

DEPARTMENT OF PLANNING

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Acting Commissioner

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August 14, 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: 5/14/2019

Date Review Received: 7/12/2019

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

Revised site plan application for a mixed-used development consisting of 44 residential units, 48,573 SF of commercial space, and 8,860 SF of first floor storage space on the 6.655-acre site in an MU-1 zoning district. The revisions include a reduction in the number of units by 12 and commercial space by 2,244 SF, returning to the number of units, floor area, and bulk table items from the January 10, 2017 site plan. The total number of parking spaces has been increased to 315. Building B has been moved closer to NYS Route 59. The water line and Orange & Rockland electric facilities were modified as required by Orange & Rockland; the traffic light was removed as per the NYS Department of Transportation decision; and the 8-foot high sound barrier fence behind Building C was changed to a 6-foot high fence, removing the need for a variance. In addition, a loading dock was added to Building A and Building D will have a larger basement for additional storage. 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, distance from interior road to building, and parking in front yard.

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***

Upon adoption of the Town of Ramapo's Comprehensive Plan, this site was designated as an MR-8 zoning district. This zoning district was one of three multi-family residential zoning districts created to implement the recommendations of the Town of Ramapo's Comprehensive Plan. In August 2012, the applicant petitioned the Town Board to rezone the property from an MR-8 to an MU-1 zoning designation. This department issued comments on the zone change petition on September 5, 2012 and March 19, 2013. We recognized that this site was one of several areas specifically recommended for placement within a multi-family district in the Town of Ramapo's Comprehensive Plan. Three new multi-family zoning districts were created: MR-8 (8 units per acre),

HEARTHSTONE VILLAGE (R-1741X)

MR-12 (12 units per acre) and MR-16 (16 units per acre). Properties that directly abutted existing residential neighborhoods were considered most appropriate for the lower end of the density range. The subject site, which is immediately adjacent to an R-15A zoning district, was rezoned to MR-8 in accordance with the Comprehensive Plan recommendations.

We also discussed the "Monsey Area Plan" which focused on properties located around the Route 59 and Route 306 intersection. Neo-traditional design principles were considered particularly appropriate for this intersection. This area was to be redeveloped as a focal point of the Monsey community. The re-development proposal included mixed-use buildings with ground floor commercial uses and apartments above. It was also envisioned that this more traditional form of mixed-use development be complemented by the multi-family developments proposed around the "core."

In addition, our review noted that several zone change petitions and development proposals have been submitted for this vacant site over the years. Prior to its MR-8 designation, it was zoned PO (Professional Office). The parcel is approximately 1,500 feet from the Route 59 and Route 306 intersection. It is located beyond the mixed-use development area delineated in the "Monsey Area Plan." While this did not mean that the proposed zone change was inappropriate, we recommended that the Town consider whether a mixed-use development at this site would undermine the revitalization plan for the Route 59 and Route 306 intersection. It was suggested that the Town evaluate the existing land uses in downtown Monsey, as well as the redevelopment that has occurred since the adoption of the Comprehensive Plan, to determine if revisions to the "Monsey Area Plan" would be appropriate. We noted that other vacant parcels, including those to the east of Augusta Avenue, had to be considered in this comprehensive analysis to determine if they should also be rezoned. We believed that an amendment to the Comprehensive Plan was warranted if the mixed-use development area was to be extended.

The requested zone change to MU-1 petition was granted, and a number of mixed-use development proposals were subsequently submitted to the Ramapo Planning Board. The proposed number of residential units has varied from 64 in 2012, 56 in 2013, 48 in 2014, 84 in 2015, 44 in 2017, and 56 in 2019. 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 proposing to revise the site plan for the fifth time by returning to the total number of units, floor area of all buildings, and all bulk table items proposed on the 2017 site plan. This includes reductions in the number of residential units by 12 for a total of 44 apartments, commercial space from 50,817 SF to 48,573 SF, and first floor storage from 12,580 SF to 8,860 SF. The square footage of the basement storage in Building D is unspecified.

While the number of parking spaces provided under this proposal has increased, the required parking is still deficient by 15%. Insufficient parking for a site located on a State highway can impede the safe and efficient flow of traffic, create unsafe access conditions, multiple movements to and from the roadway, and result in vehicles parking within the State right-of-way. In addition, during winter time, as evidenced by this past winter, designated snow pile areas are needed to prevent the loss of parking spaces. Use of on-site parking for snow piles will only exacerbate the deficient parking situation.

The previously approved site plan did not conform to the MU-1 bulk standards or the supplementary regulations outlined in Section 376-66.A. This department raised numerous concerns about the proposed mixed-use development throughout its many iterations. The proposal is a huge 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 already granted.

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

HEARTHSTONE VILLAGE (R-1741X)

- 1 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 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.
- 2 An updated review of the May 14, 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.
- 3 The applicant must comply with the condition of the Rockland County Health Department's July 18, 2019 letter.
- 4 The applicant must comply with the conditions of the Rockland County Sewer District No. 1's July 17, 2019 letter.
- 5 The proposed mixed-use development must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 6 An updated review of the May 14, 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.
- 7 Signage is proposed where the fire truck turn analysis 1 and 2 on Drawing #13 is shown near Buildings B and C. This must be resolved.
- 8 The landscaping along NYS 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.
- 9 The landscaping plan layout does not match the new layout, particularly in the northwest corner, just west of the main access, and the parking areas west of Building D.
- 10 The lighting plan does not show any lighting along the edges of the property, especially along the northern border. In addition, the lighting plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.
- 11 Drawing #5, the Erosion Control Plan, shows clearing limit lines and a silt fence on the southeast corner further in than where grading will occur. This area is very steep and regrading is proposed, so the plan must be revised to include this corner of the property.
- 12 The narrative dated July 1, 2019 must discuss the change in number of units.

HEARTHSTONE VILLAGE (R-1741X)

13 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.

14 The note labelled (2) in reference to the bulk table states the parking spaces provided are 91% of the required amount of spaces. This is incorrect, as the 315 spaces provided are only 84.68% of the 372 required spaces. Therefore, the 15% parking waver granted by the Planning Board on October 21, 2014 is not met. The amount of parking spaces provided must be increased to meet this waiver, at a minimum, or the number units or square footage reduced. This footnote must also be corrected.

15 Town officials have previously expressed concern to this department about the increasing traffic congestion along the NYS Routes 59 and 306 corridors. The issue of pedestrian safety has been raised repeatedly. In direct contradiction to these concerns, the Town's Zoning Board of Appeals overrides our GML recommendations by granting variances to allow increased residential density and non-conforming development on undersized lots such as the subject site. Land use and traffic generation are not mutually exclusive concepts. If more intense uses are permitted, additional traffic will be generated causing increased congestion on the roadway network, and putting the walking population at greater risk. The Town must consider these issues when reviewing large-scale projects.

16 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.

17 The breakdown of the floor area on the May 14, 2019 site plan provided with this application has removed the square footage of the basements of each building. It must be clarified whether basements are still proposed for Buildings A, B, and C. The narrative indicated Building D will have a larger basement than previous plans to allow for more storage, however the size of the basement is never disclosed. It is important to include this information so an accurate portrayal of the size of each building can be understood. Also, additional information must be provided about this storage space provided by the basements. Is it intended for the residential or commercial tenants? Will there be restrictions in place to prevent conversion of this floor 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 Buildings A and B 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 snow stockpile area on the south side of building C appears to be in a landscaped area. In addition, the stockpile areas are very small in relation to the parking area. It is important that these areas are sufficient, especially since less than the required number of parking spaces are being provided.

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

HEARTHSTONE VILLAGE (R-1741X)

- 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, 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 Standards for Urban Erosion and Sediment Control.
- 24 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 25 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.
- 26 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.
- 27 The Short Environmental Assessment Form's description is incorrect as it lists 56 units and an incorrect square footage. This must be updated to reflect the current proposal.
- 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
Monsey Fire District
New York State Department of State
New York State Department of Transportation

HEARTHSTONE VILLAGE (R-1741X)

Orange and Rockland Utilities
Rockland County Department of Health
Rockland County Department of Public Transportation
Rockland County Office of Fire and Emergency Services
Rockland County Sewer District #1

Leonard Jackson Associates

Sol Menche

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.