

**DEPARTMENT OF PLANNING**

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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

June 22, 2016

Clarkstown Planning Board  
10 Maple Avenue  
New City, NY 10956

**Tax Data:** 57.12-1-46

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

**Map Date:** 9/16/2015

**Date Review Received:** 5/27/2016

**Item:** *NY SMSA LIMITED PARTNERSHIP D/B/A VERIZON WIRELESS (C-3565)*

Site plan and special permit to permit the construction of a wireless telecommunications facility, consisting of antennas mounted on a 125-foot stealth monopole (evergreen tree), 12 small panel antennas, and related equipment at the base. The tower will be located within a 2,500 sq. ft. fenced area on a parcel that is located in the LIO zoning district on 2.2 acres.

South side of Smith Road, approximately 100 feet west of Overlook Boulevard

**Reason for Referral:**

Smith Road (CR 60)

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 must be completed by the County of Rockland Department of Highways and all concerns addressed and all required permits obtained.
- 2 The preliminary screening criteria includes the fall zone of the proposed structure. As the structure is proposed to be 125 feet in height, the fall zone must be a minimum of 187.5 feet. The fall zone area should be depicted on the site plan, especially since it lies within the roadway of Overlook Boulevard.

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3 It has been noted that there is an existing 70 foot tall wooden pole servicing T-Mobile also located on the site. It has been further stated that this pole is unable to support the Verizon Wireless' co-location option, so therefore a new tower needs to be built. The proposed 125 foot tall tower is being constructed so that three carriers can co-locate on it. The Town of Clarkstown should further require Verizon to investigate the possibility of co-locating the T-Mobile tower, to eliminate the number of poles on the site.

4 The proposed monopole tower is 25 feet taller than permitted by the Town of Clarkstown code. In addition, the side yard is deficient by close to 40 feet. The applicant is designing the tower so that three other carriers can co-locate, yet no indication has been made by the other companies that they are planning to use this tower for their antennae, including the T-Mobile facility that is also located at this site. The fall zone, as mentioned above, would lie within the right-of-way of Overlook Boulevard. Unless the applicant gets positive feedback from the other carriers indicating an interest in co-locating, the height of the tower must be reduced, particularly so that the fall zone is located outside of the roadway right-of-way.

5 The nearest residence to the proposed tower consists of an existing non-conforming dwelling on the site. However, no mention is made of the next closest residences, which are located across the street off of Overlook Boulevard (Kings Gate and Avalon Gardens). These residences should be included in the discussion of the application requirements of the Category C site so as to ensure that these residential areas are included in all analyses.

6 Additional landscaping (white pine trees) is proposed along the north and south sides of the fenced compound. As noted above, two multi-family residential areas are located east of the site. To further screen these residential areas to the east, more white pines or other evergreen trees, should be supplemented along the eastern property boundary, particularly since the yard requirement is deficient along this portion of the site.

7 The application materials indicate that the specific location for the proposed monopole on the site was chosen to take advantage of the vegetation that can help screen the use from the surrounding area. However, the location chosen results in a side yard that is deficient by over 64%. This particular side yard deficiency is also located on the portion of the property that is closest to the nearby multi-family residential uses off site. Other locations on the site must be evaluated to determine if there is a more conforming position for the monopole, especially one that is further from these residential areas.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown  
Rockland County Department of Highways  
Rockland County Planning Board  
Rockland County Department of Health  
  
Tectonic  
Leslie Snyder, Snyder & Snyder, LLP

*\*NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

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*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.*

