Office of Fire and Emergency Services, the Village Fire Inspector or the Tallman Fire District to ensure that there is sufficient maneuverability on-site for emergency vehicles.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Philip Gigante, Airmont
New York State Department of Transportation
United States Environmental Protection Agency
Rockland County Sewer District #1
Rockland County Department of Health
Tallman Fire District
Rockland County Office of Fire and Emergency Services
New York State Department of Environmental Conservation

Leonard Jackson Associates

**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.

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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.