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 21, 2019

Haverstraw Planning Board
One Rosman Road
Garnerville, NY 10923

Tax Data: 25.18-2-19

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 3/26/2019 **Date Review Received:** 5/29/2019

Item: ***NEW CINGULAR WIRELESS PCS, LLC - 16 THIELLS MT. IVY ROAD (H-173F)***

A special permit and site plan application to construct a new wireless communication facility, consisting of a 150-foot monopole and ground level equipment, on a 2.07 acres parcel with an existing fire station in the C zoning district. A height variance is required for the monopole.
The western side of Thiells Mount Ivy Road, opposite Brevoort Drive.

Reason for Referral:

Thiells Mount Ivy Road (CR 47), Village of Pomona, Palisades Interstate Parkway, Long Path

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 The May 17, 2019 letter from the applicant to the Board includes an analysis of increased coverage and capacity offload, which compares existing conditions to towers of heights varying at 10' increments. In comparing the data from a 110' tower (for which a variance is not required) and the proposed 150' tower, the percentage of reliable coverage increased by 0.03% at 700 MHZ and 3.65% at 1900 MHz. Compared to the increase in coverage at 700 MHz that would result in the construction of a 150' tower, 96.55% of that increase could be achieved by a 110' tower. At 1900 MHz, a 110' tower provides 87.25% of the increased benefit. The analysis also provides data regarding the percentage of traffic offloaded at five surrounding sites. Comparing the offloaded traffic at those sites, the benefit achieved by a 110' tower ranges from 79.5% to 97.2% of the benefit achieved by a 150' tower, with an average benefit of 87.1%.

These data clearly show that a taller tower provides better service and coverage. However, no thresholds or guidelines are given regarding what constitutes "reliable service." When roughly 90% of the benefit can be achieved without the need for a variance, it is incumbent upon the applicant to provide a clear rationale for the granting of a variance and state why the incremental increase in height is necessary. Otherwise, any proposed height could be justified on the basis of improved service. The applicant must provide thresholds for minimal acceptable service and demonstrate that a variance of the height requirement is necessary to achieve them.

NEW CINGULAR WIRELESS PCS, LLC - 16 THIELLS MT. IVY ROAD (H-173F)

2 The applicant must comply with all comments made by the Rockland County Highway Department in their letter of March 13, 2019.

3 All concerns raised by the Palisades Interstate Park Commission in their letter of April 4, 2019 must be addressed.

4 As per the June 5, 2019 letter from the Rockland County Department of Health, an application must be made to them for compliance with the County Mosquito Code, should the Town require a stormwater management system.

5 The Palisades Interstate Parkway is designated as a National Landmark by the National Park Service and a New York State Scenic Byway. In order to preserve the viewshed and scenic value of the parkway, the monopole must be relocated to maintain a minimum 20-foot buffer from the Palisades Interstate Parkway.

6 The visual analysis must also include views from both the northbound and southbound Palisades Interstate Parkway roadway.

7 In order to minimize the visual impact of the facility, the structure must use the monopine design and be painted in a neutral color.

8 The Town shall be satisfied that the proposal complies with the requirements of Chapter 162 - Wireless Communication Facilities of the Town Code.

9 The Village of Pomona is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 405 feet west 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 Village of Pomona 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 the Village of Pomona must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

10 A review must be completed by the New York - New Jersey Trail Conference and any concerns addressed.

11 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 Standards for Urban Erosion and Sediment Control.

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

13 The map notes shall include district information.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Howard Phillips, Haverstraw
Rockland County Department of Health

NEW CINGULAR WIRELESS PCS, LLC - 16 THIELLS MT. IVY ROAD (H-173F)

Rockland County Department of Highways
Palisades Interstate Park Commission
New York - New Jersey Trail Conference

Dewberry Engineers, Inc.
Village of Pomona Planning Board
Cuddy + Feder, 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.*

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.