

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
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July 7, 2016

Spring Valley Planning Board
200 N. Main Street
Spring Valley, NY 10977

Tax Data: 57.65-1-6

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

Map Date: 5/16/2016

Date Review Received: 6/3/2016

Item: *THE SENTINEL AT SPRING VALLEY (SV-685K)*

Site plan for an Assisted Living Facility (ALF) on 1.3658 acres in an HB zoning district. A five-story, 78,000 SF building is proposed to contain the 200-bed ALF. A use variance is required, as well as variances from the proposed bulk standards.

South side of Route 59, west side of Pascack Road

Reason for Referral:

NYS Route 59, Pascack Road (CR 35), Town of Clarkstown, Pascack Brook, Perlman Drive (CR 35C), New Clarkstown Road (CR 35A), New York State Thruway

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***

1 This department is not generally in favor of land uses that require a use variance because of the land use precedent that can be set. This site is located within an HB (Highway Business) zoning district. The surrounding area is characterized by a variety of commercial land uses. Mixed use development is also permitted in the HB zone pursuant to Section 255-28.K. of the Spring Valley Zoning Code. The allowable mixed uses include all uses permitted in the PLI zone. This greatly expands the development options for this parcel.

An applicant must prove that applicable zoning regulations and restrictions have caused unnecessary hardship in order for a use variance to be granted. To prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- A. The applicant cannot realize a reasonable return, provided the lack of return is substantial as shown by competent financial evidence.
- B. The alleged hardship is unique and does not apply to a substantial portion of the district or

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neighborhood.

C. The requested variance will not alter the essential character of the neighborhood.

D. The alleged hardship is not self-created.

The applicant has not demonstrated that an unnecessary hardship exists. The application materials do not include any financial evidence. They do not address the feasibility of developing this property as permitted under HB or PLI zoning. The use variance and site plan for this facility cannot be approved as designed.

2 The applicant is seeking an almost 38 percent reduction in the on-site parking requirement for domiciliary care facilities. This department is not in favor of granting waivers or variances for parking on sites located on the heavily traveled state and county roads. The safe and efficient flow of traffic along Route 59 and Pascack Road could be impeded by insufficient on-site parking. The proposed facility must be scaled back so that the required on-site parking can be provided.

The following recommendations address our additional concerns about the site plan proposal.

3 The Town of Clarkstown is one of the reasons this proposal was referred to this department for review. The municipal boundary is along the southern and western property lines immediately adjacent to 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 recently 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.

In a letter dated September 3, 2008, the Chairman of the Town of Clarkstown's Planning Board expressed concerns about the previous hotel proposal related to traffic, overutilization of the site, viewscales, stormwater management, and drainage. The Chairman requested that a traffic study, a landscaping plan, elevations and cross sections and a drainage analysis be submitted for review.

The Town of Clarkstown must be given the opportunity to review the current 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 Town of Clarkstown must be considered and satisfactorily addressed, as well as any additional concerns about the proposed site plan.

4 A review shall be completed by the New York State Department of Transportation and all required permits obtained.

5 A review must be completed by the County of Rockland Department of Highways and all required permits obtained.

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

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- 7 Several of the exterior parking spaces will be difficult to maneuver into or out of due to their proximity to the building entrance and the interior roadways. We are particularly concerned with the two spaces immediately adjacent to the proposed Porte Cochiere. Vehicles will back out of these spaces into the covered area directly in front of the building entrance. Typically, this is an area reserved for dropping off residents and unloading equipment. Given its proximity to the entrance drive, there is already the potential for traffic conflicts in this area. The southern space in the row of eight spaces to the west of the building and the northern space in the row of 10 spaces are also awkwardly configured. These four spaces should be eliminated and the parking area reconfigured to allow for the safe movement of traffic entering, exiting and within the site.
- 8 A review must be done by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.
- 9 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.
- 10 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.
- 11 A review must be completed by the County of Rockland Sewer District #1 and all required permits obtained.
- 12 The floodplain Administrator for the Village of Spring Valley shall certify that the proposed construction is in compliance with the floodplain regulations of the Village and the Federal Emergency Management Agency.
- 13 The proposed building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 14 A review must be completed by the County of Rockland Office of Fire and Emergency Services, the Village Fire Inspector or the Spring Valley Fire District to ensure that there is sufficient maneuverability on-site for emergency vehicles.
- 15 The fire zones must be clearly marked on the site plan. Access to the fire zones shall be unimpeded by other parking areas and maneuverability on the site feasible.
- 16 A fire truck circulation plan must be provided to ensure that there is sufficient on-site maneuverability for emergency vehicles and delivery trucks.
- 17 Additional information must be provided about the height of the Porte Cochiere so it can be determined that fire trucks and other emergency vehicles can safely pass under it, as well as TRIPS buses.
- 18 A review must be completed by the County of Rockland Department of Public Transportation to determine appropriate bus pick-up and drop-off locations.
- 19 There shall be no net increase in the peak rate of discharge from the site at all design points.

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20 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 Guidelines for Urban Erosion and Sediment Control.

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 A lighting plan shall be submitted for our review. Fields of illumination for the lighting must be provided, and no luminaires shall shine into the State highway.

23 All proposed signage shall be shown on the site plan and conform to the Village's sign standards.

24 A loading dock is not provided. Is one required? Where will the unloading of goods including food occur? This must be clarified.

25 A large parking area is proposed in the southeast corner of the site, with no sidewalk connections to the building entrances. Safe pedestrian access must be provided between parking areas and the building.

26 A landscaping plan that meets all Village requirements shall be provided.

27 Areas dedicated for snow piles 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 any proposed landscaping from being broken from the weight of the snow and from causing salt intrusion to the plants. In addition, designating specific locations on the site for the snow piles, especially since less than the required number of parking spaces is being provided, will eliminate the loss of parking spaces meant for the residents and employees of the facility.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Demeza Delhomme, Spring Valley
New York State Department of Transportation
Rockland County Department of Highways
Rockland County Drainage Agency
Rockland County Department of Health
Rockland County Sewer District #1
New York State Thruway Authority
New York State Department of State,
Division of Code Enforcement & Administration
Spring Valley Fire District
Rockland County Office of Fire and Emergency Services
Rockland County Department of Public Transportation

Atzl, Nasher & Zigler P.C.
Town of Clarkstown

Doc Sai, LLC

Rockland County Planning Board Members

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**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.

