Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Acting Commissioner

Arlene R. Miller
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April 4, 2018

Ramapo Planning Board
237 Route 59
Suffern, NY 10901

Tax Data: 49.16-1-34 49.16-1-33 49.16-1-32
49.20-2-2 49.20-2-1

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 12/15/2017 **Date Review Received:** 1/31/2018

Item: ***BLUEBERRY COMMONS (R-2082F)***

Revised site plan for a 164-unit multi-family residential complex consisting of 101 townhouses and 63 flats on 16.84 gross acres (13.71 net acres) in an MR-12 zoning district.
East side of Route 306, south side of Edison Court, and north and south sides of Kearsing Parkway

Reason for Referral:

NYS Route 306, Villages of Spring Valley and Kaser, 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:

***Disapprove**

The revised site plan application proposes a phased construction schedule so that drainage improvements can be implemented, which will eliminate the existing FEMA defined floodplain. The Phase 1 improvements are planned to provide a storm drainage system with the capacity to convey the 100-year storm discharge. This will eliminate the floodplain caused by the overflow that the existing system cannot convey. It is anticipated that FEMA will issue a Letter of Map Revision (LOMR) removing the floodplain that is currently defined on the FEMA Flood Insurance Rate Map. Ten of the 24 buildings proposed are partially or completely located within the floodplain area. As a result, the elevations of the lowest floors of some buildings are lower than the current 100-year FEMA flood elevation. The applicant proposes to construct foundation walls, footings and slabs for these buildings in Phase 2. Construction will be at elevations that anticipate basements when the floodplain is eliminated. If FEMA does not issue the LOMR, these buildings will be completed with their first floors as slabs on grade. If the LOMR is issued, the construction of the structures will include basements in Phase 3.

This department first raised the issue of the proposed construction within the 100-year floodplain in our site plan review of March 14, 2014, and again in a February 4, 2015 GML review. We requested additional information

about a proposed "flood storage project' in our February 4, 2015 review, as well as our February 16, 2017 review of the additional variances required for this proposal. The current plan to phase the project so that drainage improvements can be implemented, which may allow for the construction of basements in up to ten buildings, raises many concerns. First, the elimination of this large floodplain area is contingent upon the successful implementation of drainage improvements. If the proposed storm drainage system fails, flooding will be an issue for downstream parcels, and on the site. Secondly, the applicant is seeking to excavate more of the site in Phase 2 than may ultimately be permitted. Construction within the floodplain, will certainly create soil erosion issues for downstream parcels. Siltation and alteration to the floodplain can result in future problems for other parcels, and could in fact, raise the floodplain elevations for those downstream parcels. Thirdly, in granting this request, the Town will set a precedent for other developers to seek the same relief. Altering the floodplain in one location can negatively impact the downstream floodplain, resulting in new drainage issues. Fourth, by piping the water underground, the volume and speed of the water being carried downstream is changed. Are the downstream capacities able to handle this change in volume and speed?

Presumably, the site plan approved in May of 2015 conformed to FEMA's floodplain regulations. This was a condition of both of the aforementioned site plan GML reviews. We do not support the proposal to eliminate the floodplain so that basements can be constructed in the buildings currently proposed within its boundaries. In addition, these questions regarding how the downstream properties will be affected must be resolved. We caution the Town against approving a phased construction plan that relies on an LOMR that may or may not be issued.

The following comments address our additional concerns about the site plan proposal.

1 An updated review of the December 15, 2017 site plan shall be completed by the New York State Department of Transportation, and all required permits obtained. The New York State Department of Transportation (DOT) issued comments on this proposal in an April 3, 2014 letter. A subsequent letter, dated May 16, 2014, indicated that these comments remained unaddressed. In emails dated January 30, 2018 and February 2, 2018, DOT's Regional Highway Work Permit Coordinator has requested additional information including current plans, an updated traffic impact study, an approved SWPPP and available accident analysis data. This information must be provided, and all previous DOT concerns and comments must be addressed prior to granting final site plan approval.

2 A portion of the subject site previously served as recreational space for the adjacent Blueberry Hill multi-family development. We believe that this space was included in the minimum lot area and residential density calculations for the Blueberry Hill project. If that is the case, further development of these lots may not be allowed. The Village of Spring Valley's Building Department may be able to provide additional information or clarification. This application shall not proceed until the Village of Spring Valley responds to this query.

3 An updated review of the December 15, 2017 site plan shall be completed by the United States Army Corps of Engineers, and all required permits obtained.

4 An updated review of the December 15, 2017 site plan must be completed by the Rockland County Drainage Agency, and all required permits obtained. In addition, the applicant must comply with the conditions of the Rockland County Drainage Agency's letter of April 24, 2014.

5 An updated review of the December 15, 2017 site plan shall be completed by the Federal Emergency Management Agency, and all required permits obtained.

6 The Floodplain Administrator for the Town of Ramapo shall certify that the proposed construction is in compliance with the floodplain regulations of the Town and the Federal Emergency Management Agency.

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7 The Villages of Spring Valley and Kaser are two of the reasons this proposal was referred to this department for review. The Spring Valley municipal boundary is along the eastern property line of the site; the Kaser municipal boundary is 250 feet west and 260 feet south of the 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 Villages of Spring Valley and Kaser 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 Villages of Spring Valley and Kaser must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

8 An updated review of the December 15, 2017 site plan must be completed by the Rockland County Health Department, and all required permits obtained. In addition, the applicant must comply with the conditions of the Health Department's letter of November 8, 2016.

9 An updated review of the December 15, 2017 site plan must be completed by the Rockland County Sewer District No. 1 and all required permits obtained. In addition, the applicant must comply with the conditions of the Sewer District No. 1's letter of February 22, 2017.

10 The NYS Department of State has determined that the Town is not administering or enforcing the State Uniform Fire Prevention and Building Code in accordance with minimum standards set forth in 19 NYCRR part 1203. Given the concerns about the Town's administration and enforcement of the State Uniform Fire Prevention and Building Code raised in the Executive Deputy Secretary of State's letter of July 15, 2016, the proposed residential building must be held to the requisite minimum standards and comply with all requirements of this code.

11 A review of the December 15, 2017 site plan drawings, particularly Drawing Number 41 (Fire Inspector Exhibit), must be completed by the Rockland County Office of Fire and Emergency Services or the Monsey Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

12 The comments contained in the Ramapo Fire Inspector's February 2, 2018 memorandum must be satisfactorily addressed.

13 While the Overall Landscaping Plan includes a plant legend, only the plants in the wetland area are labeled. The overall plan notes that the wetland plant list is on a separate sheet. It must also include a note specifying that the other trees and shrubs are labeled on the part plans, or plant labels must be provided on the overall plan.

14 Trees and landscaping are proposed in several play areas, reducing the space available for recreation. Other play areas have extensive regrading and contain swales. It is unclear if children will be able to play in these spaces. The applicant must reevaluate the proposed recreation spaces to ensure that they are appropriate for children at play.

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15 The Landscaping Plan also shows trees planted on swales. It appears that improved regrading is necessary in some areas, particularly along Route 303 between Weiner Drive and Cedar Lane. The grading plan for this area must be reevaluated.

16 No landscaping is proposed along the east side of the site, south of Kearsing Parkway. Since the entire site is denuded of vegetation, new plantings must be provided throughout the site. Supplemental landscaping must be planted along the east side of the site.

17 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. This will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by residents.

18 Retaining walls that are over four (4) feet in vertical height shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS Professional Engineer. These walls shall be tiered and appropriately landscaped to make them more visually appealing.

19 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed and approved by the Rockland County Department of Health prior to construction in order to ensure compliance with Article II (Drinking Water Supplies) of the Rockland County Sanitary Code and Part 5 of the New York State Sanitary Code.

20 For installation of a sanitary sewer system, engineering plans and specifications shall be reviewed and approved by the Rockland County Department of Health prior to construction.

21 A stormwater pollution prevention plan (SWPPP) was not provided. The SWPPP, if required, shall conform to the current regulations, including the New York State Stormwater Management and Design Manual (January 2015) and local ordinances.

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

23 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.

24 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of $2,000 per day.

25 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

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26 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, Ramapo
New York State Department of Transportation
United States Army Corps of Engineers
Federal Emergency Management Agency
New York State Department of Environmental Conservation
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
Monsey Fire District
SUEZ

Leonard Jackson Associates
Villages of Spring Valley and Kaser

Blueberry Land Developers

Mona Montal, Chief of Staff
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.