

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

July 6, 2018

Suffern Zoning Board of Appeals
61 Washington Avenue
Suffern, NY 10901

Tax Data: 54.28-1-28
54.28-1-14

54.28-1-27

54.28-1-14.1

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

Map Date: 5/1/2018

Date Review Received: 6/13/2018

Item: *TJG REALTY, LLC (SU-327D)*

Variances for lot area, development coverage and parking to permit the construction of a four-story, multi-family residential building with 60 units on 1.36 acres in an MR-50 zoning district.

West side of Washington Avenue and the north and south sides of Pleasant Avenue, opposite Washington Circle

Reason for Referral:

NYS Thruway, NYS Route 202 (Wayne Avenue), Mahwah River, Harriman State Park

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 The proposed multi-family residential project is being likened to a Transit Oriented Development (TOD) since it is within walking distance to the Suffern train station and the village center. This department recognizes that successful TOD projects can strengthen communities. The applicant anticipates that the future residents of Washington Mews will patronize local businesses, and avail of nearby mass transit options to commute to work. While we believe denser residential development can create a larger customer base for the village center, we are concerned about how this is being accomplished. The Village Board changed the zoning designation of this property from 2R-5 to MR-50 in August of 2011. In our General Municipal Law review of that application, we recommended that the MR-50 bulk standards be strictly applied if the Village granted the zone change petition. Earlier versions of the multi-family development proposal included 48 residential units. The current site plan is for a 60-unit apartment building. No explanation is provided as to why there is an increase in the number units. We recognize that the previous use was non-conforming and the current proposal reduces the extent of the non-conformities. However, significant variances are still required for lot area (almost 35 percent) and development coverage (330 percent). The on-site parking requirement is also not achieved. The applicant is seeking a parking waiver of ten percent. Based on the MR-50 standards outlined in Section 266-23, approximately 23 units

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are permitted on this 1.36 acre site. A smaller building with less units will more closely conform to the MR-50 bulk requirements. If the Village is in favor of denser residential development in the MR-50 zoning district, it must reevaluate its bulk standards. The additional lot area requirements based on apartment size make it difficult to meet the minimum lot area or maximum development coverage standards. The effective residential density of this proposal is 44 units per acre despite its MR-50 zoning. It is unclear whether the permitted maximum gross density of 50 dwellings per acre is achievable under the current zoning. The Village must undertake a comprehensive analysis of the MR-50 zoning district standards to determine if they still meet the goals and objectives for multi-family development within the village center. Updating the zoning ordinance to reflect current conditions is a more appropriate land use planning technique than granting bulk variances and parking waivers.

2 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 on undersized 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 Village must consider the cumulative and regional impacts of permitting such development.

3 An updated review of the May 1, 2018 drawings shall be completed by the New York State Department of Transportation (DOT), and any required permits obtained. In addition, the applicant must comply with the conditions of DOT's letter of August 30, 2012.

4 As noted in the Rockland County Drainage Agency's letter of August 22, 2012, the site is in close proximity to the 100-year floodplain of the Mahwah River. If appropriate, the engineer of record shall certify to the floodplain administrator for the Village of Suffern that the proposed construction is in compliance with the floodplain regulations of the Village and the Federal Emergency Management Agency.

5 A review must be completed by the New York State Thruway Authority, and any required permits obtained.

6 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.

7 The proposed residential building 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 Village Fire Inspector or the Suffern Fire District to ensure that there is sufficient maneuverability on-site for emergency vehicles.

9 A review must be completed by the Rockland County Department of Public Transportation to ensure that there is sufficient maneuverability on-site for TRIPS paratransit vehicles, and to determine the best locations for pick-up of potential TRIPS passengers.

10 The applicant shall consider using pervious pavers to reduce the magnitude of the variance required for development coverage

11 All proposed signage must conform to the Village's sign standards.

12 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.

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13 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.

14 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 Edward Markunas, Suffern
New York State Thruway Authority
New York State Department of Transportation
Rockland County Drainage Agency
Palisades Interstate Park Commission
Rockland County Department of Health
New York State Department of State
Rockland County Office of Fire and Emergency Services
Suffern Fire District
Rockland County Department of Public Transportation
M.A. Day Engineering, P.C.

Donald Brennan, TJG Realty, LLC

**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.

