COUNTY OF ROCKLAND

DEPARTMENT OF PLANNING

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June 17, 2014

Ramapo Zoning Board of Appeals
237 Route 59
Suffern, NY 10901

Tax Data: 56.11-3-55 56.11-3-54 56.11-3-53.6

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

Map Date: 5/8/2014 **Date Review Received:** 5/15/2014

Item: ***HEARTHSTONE VILLAGE (R-1741L)***

Variances for front yard, rear setback, rear yard, parking, side and rear buffer requirements, ratio of commercial to residential uses, maximum number of units per acre, distance from an interior road to a building, number of units per building and parking in front yard to allow the construction, maintenance and use of a mixed-use development consisting of 56 residential units, and retail and office space, on 6.532 acres in an MU-1 zoning district.

North side of Route 59, west side of Augusta Avenue, and south side of Grove Street

Reason for Referral:

NYS Route 59

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 This department commented on the zone change petition for this site on September 5, 2012 and March 19, 2013. The zoning designation for the property was changed from MR-8 to MU-1. The applicant is now seeking the variances required to implement the mixed-use development proposal. In reviewing the May 8, 2014 Layout Plan included as part of the ZBA application, numerous concerns about the site plan have arisen. The site plan has not yet been submitted for our review. Typically, the site plan must be reviewed by the Planning Board before it can be referred to the ZBA if variances are required. It is unclear why that process is not being followed in this case. Our site plan concerns include, but are not limited to traffic impacts on the state highway, the SEQRA process, lot line changes, the parking lot layout, the location of the bus pull-off and the bus shelters, the recreation space, the lack of on-site amenities and community character issues. We believe that recommendations on the site plan are more valuable prior to the granting of variances. An improved layout may result in the need for fewer variances. The site plan proposal must be submitted for our review and comment as mandated under the New York State General Municipal Law.

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2 It is this department's position that development proposals for rezoned sites must comply with all applicable bulk standards and supplementary regulations. As noted on the bulk table on the May 8, 2014 Layout Plan and in the May 14, 2014 letter from Leonard Jackson Associates, variances are required for front yard, rear setback, rear yard, side and rear buffer, parking and parking in the front yard.

The proposal also does not conform to several of the supplementary regulations for mixed-use development in the MU-1 zoning district, as outlined in Section 376-66.A. of the Ramapo Zoning Law. Based on the square footage indicated on the Plan, 55 percent of the building floor area is dedicated to residential units, and 45 percent is commercial space. The Supplemental Regulations require at least 60 percent commercial and/or office uses, and up to 40 percent for residential uses. Additional deviations from Section 376-66.A. include:

a. A residential density calculation must be included on the Layout Plan. This calculation must account for the area designated for commercial/office uses. A maximum of 46 residential units are permitted on this site after deducting for the commercial/office uses. The proposed residential density of 9.8 units per acre is nearly 23 percent greater than the permitted maximum of eight residential units per acre.
b. The buildings are all closer than 25 feet from the pavement edge. In fact, Building D is closer than the 15 feet indicated in the bulk table.
c. Buildings A, B and C all exceed the maximum number of eight residential units per building.

The proposed development must be scaled back to comply with the MU-1 bulk standards and the supplementary regulations listed in Section 376-66.A.

3 A review of the May 8, 2014 Layout Plan shall be completed by the New York State Department of Transportation and all required permits obtained.

4 The proposed mixed-use buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

5 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 ability of the existing infrastructure to accommodate increased residential density and mixed-use development is a countywide concern and must be evaluated. 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 such development.

6 Additional information must be provided about the 20,000 SF parcel dedicated for parks and recreation space. It must also be clearly labeled on the layout plan.

7 The disposition of the house on Lot 54 must be clarified. It appears that the house on Lot 55 is to be removed given that a walking path is shown through the middle of the lot. Will the applicant be seeking subdivision approval for the proposed lot line changes? Subdivisions are subject to a review by this department as mandated under the New York State General Municipal Law.

8 Since both front yard and parking in the front yard variances are required, the parking spaces will be even closer to the state highway. Low evergreen landscaping must be provided along the Route 59 frontage to shield the headlights of parked vehicles from shining into vehicles traveling along the state highway.

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9 The bulk table on the May 8, 2014 Layout Plan indicates that 8.6 units per acre are proposed. The May 14, 2014 letter to the Zoning Board of Appeals also states that the proposed residential density is 8.6 units per acre. The May 12, 2014 Town of Ramapo Building, Planning and Zoning Memorandum indicates that 9.8 units per acre are proposed, as does Ira M. Emanuel's March 18, 2014 narrative summary. The proposed residential density must be clarified. A density calculation shall be included on the Layout Plan. All application materials must be consistent.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo
New York State Department of Transportation
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Sewer District #1
Rockland County Office of Fire and Emergency Services
Rockland County Department of Public Transportation
Rockland County Planning Board
Leonard Jackson Associates
Town of Ramapo Planning Board

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**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.