

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

April 19, 2018

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: 1/23/2018

Date Review Received: 1/26/2018

Item: *CULINARY DEPOT - 67 ROUTE 59 (SV-685L)*

A site plan application to construct a 3-story commercial building with underground and surface parking on 1.37 acres in the HB zoning district. The proposed uses are a retail showroom and sales area on the first floor, offices on the second floor, and a test kitchen, cooking demonstration theater, cafeteria and exercise room on the third floor. A previously installed, existing foundation is to be used.

Southern side of Route 59, western side of South Pascack Road (CR-35)

Reason for Referral:

Pascack Brook, NYS Thruway - I-87/287, NYS Route 59, Perlman Drive (CR-35C), New Clarkstown Road (CR-35A), South Pascack Road (CR-35), Town of Clarkstown

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:

****Recommend the following modifications***

- 1 A review shall be completed by the New York State Department of Transportation and all required permits obtained.
- 2 A review shall be completed by the New York State Thruway Authority and any required permits obtained.
- 3 The applicant must comply with all comments made by the Rockland County Department of Highways in their letter of February 2, 2018.
- 4 The applicant must comply with all comments made by the Rockland County Health Department in their letter of February 1, 2018.

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5 The applicant must comply with all comments made by the Rockland County Sewer District #1 in their letter of April 4, 2018.

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

7 The Town of Clarkstown is one of the reasons this proposal was referred to this department for review. The municipal boundary is adjacent to the rear property line, south and 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 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 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.

The Town of Clarkstown 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 Town of Clarkstown must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

8 The narrative provided states 73 parking spaces are required and 84 spaces are provided. The parking calculation shown on the site plan indicates that 98 spaces are required and 75 are provided. All materials must be consistent. The correct number of spaces that are required and provided must be clarified.

9 According to the site plan, the applicant has requested a 23% reduction in the required number of parking spaces, as per Section 255-29(B) of the village zoning regulations. The village must be satisfied that the applicant has met the criteria of this section, and has demonstrated that the required number of parking spaces exceeds the actual peak parking hour and that such reduction does not induce parking on public streets or result in hazardous conditions for vehicles and pedestrians. Since the adjacent Route 59 and County Highway 35 do not provide street parking, adequate parking must be provided on-site, and under no circumstances can be permitted within these road rights-of-way.

10 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.

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

12 We request the opportunity to review any variances which may be necessary to implement the proposed site plan.

13 A lighting plan shall be provided that shows fields of illumination. This plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.

14 A landscaping plan must be provided. Low evergreen landscaping shall be provided along all State and County highways to block the headlights of parked cars from shining into such highways.

15 All signs shall be shown on the site plan and comply with the village's sign ordinance.

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16 Public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Health Department prior to construction.

17 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.

18 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. A letter from the public water supplier, stamped and signed by a NYS licensed professional engineer, shall be issued to the municipality, certifying that there will be a sufficient water supply during peak demand periods and in a drought situation.

19 If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed by the Rockland County Department of Health prior to construction. In order to complete an application for approval of plans for public water supply improvements, the water supplier must supply an engineer's report pursuant to the "Recommended Standards for Water Works, 2003 Edition," that certifies their ability to serve the proposed project while meeting the criteria contained within the Recommended Standards for Water Works. These standards are adopted in their entirety in 10 NYCRR, Subpart 5-1, the New York State regulations governing public water systems. Further, both the application and supporting engineer's report must be signed and stamped by a NYS licensed professional engineer and shall be accompanied by a completed NYS Department of Health Form 348, which must be signed by the public water supplier.

20 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. This will provide specific locations on the site for the snow piles and reduce the loss of available parking spaces meant to be used by customers, which is especially critical since less parking is being proposed for a site directly located on state and county highways.

21 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Spring Valley Fire Inspector, or the Spring Valley Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises. This review must include the lower level parking area and an evaluation of the turning radius of the accessway to the rear of the site.

22 No Left Turn signs must be installed and shown on the site plan for the entry and exit along Route 59.

23 The site plan provided has been reduced in size, is not to scale, and is difficult to read. In addition, the site plan does not have a graphic scale bar, which makes evaluating reduced plans more difficult. A full-sized, to scale site plan with a graphic scale bar must be provided.

24 The cross-hatched area in the southwestern corner of the parking lot must be landscaped.

25 Top and bottom elevations for the proposed retaining wall must be provided. If the wall height exceeds four feet, the wall designs must be certified by an engineer and tiered.

26 The NYS Department of State has determined that the Village is not administering or enforcing the State Uniform Fire Prevention and Building Code in accordance with minimum standards set forth in 19 NYCRR part 1203. Given the concerns about the Village's administration and enforcement of the State Uniform Fire Prevention and Building Code raised in the Executive Deputy Secretary of State's letter of July 15, 2016, the proposed residential building must be held to the requisite minimum standards and comply with all requirements of this code.

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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: Mayor Alan Simon, Spring Valley
New York State Department of Transportation
New York State Thruway Authority
New York State Department of State
Rockland County Department of Health
Rockland County Department of Highways
Rockland County Drainage Agency
Rockland County Office of Fire and Emergency Services
Spring Valley Fire District
Rockland County Sewer District #1
Federal Emergency Management Agency

Atzl, Nasher & Ziegler P.C.
Town of Clarkstown Planning Board

**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.