

DEPARTMENT OF PLANNING

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April 24, 2019

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

Tax Data: 55.07-2-10

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

Map Date: 3/20/2019

Date Review Received: 3/22/2019

Item: *PANERA INC. - 15-17 NORTH AIRMONT ROAD (A-18F)*

Special permit, site plan, subdivision, and sign plan applications for the removal of an existing free-standing restaurant and the construction of a new free-standing Panera Bread restaurant with a drive-thru, as well as a subdivision of the property from an existing hotel. The Panera lot requires variances for: lot area; lot width; side setback; side yard; number of signs; internal illumination of signs; length of parking spaces; and arrangement of outdoor seating. A reduction in the number of required litter receptacles by the Planning Board is requested. The hotel lot requires variances for side setback, side yard, and the special use requirement for a hotel coffee shop.

The northeastern corner of the intersection of North Airmont Road and North DeBaun Avenue.

Reason for Referral:

Town of Ramapo, Village of Montebello, North Airmont Road (CR 89), NYS Thruway (I-87/287)

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:

****Disapprove***

1 This proposal requires multiple applications before the Planning Board. The County's disapproval applies only to the Sign Plan application.

We are disapproving the variances for number of signs and internal illumination. The Village's zoning standards are reasonable and should be followed. The granting of these variances can set a precedent and encourage nearby commercial uses along the State and County highways to request similar exemptions. This can result in an excessive number of signs that can have an adverse effect on the safe and efficient flow of traffic along the State and County highways. If your Board finds there is a pattern of requests for sign variances, and that some rationale exists for lessening the Village's standards, we suggest a recommendation be made to the Village Board to revise the sign standards on parcels that front high-volume traffic corridors.

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The following comments address our additional concerns about the Sign Plan application.

2 The application form indicates that six wall mounted signs are proposed. According to the list of variances and design waiver provided, six wall mounted signs are proposed "on each of the north, south and east elevations" for a total of 18 signs. The sign schedule provided by Mandeville Sign, revised February 8, 2019, indicates that a total of eleven façade signs are proposed: one wall logo sign of four square feet for the west elevation; a 36-square foot "Panera Bread" sign for each of the west, south, and north elevations; an 11-square foot "Drive Thru" sign for each of the four elevations; and three canopy signs for the west elevation. All materials must be consistent. The Village must clarify which, if any, of the above listed signs may be exempt from requiring a permit and determine the extent of the required variance necessary for the proposal.

3 The site plan indicates that an existing freestanding ground sign near the southwestern corner of the property is to be repaneled. This proposed panel must be included in the sign plan review. In addition, the Village must determine whether this ground sign is allowed to display a sign for the hotel once the subdivision is approved, since the sign will no longer be located on the same parcel as the hotel. If it is determined that a variance is necessary to allow an off-premise sign, a variance application must be submitted to this department for review.

The County offers the following recommendations for modification, which are applicable to all of the actions before the Planning Board:

4 The Town of Ramapo and the Village of Montebello are two of the reasons this proposal was referred to this department for review. The Ramapo boundary is approximately 170 feet north of the parcel and the Montebello boundary is approximately 90 feet northwest of the parcel. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and countywide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner that is supportive of the goals and objectives of the general area.

The Town of Ramapo and the Village of Montebello must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact these municipalities must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

5 The applicant must comply with all comments made by the Rockland County Highway Department in their letter of April 1, 2019.

6 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of April 8, 2019.

7 A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

8 A review must be completed by the New York State Thruway Authority and any required permits obtained from them.

The following comments are applicable to the subdivision application:

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9 As required by the Rockland County Stream Control Act, the subdivision plan must be reviewed and signed by the Chairman of the Rockland County Drainage Agency before the County Clerk can accept the plan to be filed.

10 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. The proposed Panera lot area is deficient in area by 21% and in lot width by 42%. The ability of the existing infrastructure to accommodate increased density on undersized parcels is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Village must consider the cumulative and regional impacts of permitting such development.

11 The bulk table indicates that the proposed FAR for the hotel parcel will be 0.09. This figure is not consistent with other data provided. The site plan indicates that the hotel has a footprint of 11,117 sq. ft. and has four stories. Based on the size of the parcel, an FAR of 0.09 would be achieved by the structure having only 10,653 sq. ft., which is less than the building's footprint. Assuming each story has the same floor area as the footprint, the proposed FAR of the hotel would be approximately 0.37. The site plan must be amended to include an FAR calculation and the bulk table must be amended.

The following comments are applicable to the site plan and special permit applications before the Planning Board:

12 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.

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

14 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Airmont Fire Inspector, or the Tallman Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

15 The landscaping plan must be supplemented with additional low evergreen shrubs in front of the parking areas to prevent vehicle headlights from shining into neighboring properties or roadways, especially along the western parking spaces that face the county highway.

16 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 loss of available parking spaces meant to be used by customers.

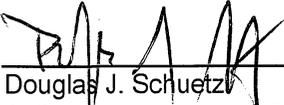
17 The proposed signage includes internally lit wall-mounted signs. The Village must confirm that the provided lighting plan has incorporated the illumination generated by the signage. If it has not, an amended lighting plan shall be provided that incorporates the proposed signage and demonstrates that the intensity of the candle lumens is less than 0.1 at the property line.

18 An Orange & Rockland Utilities easement is located along the northern end of the property. The proposed garbage enclosure, a lighting fixture, and a portion of the parking area encroaches upon the easement. A review must be completed by Orange & Rockland Utilities and their comments considered.

19 Exiting vehicles intending to travel east on DeBaun Avenue may choose to cut through the hotel parking instead of using the on-site driveway. This will create unnecessary traffic conflicts and should be avoided. Exit signs directing vehicles towards the on-site driveway must be installed to discourage drivers from cutting through the hotel parking lot.

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20 A stormwater pollution prevention plan (SWPPP) was not provided. The SWPPP, if required, shall conform to the current regulations, including the New York State Stormwater Management and Design Manual (January 2015) and local ordinances.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Nathan Bubel, Airmont
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Drainage Agency
Rockland County Department of Highways
Rockland County Office of Fire and Emergency Services
Tallman Fire District
New York State Thruway Authority
Orange and Rockland Utilities

Dynamic Engineering
Town of Ramapo Planning Board
Village of Montebello Planning Board

Rockland County Planning Board Members

**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.