

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center

50 Sanatorium Road, Building T

Pomona, New York 10970

Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 17, 2020

Montebello Planning Board
One Montebello Road
Suffern, NY 10901

Tax Data: 55.07-1-3

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

Map Date: 7/16/2020

Date Review Received: 7/20/2020

Item: **34 NORTH AIRMONT ROAD/MEDICAL OFFICE BUILDING (M-188)**

Site plan and special permit to permit the construction of a 50,000 SF, 3.5-story medical office building located on 4.62 acres in the LO-C zoning district, and partially within the Critical Environmental Area - Historic and Scenic Roads Overlay District. Waivers from the Planning Board are being sought for yard requirements (24 feet to Montebello Road, 20 feet to Executive Boulevard, and no yard to Airmont Road (due to the landscape buffer)), a reduction of the 75-foot buffer from a residential district to a 50-foot buffer, and a reduction of the number of loading berths required to one. Variances will be required for front setback, maximum building height, development coverage, floor area ratio, the buffer area along Airmont Road, and the location of the western driveway.

Southwest side of Montebello Road, northwest side of North Airmont Road, northeast side of Executive Boulevard

Reason for Referral:

Montebello Road (CR 64), North Airmont Road (CR 89 & 64), NYS Thruway (I-87/287), Town of Ramapo

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. Several waivers are required from the Planning Board for this application. These include a reduction of the yard requirements, a reduction of the 75-foot buffer from a residential district to 50 feet, and a reduction in the number of loading berths required from three to one. In relation to the yard requirements, the applicant is requesting the front yards be reduced from 50 feet to 24 feet for the yard fronting Montebello Road, 20 feet for the yard fronting Executive Boulevard, and no front yard for the yard fronting North Airmont Road. Per the Additional Use Requirement #2 on the Use Table for the LO-C zoning district, the Board may modify the required yards if all other requirements have been met, and the purposes which the initially required yards would have served are fulfilled by alternate means. In the case of the North Airmont Road, the applicant states the 50-foot landscape buffer is the reason no yard is being provided. However, a variance is required for the landscape buffer due to it being only 23 feet. The Board must deny the reduction of the yard requirements and the reduction of the 75-foot buffer. Many variances are required for this site, indicating that all of the other requirements have not been met.

34 NORTH AIRMONT ROAD/MEDICAL OFFICE BUILDING (M-188)

2 Special permit uses are, by definition, subject to a higher standard of review than as-of-right uses. In addition to complying with the bulk requirements of the zone in which they are proposed, they must meet the general standards for special permit uses outlined in Section 195-71, as well as the individual standards and requirements for the LO-C zoning district listed in Section 195-87.3. As proposed, the 50-foot landscaped buffer is not maintained along North Airmont Road, nor is it sufficiently supplemented with additional plantings. In addition, the parking areas do not appear to be sufficiently screened along this roadway.

3 The proposed site is situated at the corner of two County Highways. As previously mentioned, the applicant is requesting a variance to reduce the 50-foot landscaped buffer along North Airmont Road, with no front yard in addition to this. This must not be permitted. All required buffers and yard requirements along the County Highways must be maintained.

4 This lot is a regularly-shaped, square parcel with sufficient lot area for the construction of an office building. There are no unusual conditions or hardships associated with it for which the number of variances and waivers requested would be necessary to grant relief. If the size of the building is reduced, less parking will be needed and, therefore, there will likely be little to no variances required. The site plan and special permit must be denied, and a conforming plan proposed.

5 Significant variances will be required for the development of this site. Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. The front setback is 62% deficient from the bulk requirement. The landscape buffer is only 46% of the required standard. The floor area ratio exceeds the standard by 25%. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Village must consider the cumulative and regional impacts of permitting such development. The size of the building must be reduced so the number and magnitude of the variances are minimized or eliminated.

The following comments address our additional concerns about the proposal:

6 An updated review of the July 16, 2020 site plan must be completed by the Rockland County Highway Department. In addition, the applicant must comply with the comments made in their letter of May 13, 2020.

7 The applicant must comply with the comments made by the Rockland County Department of Health in their letter of August 7, 2020.

8 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 175 feet southwest 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 Town of Ramapo 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 Town of Ramapo must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

34 NORTH AIRMONT ROAD/MEDICAL OFFICE BUILDING (M-188)

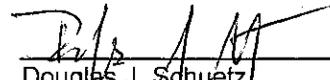
- 9 A review must be completed by the County of Rockland Sewer District No. 1, any comments or concerns addressed, and all required permits obtained.
- 10 The proposed medical office building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 11 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Montebello Fire Inspector, or the Tallman Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.
- 12 A portion of the site is located within the Historic and Scenic Roads Overlay District, with the parking lot being located within the District and the building located outside its boundary. Due to this, a Certificate of Appropriateness will be required for the parking lot. The Village must be satisfied that the site complies with the requirements outlined in Section 195-60D(10)(e). To maintain the integrity of this Overlay District, appropriate landscaping and buffers must be provided.
- 13 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 Standards for Urban Erosion and Sediment Control.
- 14 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 15 The Village shall be satisfied the snow removal areas are sufficient for the size of the parking area. Providing sufficient snow storage areas helps reduce the use of parking spaces meant for employees from being used for snow piles. This will also protect snow piles from encroaching into the required landscape buffers. If it is decided that additional snow storage is required, alternate locations must be identified.
- 16 The landscaping plan provided is insufficient. As previously stated, the required 50-foot landscaped buffer along North Airmont Road is not being maintained, nor is it being properly supplemented with additional plantings. A new landscaping plan must be provided that shows enhanced landscaping on the site, specifically along the County Highways.
- 17 The lighting plan shall demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.
- 18 The Referral Form indicates the provided floor area ratio is 50%. This shall be corrected to 25%. In addition, it states a variance is required for a 20-foot front yard. The front yards along the three streets vary, and a waiver is being requested for each. Instead, the form should state variances for front setback and maximum development coverage are required. If the public hearing notice was issued with the incorrect variances, it must be corrected and reissued.
- 19 The size of the parcel must be clarified. The site plan indicates it is 4.82 acres while the project narrative states it is 4.62 acres. All materials must remain consistent.
- 20 The Application Review Form indicates the water district is United Water. This shall be corrected to Suez.
- 21 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. All major subdivisions, i.e., those with three or more lots, must be reviewed and approved by the Rockland County Department of Health (RCDOH) prior to filing with the county clerk. RCDOH is mandated by New York State law to ensure that such subdivisions will have both an adequate and satisfactory water supply and adequate and satisfactory sewerage facilities.

34 NORTH AIRMONT ROAD/MEDICAL OFFICE BUILDING (M-188)

22 If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed and approved by the Rockland County Department of Health prior to construction in order to ensure compliance with Article II (Drinking Water Supplies) of the Rockland County Sanitary Code and Part 5 of the New York State Sanitary Code.

23 For installation of a sanitary sewer system, engineering plans and specifications shall be reviewed and approved by the Rockland County Department of Health prior to construction.

24 We request the opportunity to review any variances that may be needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Lance Millman, Montebello
New York State Thruway Authority
Rockland County Department of Health
Rockland County Department of Highways
Rockland County Office of Fire and Emergency Services
Rockland County Sewer District #1
Tallman Fire District

Brooker Engineering, PLLC
Town of Ramapo

Berel Karniol

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.