

DEPARTMENT OF PLANNING

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Acting Commissioner

Arlene R. Miller
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May 2, 2019

Ramapo Planning Board
237 Route 59
Suffern, NY 10901

Tax Data: 56.11-3-53.6

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 3/28/2019

Date Review Received: 4/4/2019

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

Revised final site plan for a mixed-used development consisting of 56 residential units, 50,817 SF of commercial space, 12,580 SF of first floor storage space and 45,656 SF of basement storage space on a 6.655-acre site in an MU-1 zoning district. The revisions include 12 additional residential units, a 5,000 SF decrease in the commercial space, a 145 SF decrease in the first floor storage space and the addition of 45,656 SF of basement storage space. Buildings A, B and E are now combined to be one building. The shape of Building D has changed with a reduction in floor area. The total number of parking spaces has been decreased to 287. Variances were previously granted for front yard, rear setback, rear yard, minimum onsite parking spaces, side and rear buffer, ratio of commercial to residential use, maximum number of units per acre, distance from interior road to building, maximum number of linked units in a building.

North side of Route 59, west side of Augusta Avenue

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:

****Disapprove***

Since the MU-1 zone change petition was granted for this property, a number of mixed-use development proposals were submitted to the Ramapo Planning Board. The proposed number of residential units has ranged from 64 in 2012, 56 in 2013, 48 in 2014, 84 in 2015, and 44 in 2017. This department has consistently maintained that development proposals for rezoned sites must comply with all applicable bulk standards and supplementary regulations. Each mixed-use development proposal for this site has required bulk variances and deviations from the supplementary regulations. Our GML reviews have repeatedly recommended scaling back the mixed-use development to comply with the MU-1 bulk standards and the supplementary regulations listed in Section 376-66.A.

The applicant is now proposing to revise the 2017 site plan by increasing the number of residential units by 12 for a total of 56 apartments; the commercial space is increasing from 48,573 SF to 50,817 SF, as is the first floor

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storage space, from 9,578 SF to 12,580 SF. Basement storage space totaling 45,656 SF is now proposed. These revisions required additional variances. The number of residential units per acre is greater than allowed. The maximum number of linked units in a building is exceeded by 100 percent. Several buildings are closer to the interior road than permitted. Variances were previously granted for front yard, rear setback, rear yard, onsite parking spaces, side and rear buffers, ratio of commercial to residential use and parking in the front yard.

1 The current site plan does not conform to the MU-1 bulk standards or the supplementary regulations outlined in Section 376-66.A. This department has raised numerous concerns about the proposed mixed-use development throughout its many iterations. The proposal is a significant departure from the MU-1 zoning standards. This mixed-use proposal will result in a gross overutilization of the site which is located on a heavily traveled state highway. This is evidenced by the number and the magnitude of the variances required, and previously granted. The Town must not approve any further deviations from the applicable bulk standards and general use requirements which result in a greater intensity of the use.

2 The applicant's engineer continues to use the total land area to calculate the residential density. This is invalid. The land area devoted to the commercial uses must be subtracted from the total land area before calculating the residential density. A maximum of 49 units are permitted on this site after deducting for the commercial uses. The number of residential units shall be reduced to the permitted maximum or less.

3 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 in nonconforming structures 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. Given the zone change to MU-1, the proposed mixed-use development must conform to the applicable standards. The number of residential units shall be reduced, and the number of linked units in a building limited to 16.

The following comments address additional concerns about the revised layout plan and the required variances.

4 An updated review of the March 28, 2019 Layout Plan must be completed by the New York State Department of Transportation (NYS DOT), and all required permits obtained. In addition, the applicant must comply with the conditions of the NYS DOT's July 11, 2017 letter, as well as any outstanding conditions of their December 6, 2016 letter.

5 The applicant must comply with the condition of the Rockland County Health Department's April 30, 2019 letter.

6 The applicant must comply with the condition of the Rockland County Sewer District #1's April 30, 2019 letter.

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

8 An updated review of the March 28, 2019 Layout Plan must be completed by the Rockland Office of Fire and Emergency Services, the Town's Fire Inspector or the Monsey Fire District to ensure that there is sufficient access and maneuverability on-site for emergency vehicles. Given that the Fire Truck Turn Analysis indicates that emergency vehicles will not be able to access the rear of Buildings A and B, a determination shall be made as to whether additional fire hydrants must be provided behind these two structures. The January 20, 2016 Fire Truck Turn Analysis must be updated to reflect the current proposal.

9 The landscaping along Route 59 shall be supplemented with low evergreen plantings in front of the parking spaces facing the roadway to shield headlights from shining into oncoming vehicles traveling on the state highway.

10 In order to ensure that parking spaces are not used and landscaping is not damaged by the weight of the snow or salt intrusion during snow removal, areas must be designated on the site plan for the storage of snow piles. This is especially critical since the minimum onsite parking requirement is not achieved.

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11 It is our understanding that the Zoning Board of Appeals (ZBA) required the deletion of 39 parking spaces, the shifting of the retaining wall by 10 feet, and the installation of additional landscaping at the parking lot abutting the Treetop Lane neighbors to the north of Building C. While we concur with the efforts to adequately buffer the adjacent residential neighborhood from the much denser development proposed, we question why the ZBA did not require a reduction in residential units or commercial space to offset the loss of 39 parking spaces. These 39 parking spaces fulfill the parking requirement for 19 residential units or 5,850 SF of retail space or 7,800 SF of office space. The Planning Board must require the appropriate reduction in residential units or commercial space to make up for the loss of 39 parking spaces.

12 The elimination of the 39 parking spaces noted above increases the extent of the parking variance to more than 33 percent. This larger parking variance is subject to a review by this department as required under the New York State GML. An updated ZBA referral must be submitted for our review before the site plan can be approved.

13 The footprint of Building D is larger on the current Layout Plan than what was depicted on the July 23, 2018 drawing reviewed on November 2, 2018. The breakdown of the floor area indicates a larger first floor, and smaller second and third floors. The building floor area summary shows an incorrect number for office space. Based on the parking calculation, it should be 13,076 SF. However, Building D is labeled as having 13,576 SF of office space. The Town's Building Inspector raises the same issue in his April 25, 2019 CDRC comments. This 500 SF discrepancy affects the total commercial square footage for the mixed-use development proposal. Is it 50,817 SF or 51,317 SF? Given that the retail and office space on-site parking requirement is directly related to square footage, these inconsistencies must be clarified.

14 This department is in receipt of complaints from the adjacent homeowners to the north about the ongoing construction and the fact that the applicant is not abiding by conditions imposed at the time the variances were granted and the site plan was approved. The Town of Ramapo must enforce all applicable conditions, and ensure that construction is proceeding as per the approved site plan.

15 The current proposal includes 58,236 SF of basement storage space. This is almost 15 percent greater than the total commercial space proposed. Additional information must be provided about this storage space. Is it intended for the residential or commercial tenants? Will there be restrictions in place to prevent conversion of this substantial floor area?

16 A review of the current drawings must be completed by Orange & Rockland to ensure that the transformer pads are in the correct locations.

17 The flat grassed sitting area noted in the project engineer's October 2, 2017 letter must be labeled on the site plan. Representative seating must be indicated. Access to the sitting area must be addressed. Will crosswalks be provided in the adjacent parking area? Give the 10-foot stepped wall surrounding this area, we recommend that fencing or dense landscaping be provided to prevent falls from the perimeter of the sitting area.

18 It appears that TRIPS paratransit vehicles will be able to navigate the interior roads. However, they will be unable to provide door-to-door service for the residential tenants of Building A since the residential entrances are located at the rear of these buildings with no roadway access. If the residential parking area behind Building C is gated and locked, TRIPS vehicles will also be unable to access the residential entrances to this building. Residential customers must be able to board and alight a TRIPS vehicle on the south side of these buildings.

19 The proposed bus shelter and pull-off area along Route 59 must be approved by the New York State Department of Transportation. Ideally, a 40-foot long concrete pad should be installed within the bus pull-off area to preserve the integrity of the roadway bed, due to the weight of the bus. The bus shelter shall conform to the attached Rockland County specifications. The bus pull-off area and the sidewalks serving the bus shelter must be ADA compliant. The concrete pad for the bus shelter must be 11 feet long by 7 feet wide. The Rockland County Department of Public Transportation will supply the bus shelter, but the Town of Ramapo must agree, in writing, to maintain it.

20 All proposed signage must conform to the Town's requirements.

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- 21 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.
- 22 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.
- 23 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.
- 24 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.
- 25 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 26 Drawing Number 18 (Phasing Plan) includes two notes about phasing that reference the land banked parking spaces. Since these parking spaces are to be constructed, the phasing plan must be updated and the reference to land banked spaces eliminated.
- 27 General Note 10 must be corrected to indicate that SUEZ is the water supplier.
- 28 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.
- 29 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.
- 30 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
Rockland County Department of Health
Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services

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Monsey Fire District
Rockland County Department of Public Transportation
Orange and Rockland Utilities
Leonard Jackson Associates

Connectivity Systems, 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.

