

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 Miller
Deputy Commissioner

April 23, 2020

Ramapo Zoning Board of Appeals
237 Route 59
Suffern, NY 10901

Tax Data: 56.11-2-31

56.11-2-29.2

56.12-1-5.2

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

Map Date: 12/13/2019

Date Review Received: 3/23/2020

Item: *SHOPPERS HAVEN (R-1198L)*

Variations to permit a three-lot subdivision of 8.14 acres in the CS zoning district, and an amended site plan application. The lot lines will be redrawn to aid in the financing of the proposed new construction. A reciprocal easement agreement (REA) will be imposed over all three lots to ensure shared access and parking. A two-story, 34,619 SF, mixed-use commercial building (13,850 SF of retail space on grade level and 16,441 SF of office space on the second level) with 15,829 SF of basement storage space, and a three-level, 114,114 SF parking structure are proposed on Lot 1 which will contain 1.5 acres.

Variations are required for front yard and front setback for the building; side yard and side setback for the building and parking structure; rear yard and setback for the parking structure; and floor area ratio. Lot 2 will be reduced to 5.11 acres and will consist of the existing Shoppers Haven building, most of the existing grade-level parking, the employee/truck parking area and the entry/exit to Main Street. Variations are required for lot width, side setback, rear setback, front yard, side yard, rear yard, street frontage, floor area ratio and buffer. Lot 3 will be landlocked and 1.47 acres. It will consist of a three-story, 83,345 SF, mixed-use addition to the Shoppers Haven building and adjacent parking areas. A 280A variance will be required, as well as rear setback, rear yard, street frontage, building height, development coverage and floor area ratio variations. The overall parking requirement for the three parcels is 784 spaces; a total of 567 spaces are provided. Lots 2 and 3 are deficient in meeting the on-site parking requirement; parking variations are needed for both lots.

East side of NYS Route 306, north side of the Consolidated Rail right-of-way, north and south of Orchard Street, south side of the western end of Moscarella Road

Reason for Referral:

NYS Route 306, Village of Spring Valley

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*

SHOPPERS HAVEN (R-1198L)

1 The narrative summary indicates that the property will be re-subdivided to facilitate the financing of the new construction. With regard to floor area ratio (FAR) variances, it notes that these deviations result from the size of the structures on their new respective lots which were drawn for financing purposes and bear no relationship to real-world usage. The FAR of the three buildings over all three lots is .74. Since the FAR standard in the CS zoning district for Use Groups B, E and H is .40, the applicant is seeking an 85 percent increase over the maximum permitted for the entire assemblage. This figure is not related to redrawn lot lines for financing purposes but is substantial in a real-world context. In addition, the maximum allowable FAR is exceeded on each lot, thereby indicating that the proposed development is an overutilization of the site. The proposed new construction must be scaled back to more closely comply with the FAR standard.

2 We are particularly concerned about the degree of non-conformity proposed on Lot 3. The three-story structure requires a height variance of 60 percent, a FAR variance of 227.5 percent and a parking variance of 86 percent. The height variance is not a function of the lot size. The three-story, 48-foot high building is not consistent with what exists or what is proposed. The existing building on Lot 2 is two stories or 28 feet in height; the proposed building on Lot 1 is two stories or 30 feet in height. The 360-foot long building proposed on Lot 3 will be substantially higher, and very visible to the residents of the Horizon Condominiums located 75 feet south of the site. We do not agree that the railroad embankment will serve as a visual buffer since the grade change is not substantial. Furthermore, the FAR and parking requirement are related to the number of floors in the building. The height variance is excessive and shall not be permitted. The third story must be eliminated.

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. Several significant variances are required including FAR, with deviations ranging from 32.5 to 227.5 percent; lot width and street frontage deficiencies of 63 percent; a buffer variance of 81 percent; and the aforementioned height variance. The total on-site parking is approximately 73 percent of the minimum required. The ability of the existing infrastructure to accommodate oversized commercial structures on undersized and nonconforming parcels 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. The size of the buildings must be reduced; the height variance shall not be permitted; and the third story must be eliminated.

The following comments address our additional concerns about this proposal.

4 An updated review of the December 13, 2019 drawings must be completed by the NYS Department of Transportation (DOT), and all required permits obtained. In addition, the applicant must comply with the conditions of DOT's September 9, 2019 letter.

5 An updated review of the December 13, 2019 drawings 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 September 26, 2019 letter.

6 An updated review of the December 13, 2019 drawings must be completed by the Rockland County Sewer District #1, and all required permits obtained. In addition, the applicant must comply with the conditions of the Sewer District's September 26, 2019 letter.

7 The proposed commercial buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

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

SHOPPERS HAVEN (R-1198L)

9 The Village of Spring Valley is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 212 feet east 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 county-wide 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 which is supportive of the goals and objectives of the general area.

The Village of Spring Valley 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 must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

10 The parking layout for each floor of the parking structure shall be provided. It must be noted which level of the parking garage is illustrated on the plans. The structural supports for the parking garage must be shown to ensure that all spaces are useable as designed. Lastly, the parking spaces must be numbered.

11 The layout of the parking garage has several spaces that will be difficult to maneuver into or out of because no room to turnaround is provided. These include the northwesternmost parking space, the two caddy-corner spaces by the northeastern stairway, and the northwestern parking space at the northern end of the eastern section of the parking structure by the ramp. In addition, other parking spaces, as designed, will also be difficult to maneuver out of without a turnaround area, and include the northwesternmost space at the north end of the parking for Lot 2; the southeasternmost space of the same lot; and the southwestern space in the 11-space parking area of Lot 3. Turnaround areas must be provided, or these parking spots eliminated to allow for adequate turnaround areas to facilitate vehicle movement.

12 The Town of Ramapo must monitor the site to ensure that sufficient parking is provided at all times. Under no circumstances can overflow parking be permitted along the State right-of-way.

13 Snow removal and the resultant snow piles are a critical maintenance consideration for shopping centers during the winter months. Areas designated for snow removal must be clearly delineated on the site plan for all lots so that the plow drivers will know where to place the snow piles. The snow storage area shown on Lot 3 is not sufficient for all parking areas. Each parking lot, including the top level of the parking structure, must have a designated snow storage area. Providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by staff and visitors. This is especially critical since the on-site parking requirements are not achieved.

14 The fire zones must be clearly marked on the site plan and in the field for Lots 1 and 3. Access to the fire zones shall be unimpeded by other parking areas and maneuverability on the site feasible. This is particularly critical for Lot 3 since it is the most difficult to access.

15 A truck turning analysis must be provided demonstrating that fire trucks and Transport of Rockland (TOR) buses can maneuver on the three lots without crossing over parking spaces, curbs, walls, walkways, etc.

16 The location of the dumpster enclosure(s) on each lot must be illustrated and labeled on the site plan. Access to the dumpsters must be unimpeded, and it must be demonstrated that their location will not impact yard requirements and parking maneuverability for the site.

17 The handicapped parking spaces in the parking structure on Lot 1 are far from the building and must be relocated nearer to the building entrance.

SHOPPERS HAVEN (R-1198L)

- 18 Pervious pavers must be considered to reduce the extent of the development coverage on Lot 3.
- 19 Aerial photography available to this department shows a pedestrian path from the Horizon Condominiums that traverses the railroad right of way to access the existing parking area on proposed Lot 3. The final disposition of this walkway must be clarified.
- 20 The REA must be recorded in the deed for each parcel and noted on the subdivision plat and site plans.
- 21 The narrative summary notes that the REA will ensure that all users of all lots have free access and passage from one lot to the other. Shared access and parking easements are specifically mentioned, but utility easements are not, except in relation to the Shoppes at Nanuet. Clarification must be provided about the provisions of utility easements through the REA.
- 22 The REA must specify who is responsible for the maintenance of the parking structure. Though it is located on Lot #1, it is needed to satisfy the parking requirements for all lots.
- 23 The site plan application for this proposal must be referred to this department for review as mandated under the NYS General Municipal Law.
- 24 This site is currently served by TOR Loops 1 and 2, as well as the TRIPS paratransit service. The Loop routes begin and end at the shopping center. The applicant has specifically requested this arrangement to benefit his customers. A designated layover space and unfettered access to the bus stop is required to continue on-site service. Currently, traffic congestion is, at times, impeding the safe and efficient movement of TOR vehicles through the shopping center. A taxi stand area must be designated on the site for queuing, as well as pick up and drop off of customers. This area must be separate and apart from the TOR bus stop to minimize interference with the provision of public transportation. Bus stops and the taxi stand must be at a sufficient distance from the parking lots so that vehicular and pedestrian conflicts are avoided. A safer traffic flow may require a reconfigured parking lot layout in the vicinity of the existing commercial building; this could result in the loss of parking spaces. The Rockland County Department of Public Transportation must be provided with a complete set of site plan drawings at the earliest opportunity so they can confirm that these concerns are satisfactorily addressed prior to Planning Board approval.
- 25 Map Note 9 must be corrected to specify that SUEZ is the water supplier.
- 26 The FEAF mentioned in the narrative summary must be submitted for our review.
- 27 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.
- 28 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

SHOPPERS HAVEN (R-1198L)

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
Rockland County Drainage Agency

Brooker Engineering, PLLC
Village of Spring Valley
Ira M. Emanuel, P.C.

Thomas Klein

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.

