

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 22, 2017

Clarkstown Planning Board
10 Maple Avenue
New City, NY 10956

Tax Data: 34.08-1-3

34.08-1-4

34.08-1-5

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 N

Map Date: 7/13/2017

Date Review Received: 7/21/2017

Item: *KAY-KLUBENSPIES (C-3594 Revised)*

Re-subdivision of four lots into three lots. The total lot area of all four lots is 15.91 acres, and the parcels are located in the R-80 and R-160 zoning districts.

North side of South Mountain Road, approximately 2,090 feet east of Hemlock Trail

Reason for Referral:

High Tor State Park, Town of Haverstraw

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***

Our initial review raised several issues regarding the tax parcels for this proposed re-subdivision, based on our tax map information. It was brought to our attention by the Clarkstown Planning Department, that a lot merger occurred, which had not yet been reflected in our tax parcel information. Therefore, given this new information, this General Municipal Law review supersedes our previous review dated August 15, 2017, which included comments regarding the tax parcels.

1 The subdivision map submitted with this application is very difficult to read. The "Before" map only shows a small portion of the lots to be re-subdivided, and it is not clear why only this portion is illustrated. In addition, the "After" map does not clearly illustrate the existing lot lines versus the new lot lines. A dashed line is also shown with metes and bounds measurements, but it is not clear what this represents. A subdivision plat must be provided that clearly illustrates the existing tax lot lines, the lot lines to be eliminated, and the proposed new lot lines.

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2 Subdivisions are one method to show an intended lot line change between two or more parcel owners. However, once a subdivision has been approved, a filed map cannot be used to convey property, nor can the tax maps be updated with the lot changes, until the deeds are filed with the County Clerk, conveying the portions of the lots that are required to achieve the lot configuration indicated on the subdivision map. The applicant and the Town must make sure that the deeds are properly filed with the Rockland County Clerk.

3 It is not clear if the bulk tables measurements are for the existing parcels, or for the new parcels. The bulk table must be expanded to list both the existing parcel information and the proposed parcel information for all three parcels.

4 The bulk table for tax parcel #34.08-1-5 lists the proposed lot coverage to be 5.6% when only a 5% lot coverage is permitted. No asterisk is provided, or note, indicating that a variance is required. The bulk table for the R-160 zoning district must be updated to reflect that a variance is required.

5 The bulk table for the R-80 zoning district lists two parcels, and notes that the lot coverage for tax parcel #34.08-1-4 has an existing condition that exceeds the lot coverage. However, since the lot lines are being altered, this lot coverage measurement cannot be considered an existing condition, as is noted in the table. The bulk table for the R-80 zoning district must be updated to reflect that a variance for lot coverage may be required for this parcel.

6 The description for this application indicates that an easement will be extinguished. The existing easement has not been highlighted on the map, nor any area noted as to which easement is to be eliminated. The existing easement, if it is to be eliminated, must be clearly shown on the plans.

7 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.

8 A review must be completed by the County of Rockland Department of Health and all required permits and/or approvals obtained.

9 The Town of Haverstraw is one of the reasons this proposal was referred to this department for review. The municipal boundary is along the northern property line of the site. As required under Section 239nn of the State General Municipal Law, the Town of Haverstraw must be given the opportunity to review the proposed subdivision and provide any concerns related to the project to the Town of Clarkstown.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown
Palisades Interstate Park Commission
Rockland County Drainage Agency
Rockland County Department of Health

Anthony R. Celentano P.L.S.
Town of Haverstraw Planning Board

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**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.

