

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 22, 2018

Ramapo Planning Board
237 Route 59
Suffern, NY 10901

Tax Data: 57.07-1-1

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

Map Date: 7/12/2018

Date Review Received: 8/15/2018

Item: *THE COMMONS/PARKING LOT (R-2634A)*

Site plan for a .9843-acre parcel in the R-15 zoning district to be used as a parking lot for a proposed 64-unit, multi-family housing development on an adjacent .9851-acre site in Spring Valley's R-2/PRD zoning districts.

Landlocked parcel east of Rose Avenue and 116.5 feet north of the terminus of Crispus Atticus Street

Reason for Referral:

Village of Spring Valley, Town of Clarkstown, Pascack Brook

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 Village of Spring Valley referred the special permit and site plan applications for the multi-family housing development proposal, and the variances required to implement it, to this department in 2010. Four separate GML reviews were issued, each recommending disapproval of the proposal. We considered it to be an overutilization of the site, particularly when only considering the Spring Valley land area. In our October 5, 2010 review of the variances, we noted that an annexation of the Ramapo parcel would reduce but not eliminate the non-conformities.

The subject site is comprised of two tax parcels separated by a municipal boundary and located within different zoning districts. The overall lot area is almost two acres, but the portion of the site in Spring Valley totals .9851 acres. The extent of the required variances is magnified when only the Spring Valley land area is considered. All of the proposed parking is on the .9843- acre parcel within the Town of Ramapo.

As noted in our Spring Valley GML review of May 24, 2010, by definition, special permit uses are subject to more stringent standards than as-of-right uses. Special permit use requirements are contained in Article VII of the Village of Spring Valley's Zoning Code. General standards are outlined in Section 255-27; individual standards and requirements for special permit uses are included in Section 255-28. The Table of General Use

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Requirements for the PRD overlay district lists multi-family dwellings as a special permit use. Appendix A-6.E. outlines additional use requirements in the PRD overlay district; several are applicable to multi-family dwellings.

1 This proposal does not meet most of the general standards outlined in Section 255-27; it is not in compliance with Sections 255-27.A., B., C. and D. It can be argued that the proposal also does not comply with Sections 255-27.E. and F. This multi-family development proposal does not comply with several of the additional use requirements contained in Appendix A.6.E. It exceeds the maximum allowable density of 18 units per acre by almost 83 percent. The maximum number of residential units permitted on this 1.9604-acre site is 35. The buildings are a full story higher than the maximum building height allowed of three stories. The floor area ratio is 21 percent greater than the allowed maximum of .60. In addition, the proposal does not include a buffer area between the site and adjacent residential uses. In fact, the revised site plan shows extensive regrading beyond the northern, eastern and southern property lines; grading easements ranging from five to 25 feet will be required. The development coverage is extensive, leaving little or no space available for landscaping or recreational facilities. The 98 on-site parking spaces are 23.4 percent less than the required minimum of 128 spaces. This proposal must be scaled back considerably so that it more closely conforms to the applicable bulk regulations. The number of units, the building height and footprint, the floor area ratio and the residential density shall be reduced.

2 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 dense residential developments 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 dense residential development.

3 This proposal is not consistent with the special permit standards or the bulk requirements for multi-family housing in Spring Valley's PRD overlay district. The scale and density are not in character with the surrounding residential districts. The R-15 zoning district in the immediately adjacent Town of Ramapo is a medium density residential zone in which one- and two-family residences are allowed. The maximum permitted residential density ranges from 2.90 to 4.35 units per acre. Similar zoning exists in the Town of Clarkstown which is approximately 300 feet south of the subject site.

The proposed multi-family development must be scaled back to more closely conform to the applicable special permit standards and bulk requirements so that it is more compatible with the surrounding community character. This can be accomplished by eliminating the fourth floor of each building or reducing the building footprints so that fewer units are proposed.

4 The current referral is for a site plan application to allow the on-site parking required for the proposed 64 units on the parcel located in Ramapo's R-15 zone. As noted above, this is a medium density residential district. Given our concerns about the residential density proposed, we cannot recommend that this site plan be approved. Even if it were appropriate to include the Ramapo parcel in the minimum lot area calculation, the maximum number of residential units permitted on the 1.9604 assemblage is 35. An 83 percent increase over the permitted maximum residential density is excessive. The proposal must be scaled back. The applicant shall explore the annexation option.

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

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- 13 A parking calculation must be provided on the site plan that specifies the on-site parking requirement for the proposed residential use. The bulk table must indicate that a parking variance is required. Currently, a parking waiver, as per Section 376-70.B., is indicated on the bulk table. It is unclear whether a 25 percent parking waiver from the Town of Ramapo is applicable for a residential development in Spring Valley. This must be clarified.
- 14 Garbage enclosures are shown in the northeast and northwest corners of the parking lot, and at a distance from the residential structure. The applicant must consider a closer location for the safety and convenience of future residents. Crosswalks must be provided as appropriate so that residents can safely traverse the parking lot when disposing of their garbage.
- 15 Retaining walls of up to 14-feet are proposed around the parking lot property, as well as the Spring Valley lot. All 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.
- 16 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. This is especially critical for this proposal since the minimum on-site parking requirement is not achieved.
- 17 While the Landscaping Plan shows trees and shrubs along the perimeter of the parking lot, it must be supplemented. Additional landscaping shall be provided within the parking lot to break up the large macadam area.
- 18 The lighting plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.
- 19 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.
- 20 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 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 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.
- 23 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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5 The Village of Spring Valley and the Town of Clarkstown are two of the reasons this proposal was referred to this department for review. The Spring Valley municipal boundary is along the northern, southern and western property lines; the Clarkstown municipal boundary is approximately 430 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 Village of Spring Valley and the Town of Clarkstown 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 Village of Spring Valley and the Town of Clarkstown must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

6 A review must be completed by the Rockland County Drainage Agency, and any required permits obtained.

7 An updated review of the July 12, 2018 site plan must be completed by the Rockland County Department of Health. In addition, the applicant must comply with the conditions of the Health Department's June 12, 2018 letter.

8 The applicant must comply with the conditions of the Rockland County Sewer District #1's June 18, 2018 letter.

9 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.

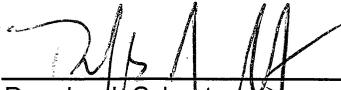
10 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Town of Ramapo Fire Inspector, or the East Spring Valley Fire District to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

11 The drawings submitted with this site plan application include the proposed development on both parcels. Several easements are now shown over an adjacent property in the Town of Ramapo. Lot 57.07-1-2 is also part of the Pascack Ridge site. At more than eight acres, it comprises a significant portion of the land area proposed to be developed as multifamily housing. The two lots in The Commons proposal are landlocked. An easement over the northwestern corner of Lot 57.07-1-2 is required to provide access to Crispus Attucks Street. A second easement labeled "Level Spreader Area" is shown along the southern boundary line of Lot 57.07-1-2. It appears to be a sanitary sewer and drainage easement that includes a leaching well system over lands to be developed as part of the Pascack Ridge proposal. Additional information must be provided about the proposed easements and how they relate to the multifamily housing development. To ensure that The Commons project does not conflict with the design and layout of other off-site development plans, all improvements that benefit this proposal cannot be constructed on adjacent property that is part of another site plan proposal.

12 A rectangular shape is illustrated on the site plan drawings within the access easement area and south of connection to Crispus Attucks Street. It is unclear what it represents. Clarification must be provided.

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24 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
Rockland County Drainage Agency
Rockland County Department of Health
Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
East Spring Valley Fire District

Leonard Jackson Associates
Village of Spring Valley, Town of Clarkstown

Benny Wercberger/MABY JV LLC

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.

