

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

January 22, 2019

Orangetown Planning Board
21 Greenbush Road
Orangeburg, NY 10962

Tax Data: 74.07-1-27

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 N

Map Date: 11/15/2018

Date Review Received: 12/18/2018

Item: *BCH REALTY LLCC - CONCARO, LLC (O-1231J)*

Two-lot subdivision of 5.815 acres in the LI and CC zoning districts. Site plan to permit an outdoor parking facility for new car inventory, landscapers, etc. for Lot #2; Lot #1 is to remain as a retail center, with 20 additional parking spaces proposed, and modifications to the access and drive configuration. South side of Mountainview Avenue, 180 feet west of Chamberlain Road

Reason for Referral:

NYS Route 303, Sparkill Creek, Western Highway (CR 15), S. Greenbush Road (CR 11), Clausland Mountain Park, federal wetlands

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 December 20, 2018 letter from the Rockland County Highway Department must be met.
- 3 As indicated in the December 31, 2018 letter from the Rockland County Department of Health, an application is to be made to them to ensure compliance with the County Mosquito Code.
- 4 A review must be completed by the County of Rockland Drainage Agency, and all required permits obtained.
- 5 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.
- 6 Two zoning districts comprise proposed Lot #2. The bulk table should be expanded to include the bulk requirements for both zoning districts.

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- 7 The lot area for Lot #2 does not deduct the land area within the wetlands and floodplain. A gross and net lot area must be provided to ensure that the proposed two lot subdivision will not result in the creation of an undersized lot.
- 8 It must be clarified if this is a permitted use in the LI zoning district, as this parking is not accessory to any use on the site.
- 9 As indicated in Section 3.11, column 7, note #3, all open storage yards shall be screened from adjacent lots and from the street line. The landscaping plan must be supplemented along the western property line so as to screen the proposed outdoor storage area.
- 10 The lighting plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.
- 11 As indicated in the Rockland County Highway Department letter, cross access and parking easements must be provided for Lot #2 over Lot #1.
- 12 As indicated in Section 3.11, column 7, note #8, no parking is permitted in any required yard. The required side yard is 50 feet, where only 15 feet is being proposed. The Town must determine if a variance is required for the side yard, or if the appropriate town board agency grants permission.
- 13 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 Guidelines for Urban Erosion and Sediment Control.
- 14 Map Note #8 must be corrected to also include Section 239n of the State General Municipal Law, as a subdivision is also proposed.
- 15 We request the opportunity to review any variances that may be needed to implement the proposed subdivision, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Chris Day, Orangetown
New York State Department of Transportation
Rockland County Drainage Agency
Rockland County Department of Health
Rockland County Department of Highways
Rockland County Division of Environmental Resources
United States Army Corps of Engineers
Sparaco & Youngblood, PLLC

**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.*

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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.

