



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

June 20, 2018

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

Tax Data: 55.12-1-51

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

Map Date: 5/17/2018

Date Review Received: 5/23/2018

Item: *TALLMAN TRUST -- 241-251 ROUTE 59 (A-175B)*

A site plan application to modify the parking area and drive-thru for an existing commercial building on 2.50 acres in the NS zoning district. A parking waiver from the Planning Board of 25% of the required number of spaces is requested.

The southern side of NYS Route 59, approximately 670 feet east of South DeBaun Avenue.

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 A review shall be completed by the New York State Department of Transportation and all required permits obtained.
- 2 The previously approved site plan received a waiver of 30 out of 150 parking spaces, or 20%. The current application proposes to increase the waived number of spaces to 37 out of 150, or 25%. This department is not generally in favor of granting parking variances or waivers for sites located on heavily traveled state or county roads. The safe and efficient flow of traffic along Route 59 will be impeded if the on-site parking is insufficient. The village must be satisfied that the proposed 113 spaces are adequate for all uses on this site before granting a parking waiver. In addition, the Village must continue to monitor the site to ensure that the available parking is adequate for the site. If it is found that the parking is inadequate, then the applicant must provide alternate offsite parking arrangements with an adjacent or nearby user to correct this problem.

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- 3 The site plan proposes outdoor seating at the front of the building along with protective bollards. The proposed bollards are encroaching upon two parking spaces. As a result, these parking spaces do not meet the village's dimensional standards and cannot be counted toward the required number of parking spaces. As the proposed site plan already requires the maximum allowed waiver of parking spaces, the outdoor seating and bollards must be removed.
- 4 The vicinity map must have a scale and north arrow. In addition, the GML referral form indicates that the acreage of the parcel as 2.58 acres. The form must be corrected to 2.50 acres.
- 5 Although the site plan indicates that the area along Route 59 is to be landscaped, the proposal may be insufficient to shield the entire length of the parking area. Low evergreen landscaping or a berm must be provided in front of the parking spaces facing the state road to shield headlights from shining into oncoming vehicles traveling on Route 59.
- 6 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.
- 7 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 8 All proposed signage shall be indicated on the site plan and shall conform to the village's sign standards.
- 9 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. This will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the use of parking spaces meant to be used by customers, which is particularly significant since there is a request for a waiver of the required number of parking spaces.
- 10 A lighting plan shall be provided that shows fields of illumination. This plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.
- 11 Since the property is non-conforming for development coverage, the area at the eastern end of the northern parking area, which is not a complete parking space, must be removed. In addition, the village must consider requiring the use of pervious pavers wherever possible to help reduce the degree of non-conformity in development coverage.
- 12 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Airmont Inspector, or the Tallman Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.
- 13 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

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14 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Philip Gigante, Airmont
New York State Department of Transportation
Rockland County Department of Health
Rockland County Office of Fire and Emergency Services
Tallman Fire District

Civil Tec

**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.

