



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970

Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 10, 2020

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: 12/12/2019

Date Review Received: 2/13/2020

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

Revised site plan application for a mixed-used development consisting of 48 residential units, 44,302 SF of commercial space, and 11,892 SF of first floor storage space on a 6.655-acre site in an MU-1 zoning district. The revisions include an increase in the number of units by 4, a reduction in the commercial space by 4,271 SF, and an increase of 3,302 SF in the first floor storage space. The total number of parking spaces has been reduced to 303. The main driveway entrance has been revised. A pylon sign has been added to identify the retail businesses. ADA compliant parking spaces have been relocated to an area with access to the handicap access ramp. A loading dock and transformer pad have been relocated to the west of Building A. Decks and bearing columns have been added to the front and rear of Buildings A and B. Building B's footprint has been increased. A grassed sitting area and transformer pad with walls have been added to the Augusta Avenue corner of the property. Additional transformer pads are proposed. A proposed Play Area is labeled as such. 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***

With the current site plan application, the Town has submitted fifteen GML referrals for the proposed mixed use development since 2012. The referrals have included zone change petitions, site plans and variance applications. This department undertook a thorough analysis of the zone change petitions in the context of the 2004 Comprehensive Plan and the Monsey Area Plan. The subject site was designated as a multi-family housing site in accordance with the Comprehensive Plan recommendations. We urged the Town to consider whether a mixed use zoning designation was appropriate given the revitalization plan for the Route 59 and Route 306 intersection.

HEARTHSTONE VILLAGE (R-1741Y)

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, 56 in 2018 and 2019, and 44 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 multiple 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 once again proposing to revise the site plan. The revisions include an increase of four residential units for a total of 48 apartments, a 4,271 SF reduction in the commercial space to 44,302 SF, and an increase in the first floor storage from 8,860 SF to 11,892 SF. Each building will also contain basement storage space.

The number of parking spaces provided under this proposal has decreased from 315 to 303. According to the applicant's engineer, the provided parking is 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, 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 plans 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 development 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:

- 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 be scaled back to conform to the applicable standards. The number of residential units and the commercial square footage shall be reduced.
- 2 The applicant must comply with the conditions of the New York State Department of Transportation's letter of February 20, 2020, as well as any outstanding issues in their October 31, 2019 letter.
- 3 An updated review of the December 12, 2019 site plan must be completed by the Rockland County Health Department and all required permits obtained. In addition, the applicant must comply with the condition of the Health Department's November 5, 2019 letter.
- 4 The applicant must also comply with the conditions of the Rockland County Sewer District No. 1's January 6, 2020 letter.
- 5 The proposed mixed-use development must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

HEARTHSTONE VILLAGE (R-1741Y)

- 6 An updated review of the December 12, 2019 Layout Plan and Fire/Delivery Truck Turn Analysis 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. The Fire/Delivery Truck Turn Analysis currently shows a fire truck traversing the parking spaces to the west of Building D rather than the interior road. This is not acceptable. An alternate route must be provided that is feasible for emergency vehicles.
- 7 The December 11, 2019 letter from the Project Engineer to the Ramapo Planning Board shall be revised to address the change in total number of residential units. It must be noted that the enlarged Building B will now contain 16 units rather than the previously proposed 12 units.
- 8 The applicant's engineer states that 355 parking spaces are currently required, and maintains that the proposed 303 spaces fulfill 85 percent of the on-site parking requirement. The parking calculation on the December 12, 2019 Layout Plan references a parking requirement of 456 spaces and notes that a 25 percent waiver was granted reducing the required parking to 342 spaces. 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. Without these spaces, only 66 percent of the required parking is provided. The 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. Alternatively, the adequacy of the parking in this area must be closely monitored by the Town. If it proves inadequate, site plan adjustments must be implemented to allow for additional parking spaces.
- 9 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 along these corridors as in the subject proposal. 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.
- 10 The New York Metropolitan Transportation Council (NYMTC), is currently undertaking the Route 59 Area Transportation & Land Use Study. NYMTC's partners in this effort are the New York State Department of Transportation (NYSDOT), Rockland County, the Town of Ramapo, and the Villages of Airmont and Spring Valley. The Route 59 Area Transportation & Land Use Study will identify and evaluate transportation and development issues and future scenarios in the Route 59 corridor. The subject site is within the Route 59 Study Area. Given that Ramapo is a partner in this process, the Town Planning Board must evaluate development proposals in the study area in the context of the goals and objectives espoused in this effort, and the future "Envision Ramapo" strategic plan for the Monsey area.
- 11 While the project engineer notes that the headlights of parked vehicles will not shine into vehicles traveling along Route 59 due to the grade differential, we believe headlight glare will be an issue along the frontage where fencing is not provided. This is especially likely for SUVs and other higher vehicles. The landscaping shall be supplemented in this area, or the proposed fencing extended to the west.
- 12 The Town of Ramapo must enforce all applicable conditions imposed at the time the variances were granted to protect adjacent neighbors. It must also ensure that construction is proceeding as per the previously approved site plan.

HEARTHSTONE VILLAGE (R-1741Y)

13 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. Residential customers must be able to board and alight a TRIPS vehicle on the south side of these buildings. In addition, the TRIPS paratransit vehicles will not be able to service the commercial entrances on the west side of Building A because a through road is not provided. These vehicles are not permitted to reverse.

14 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 in size, especially since less than the required number of parking spaces are being provided.

15 All proposed signage, including the pylon sign, must conform to the Town's requirements.

16 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.

17 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.

18 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 Standards for Urban Erosion and Sediment Control.

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

20 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.

21 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.

22 The GML Referral Form specifies that the current zoning is MR-8. The zoning designation was changed to MU-1. All application materials must be consistent. The correct zoning district must be indicated on the referral form.

23 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.

24 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.

HEARTHSTONE VILLAGE (R-1741Y)

25 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
- Monsey Fire District
- Rockland County Department of Public Transportation
- Orange and Rockland Utilities
- 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.