

**DEPARTMENT OF PLANNING**

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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

January 16, 2020

Orangetown Town Board  
26 Orangeburg Road  
Orangeburg, NY 10962

**Tax Data:**

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

**Map Date:** 10/11/2019

**Date Review Received:** 12/24/2019

**Item: TOWN OF ORANGETOWN - MIXED-USE ZONES/SPECIAL USE PERMIT (O-2110C)**

Zoning text amendment to Section 4.32(O)iv(b) of the Town Zoning Code to raise the maximum percentage of total gross floor area that can be developed for retail, personal service establishments, and/or restaurants pursuant to a special permit issued for a Mixed Use Development from 30% to 35%. An amendment to an existing special permit is also being sought to allow for 34.55% of Orangetown Commons to be developed as retail, personal service establishments, and/or restaurants. The parcels are located on 16.76 acres in the LI and Route 303 overlay zoning districts. Mixed-use developments, southwest corner of Route 303 and Stevens Way

**Reason for Referral:**

Western Highway (CR 15), NYS Route 303, Palisades Interstate Parkway

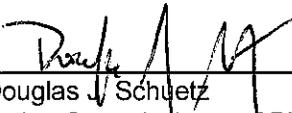
The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

***\*Recommend the following modifications***

- 1 By increasing the total gross floor area that can be developed for retail, personal service establishments, and/or restaurants in these mixed-use developments from 30% to 35%, the Town must consider the precedent that is being set. This increase may result in a higher volume of traffic to and from the developments and a need for greater parking requirements. 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 Town must consider the cumulative and regional impacts of permitting this change.
- 2 If the Town continues to tailor the Zoning Code to meet the needs of an applicant, spot zoning may occur. Spot zoning is the rezoning of a single parcel or a small area, to benefit one or more property owners rather than carry out an objective of the comprehensive plan intent or the zoning ordinance. The ramifications of allowing this change to the Town Code must be fully assessed, including the cumulative impact of permitting the increase in gross floor area that can be developed to the surrounding community character and the land use precedent that may be set.

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- 3 A review must be completed by the New York State Department of Transportation, any comments or concerns addressed, and all required permits obtained.
- 4 A review must be completed by the Palisades Interstate Park Commission, and any raised concerns addressed.
- 5 A review must be completed by the County of Rockland Department of Highways, any concerns addressed, and all required permits obtained.
- 6 The Town shall be satisfied that the proposed mixed-use development complies with the general standards for special permit uses outlined in Section 4.3, as well as the individual standards and requirements listed in Section 4.32.(O).
- 7 All proposed signage must be shown on the site plan, and conform to all Town requirements in Section 4.2 as well as all sign regulations for a mixed-use development special permit use in Section 4.32.(O).vi.
- 8 The Town shall be satisfied that all applicable portions of the Route 303 Overlay Zone have been addressed in the proposed site plan.
- 9 The project description on the Referral Form indicates this application is to change the Town Code in relation to lot and bulk controls for PAC Developments. This must be corrected so all materials are consistent. If the public hearing notice was issued with incorrect information, it must be reissued with the correct information.
- 10 We request the opportunity to review the amended site plan, as required by the New York State General Municipal Law.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Teresa Kenny, Orangetown  
New York State Department of Transportation  
Rockland County Department of Highways  
Palisades Interstate Park Commission  
  
Leonard Jackson Associates  
Hoeherman Tortorella & Wekstein, LLP

*\*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.*