

## DEPARTMENT OF PLANNING

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**Douglas J. Schuetz**  
*Acting Commissioner*

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*Deputy Commissioner*

October 9, 2020

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

**Tax Data:** 57.55-1-27

57.55-1-26

57.55-1-24

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

**Map Date:** 7/28/2020

**Date Review Received:** 9/10/2020

**Item:** *CENTRAL CROSSING - 175, 185 & 193 ROUTE 59 (SV-307F)*

A special permit application for a mixed-use structure on a newly-created lot in the GB zoning district. Three existing lots, with a total area of 9.75 acres, are to be merged and subdivided into two lots. An existing office building is to be removed. Site improvements and a five-story, 75,600 square foot mixed-use building, with office and ground floor retail use, will be constructed on lot 1. An existing 127,753 square foot retail building is to remain on lot 2. A total of 505 parking spaces, to be shared via access easements, are proposed. Variances for number of parking spaces for both lots are requested.

The southwestern corner of Route 59 and South Central Avenue

### Reason for Referral:

Pascack Brook, East Central Avenue (NYS Route 59), South Main Street (NYS Route 45), 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:

### *\*Disapprove*

1 The bulk requirements cited on the site plan are not correct for the proposed structure on lot 1. As a result, substantially larger variances are necessary. The bulk table cites the requirements for Use Group E, however this use group applies to commercial indoor recreation facilities, theaters, auditoriums, pool halls and billiard parlors, banks, business or trade schools, libraries, museums or art galleries, restaurants or cafeterias, medical laboratories, miniwarehousing, and fast-food restaurants. Office use in the GB zoning district falls under the requirements for Use Group B, for which the proposed structure would require variances for side yard (15' required), rear yard (30' required), height and stories (35' and three stories allowed), and floor area ratio (0.3 allowed).

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 proposed side and rear yards are deficient by 33%. A specific height of the building is not provided, but the number of stories exceeds the maximum by two. The proposed floor area ratio exceeds the maximum by 216%. Lastly, the number of parking spaces provided on

**CENTRAL CROSSING - 175, 185 & 193 ROUTE 59 (SV-307F)**

lot 1 is 127 less than required, and the number of spaces on lot 2 is 131 less than required, for a total deficit of 258 spaces. This represents approximately one-third of the total required parking for both lots. This parking deficit is particularly concerning given that the property is located along a state highway. Insufficient on-site parking can spill over into the roadway and exacerbate already high levels of congestion along Route 59. The ability of the existing infrastructure to accommodate density 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 Village must consider the cumulative and regional impacts of permitting such development. The site plan application must be disapproved and the property developed in compliance with the bulk requirements of the Village.

The following comments address our additional concerns about this proposal.

- 2 The public hearing notice must be reviewed and, if it contains inaccurate or incomplete information regarding the variances required, re-issued.
- 3 A review must be completed by the County of Rockland Department of Health and all required permits obtained from them.
- 4 A review must be completed by the County of Rockland Sewer District No. 1 and all required permits obtained from them.
- 5 A review must be completed by the County of Rockland Drainage Agency and all required permits obtained from them.
- 6 A review shall be completed by the New York State Department of Transportation and any required permits obtained.
- 7 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.
- 8 The Town of Clarkstown is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 110 feet south and 415 feet northeast of the parcel. 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.
- 9 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.
- 10 There shall be no net increase in the peak rate of discharge from the site at all design points.

**CENTRAL CROSSING - 175, 185 & 193 ROUTE 59 (SV-307F)**

- 11 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.
- 12 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.
- 13 Public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Department of Health prior to construction.
- 14 All proposed signage shall be indicated on the site plan and shall conform to the municipality's sign standards.
- 15 The lighting plan shall be amended to demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.
- 16 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 help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by tenants and customers, especially since less than the required number of parking spaces are being provided.
- 17 Fire lanes must be clearly marked on the site plan. Access to the fire lanes shall be unimpeded by other parking areas and maneuverability on the site feasible.
- 18 The fire department connections shall be designated on the site plan and kept clear for easy access by the emergency response vehicles.
- 19 The reciprocal easement agreement must be annotated on the site plan.
- 20 The site plan indicates that an above-ground, heated structure is proposed near the northeastern corner of the new structure. The applicant must clarify the nature of this structure.
- 21 The application form indicates the property receives water service from United Water. The form must be corrected to Suez.
- 22 The Village shall be satisfied that the proposal complies with the general standards for special permit uses outlined in Section 255-27, as well as the specific standards for mixed-use structures outlined in Section 255-28.K.
- 23 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 initially raised in the Executive Deputy Secretary of State's letter of July 15, 2016, and subsequently again in December 18, 2017, the proposed residential building must be held to the requisite minimum standards and comply with all requirements of this code.

**CENTRAL CROSSING - 175, 185 & 193 ROUTE 59 (SV-307F)**

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.

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.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Alan Simon, Spring Valley  
Rockland County Department of Health  
Rockland County Sewer District #1  
Rockland County Drainage Agency  
Rockland County Office of Fire and Emergency Services  
New York State Department of Transportation  
New York State Department of State  
Spring Valley Fire District  
  
Sparaco & Youngblood, PLLC  
Town of Clarkstown Planning Board

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.*