

**DEPARTMENT OF PLANNING**

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

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

November 14, 2018

Clarkstown Planning Board  
10 Maple Avenue  
New City, NY 10956

**Tax Data:** 57.20-1-49 58.18-1-46

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

**Map Date:** 9/24/2018

**Date Review Received:** 10/15/2018

**Item:** *ROCKLAND PLAZA (C-740H)*

Re-subdivision of two lots, merging them into one; amended site plan for the proposed demolition of an existing 1,409 sq. ft. tuxedo retail store, and construction of a 5,700 sq. ft. restaurant and retail space, and a 1,204 sq. ft. outdoor seating area, on a total of 22.05 acres in the RS zoning district. Parking will be increased from 1,025 to 1,079 spaces to accommodate the increased retail/restaurant space. A special permit use from the Zoning Board of Appeals is also required since the site is located within the floodplain. A floodplain development permit is required. In addition, variances are required for front yard for the outdoor seating area, and less than the required number of parking spaces.

Northwest corner of N. Middletown Road and NYS Route 59

**Reason for Referral:**

NYS Route 59, N. Middletown Road (CR 33), Nauraushaun Brook

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 New York State Department of Transportation, any comments or concerns addressed, and all required permits obtained.
- 2 The comments in the October 23, 2018 letter from the Rockland County Drainage Agency must be met.
- 3 The comments in the October 24, 2018 letter from the Rockland County Highway Department must be met.
- 4 The comments in the October 26, 2018 letter from the Rockland County Sewer District No. 1 must be addressed.

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5 A review must be completed by the Rockland County Department of Health to ensure compliance with the County Mosquito Code. All required permits must be obtained.

6 The site plan, Drawing No. C-201, notes that the two outdoor areas will be 560.2 sq. ft. and 665.6 sq. ft., for a total of 1,225.8 sq. ft. The project narrative from McLaren Engineering indicates that the outdoor seating area will be 1,204 sq. ft. All information must be consistent. The correct square footage for the outdoor seating area must be provided.

7 The narrative from McLaren Engineering indicates that a total of 1,581 parking spaces are required for the existing and proposed uses, which includes 1,453 for the shopping center and the 125 commuter spaces. When tallied, the total number of parking spaces required is 1,578; a discrepancy of 3 parking spaces. Furthermore, the parking study done by Harry Baker Associates, as well as the site plan, indicate that 1,454 plus 125 commuter parking spaces are required, for a total of 1,579. All information must be consistent. The number of parking spaces required must be verified to ensure that the variance sought reflects the accurate percentage of the extent of non-conformity.

8 Areas dedicated 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 landscaping, located in the islands, from being broken from the weight of the snow and from causing salt intrusion to the plants. In addition, designating specific locations on the site for the snow piles, especially since less than the required number of parking spaces are being provided, will eliminate the loss of parking spaces meant for the patrons and employees of the restaurant.

9 All proposed signage shall be shown on the site plan, and conform to the town's sign standards.

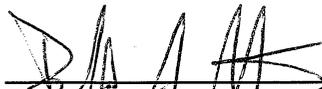
10 The lighting plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.

11 A trash storage area and an area for trash and recycling are proposed within close proximity to the proposed building. Other dumpster locations are scattered throughout the site. It is not clear why this restaurant requires two trash storage area. It must also be clarified if these trash storage areas are the same as dumpster locations. If not, the applicant must indicate the difference between these features, and why two are needed for the new building.

12 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.

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

14 We request the opportunity to review the required variances and special permit that are needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown  
New York State Department of Transportation  
Rockland County Department of Highways  
Rockland County Drainage Agency  
Rockland County Department of Health  
Rockland County Sewer District #1  
McLaren Engineering Group

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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.*

