

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

June 28, 2016

Orangetown Planning Board
21 Greenbush Road
Orangeburg, NY 10962

Tax Data: 65.15-1-10 65.15-1-12.1

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 N

Map Date: 5/24/2016

Date Review Received: 6/2/2016

Item: 5 KOPAC LANE, LLC (O-2304)

Four-lot subdivision of two combined lots totaling 10.37 acres, located in the R-80 zoning district.

East side of Schulyer Road, approximately 1,582 feet north of Bradley Parkway

Reason for Referral:

Buttermilk Falls Park, Town of Clarkstown

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 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.
- 2 A review must be completed by the County of Rockland Division of Environmental Resources and any concerns addressed.
- 3 The comments in the June 8, 2016 letter from the Rockland County Department of Health must be met.

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4 The Town of Clarkstown is one of the reasons this proposal was referred to this department for review. The municipal boundary is along the northeastern property boundary of the subject 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 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 Town of Clarkstown 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 Clarkstown must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

5 In a letter dated February 22, 2016, the Town of Clarkstown Department of Environmental Control has indicated that there is ample capacity in the Town's sewer system and pumping station to accommodate the anticipated design flow from the potentially connected residences. To confirm that this is still the case, an updated inter-municipal agreement between the Towns of Clarkstown and Orangetown should be completed to reflect the sewer units crossing into the respective municipality from the out of jurisdiction unit.

In addition, the Town of Orangetown should agree to provide the maintenance of the portion of the sewer line that is located within Orangetown.

6 A review must be completed by the County of Rockland Sewer District #1 and any required permits obtained.

7 The proposed subdivision consists of two existing lots that will be split into four new lots. The bulk table requirements lists the measurements for three lots, but not for Lot #4. The bulk requirements must be expanded to include a column for the measurements for Lot #4.

8 A single driveway is proposed to be constructed to serve all three lots. A cross access easement must be provided over Lots #2 and #3, and the land area deductions for this easement accounted for in the net lot area.

9 It is not clear why Lot #2 has a proposed circular driveway. Given the slope of the parcel, the minimal amount of disturbance should be achieved. The second access point should be removed, or an explanation as to why it is needed provided.

10 To help protect the steep slopes along the eastern portion of the properties, a conservation easement should be required. The boundary of the conservation should be clearly delineated in the field, prior to any grading or construction on site, to prevent encroachment into the area.

11 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.

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

13 There are several discrepancies between the application materials and the subdivision plat. The lot area of the tracts is listed as 10.3748 acres on the map, and 10.82 acres on the application form. The narrative summary indicates that the tax lot to be partially utilized for the subdivision is 25.15-1-12.1; this should be 65.15-1-21.1. These corrections must be made.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Andrew Stewart, Orangetown
Rockland County Division of Environmental Resources
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Sewer District #1

Atzl, Nasher & Zigler P.C.
Town of Clarkstown Planning Board
Clarkstown Department of Environmental Control

**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.

