

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

September 24, 2019

Orangetown Town Board
26 Orangeburg Road
Orangeburg, NY 10962

Tax Data:

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

Map Date:

Date Review Received: 8/28/2019

Item: TOWN OF ORANGETOWN - LOT & BULK CONTROLS FOR PAC DEVELOPMENT (O-2051C)

Zoning code amendment to Chapter 43, Article IV, Lot and Bulk Controls for PAC Development, of the Town Code to only allow the Town Board to modify the minimum lot area, maximum floor area ratio and/or maximum density for potential redevelopment sites within the CS District by a vote of a majority plus one. In addition, the requirements that a redevelopment within the CS District must have a minimum lot area of 40,000 SF, maximum floor area ratio of 0.45, and a maximum density to not exceed seven dwelling units per acre have been eliminated.

Throughout the Town

Reason for Referral:

State and County roads; County streams; Villages of Chestnut Ridge, Grand View-on-Hudson, Nyack, Piermont, and South Nyack; 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:

****Disapprove***

The proposed zoning code amendments seem to be diluting the requirements for the Planned Adult Community (PAC) Overlay Zone in the CS zoning district. Specific criteria are provided to help realize the goals of the Town regarding the provision of senior housing needs, while balancing community character and quality of life issues, and ensuring that overdevelopment does not occur. Several of the criteria within the CS zoning district are already listed as "TBD", allowing great flexibility for PAC projects.

The current amendments, which include the elimination of very critical bulk regulations that help to define a project's size and impact to the surrounding neighborhood, permit the Town Board to modify lot area, floor area ratio, and density, resulting in almost a "carte blanche" for the CS zoning districts, since the only other criteria defined in the zoning ordinance are building height, street frontage, and parking. The consequences of having minimal to no parameters for PAC developments in the CS zoning district may be a development proposal that is much denser than desired, out of scale with the surroundings, incompatible with the neighborhood, and which

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contain no amenities that are beneficial to the residents or community. Without having basic standards, the decisions of the Town Board to allow denser construction that ignores bulk, yard, and setback requirements could be considered arbitrary and capricious, especially if no rationale or justification for permitting the development exists.

If most of the standards are to be determined by the Town Board, then specific criteria must be established to guide them in their decision-making process to avoid subjectivity and developer-driven projects. We strongly urge the Town Board to not eliminate the lot area, floor area ratio, or density parameters for PAC developments in the CS zoning district.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Chris Day, Orangetown
Rockland County Department of Highways

Town of Clarkstown
Villages of Chestnut Ridge, Grand View-on-Hudson,
Piermont, Nyack, and South Nyack

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.