# Rockland County

Ed Day, Rockland County Executive

**DEPARTMENT OF PLANNING**
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**Douglas J. Schuetz**
*Acting Commissioner*

**Arlene R. Miller**
*Deputy Commissioner*

April 5, 2019

Haverstraw Planning Board
One Rosman Road
Garnerville, NY 10923

**Tax Data:** 25.18-2-19

**Re: GENERAL MUNICIPAL LAW REVIEW:** Section 239 L and M
**Map Date:** 2/11/2019 **Date Review Received:** 3/4/2019

**Item:** ***NEW CINGULAR WIRELESS PCS, LLC - 16 THIELLS MT. IVY ROAD (H-173D)***

A special permit and site plan application to construct a new wireless communication facility, consisting of a 150-foot monopole and ground level equipment, on a 2.07 acres parcel with an existing fire station in the C zoning district. A height variance is required for the monopole.
The western side of Thiells Mount Ivy Road, opposite Brevoort Drive.

**Reason for Referral:**

Thiells Mount Ivy Road (CR 47), Village of Pomona, Palisades Interstate Parkway, Long Path

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 applicant must comply with all comments made by the Rockland County Highway Department in their letter of March 13, 2019.

2 All concerns raised by the Palisades Interstate Park Commission in their letter of April 4, 2019 must be addressed.

3 The Palisades Interstate Parkway is designated as a National Landmark by the National Park Service and a New York State Scenic Byway. In order to preserve the viewshed and scenic value of the parkway, the monopole must be relocated to maintain a minimum 20-foot buffer from the Palisades Interstate Parkway.

4 The visual analysis must also include views from both the northbound and southbound Palisades Interstate Parkway roadway.

**NEW CINGULAR WIRELESS PCS, LLC - 16 THIELLS MT. IVY ROAD (H-173D)**

5 Exhibit F of the application materials includes maps of reliable wireless coverage in the surrounding area both with and without the proposed wireless facility in order to establish its necessity. However, no coverage maps based on possible alternative heights were provided, and this analysis seems to be based on an all-or-nothing approach. The Town must be satisfied that an acceptable level of coverage cannot be achieved with a shorter structure. At a minimum, the applicant must provide a map of reliable wireless coverage that is based on a structure that complies with the Town's maximum height limit of 112.5 feet.

6 In order to minimize the visual impact of the facility, the structure must use the monopine design and be painted in a neutral color.

7 The applicant must clarify why the visual analysis includes a 175-foot flagpole structure, when the proposed structure is only 150 feet.

8 The Town shall be satisfied that the proposal complies with the requirements of Chapter 162 - Wireless Communication Facilities of the Town Code.

9 The Village of Pomona is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 405 feet west 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 Village of Pomona 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 Pomona must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

10 A review must be completed by the New York - New Jersey Trail Conference and any concerns addressed.

11 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 Guidelines for Urban Erosion and Sediment Control.

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

13 The map notes shall include district information.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Howard Phillips, Haverstraw
Rockland County Department of Highways
Palisades Interstate Park Commission
New York - New Jersey Trail Conference

Dewberry Engineers, Inc.
Village of Pomona Planning Board
Cuddy + Feder, LLP

## NEW CINGULAR WIRELESS PCS, LLC - 16 THIELLS MT. IVY ROAD (H-173D)

**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.*