Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
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January 13, 2020

Hillburn Planning Board
31 Mountain Avenue
Hillburn, NY 10931

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	54.11-2-5	54.11-2-4	54.11-2-3
	54.11-2-2		

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 11/13/2019 **Date Review Received:** 12/5/2019

Item: ***NOVED BUILDING MANAGEMENT (Hi-43A)***

A site plan application to create a soil and concrete aggregate processing facility on 7.55 acres in the LI zoning district. The overall site consists of ten parcels, which will be merged to form two parcels, one on each side of Brook Avenue. The applicant also requests the abandonment of two rights-of-way. A 13,800 sq. ft. garage/office space structure, 11 parking spaces, 36 landbanked spaces, and concrete block storage stalls are proposed. The site is located within the FEMA floodplain and was the subject of a Voluntary Clean-Up Agreement with the New York State Department of Environmental Conservation for the remediation of paint sludge. The agreement included a deed restriction that limits use of the site to commercial or industrial uses.

The triangular site is bounded by the New York State Thruway to the northwest, the New Jersey state boundary to the southwest, and the Conrail Corporation right-of-way to the east.

Reason for Referral:

Ramapo River, NYS Thruway (I-87/287), Village of Suffern

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 Unauthorized fill has been placed on the site and the property is in violation of the Rockland County Stream Act. The Rockland County Drainage Agency (RCDA) has issued multiple Notice of Violation letters to both the property owners and site operators, ordering the installation of erosion and sediment control measures, the removal of the unauthorized fill, and that all construction activities cease and desist immediately. This application must not proceed until all violations on site have been resolved to the satisfaction of the RCDA.

The following comments address our additional concerns about this proposal.

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2 The majority of the site is within the FEMA AE flood zone. The designated floodplain administrator for the Village of Hillburn shall certify that the proposed construction is in compliance with the floodplain regulations of the Village and the Federal Emergency Management Agency. In addition, any outside storage of buoyant, dissolvable, or hazardous materials must be elevated above the floodplain or otherwise flood-proofed.

3 A review must be completed by the New York State Department of Environmental Conservation and any required permits obtained from them.

4 The applicant must provide as-built drawings and other documentation to New York State Department of Environmental Conservation, Region 3, that illustrate the design and installation of the petroleum bulk storage tanks, as per code. These tanks must also be registered with them.

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

6 A review must be completed by the County of Rockland Drainage Agency and all required permits obtained from them.

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 If any disturbance is proposed within the federal wetlands, a review shall be completed by the United States Army Corps of Engineers and all required permits obtained.

9 Map note 10 on the site plan indicates that water is to be supplied by private well and drawing 7 indicates an existing well is to be redrilled. The well must be re-opened pursuant to all requirements of Article II of the Rockland County Sanitary Code, and under permit with the Rockland County Department of Health.

10 The Village of Suffern is one of the reasons this proposal was referred to this department for review. The municipal boundary is along the Ramapo River, which is approximately 260 feet east of the site. 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 county-wide 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 which is supportive of the goals and objectives of the general area.

The Village of Suffern 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 Suffern must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

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.

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13 The lighting and landscaping plan indicates a buffer of Forsythia plantings is proposed along the southwestern property line. In order to provide adequate screening during the winter, a landscaped buffer that consists of evergreen shrubs must be planted. In addition, several proposed plantings are located within the roadway near the entrance from Creelman Road. These plantings must be relocated.

14 The applicant must provide a noise analysis of the impact of the rock crusher on nearby properties. Noise generated by the crusher must remain below 50 decibels at any occupied structures.

15 All proposed signage shall be indicated on the site plan and shall conform to the Village's sign standards.

16 Map note 4 lists the proposed uses for the site, including "Registered Repair Shop and Heavy Equipment Repair." The Village must confirm that the repair of equipment will only be an accessory use for the repair of equipment used on site by the applicant. The repair of off-site equipment must be prohibited.

17 Traffic circulation must be indicated on the site plan.

18 The proposed abandonment of the public rights-of-way must be reviewed by the Hillburn Village Board. We request the opportunity to review the application.

19 The proposed retaining wall exceeds 16 feet in some points. In order to minimize the visual impact to neighboring properties, the proposed wall must be tiered with a landscaped buffer between levels.

20 Retaining walls that are over four (4) feet in vertical height shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS Professional Engineer.

21 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

22 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Joseph Tursi, Hillburn
Federal Emergency Management Agency
New York State Department of Environmental Conservation
New York State Thruway Authority
Rockland County Department of Health
Rockland County Drainage Agency
United States Army Corps of Engineers

Leonard Jackson Associates
Village of Suffern Planning Board

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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.