



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 18, 2019

New Square Village Board
37 Reagan Road
New Square, NY 10977

Tax Data:

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

Map Date:

Date Review Received: 9/18/2019

Item: *VILLAGE OF NEW SQUARE - COMPREHENSIVE PLAN (NS-41)*

A Comprehensive Land Use Plan and revisions to the Zoning Code and Zoning Map for the Village of New Square.

Throughout the Village

Reason for Referral:

Towns of Clarkstown and Ramapo, Village of New Hempstead, Palisades Interstate Parkway, North Main Street (NYS Route 45)

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*

The proposed Comprehensive Plan is intended to guide the future development and land use decision-making for the Village of New Square. The Village's first zoning regulations were adopted in 1967, and the proposed map and text amendments represent the first major revision of the Village's zoning regulations since modifications were made in 2007. A central focus of this revision to the zoning amendments is to provide a simplified and more uniform development process by reducing the number of zoning districts to four, and more closely matching the Village's regulations to existing patterns of growth.

The County welcomes this opportunity to review these proposals and offers the following comments:

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1 One of the major elements of the proposed changes to the Village's zoning regulations is the consolidation of eight existing zoning districts into four, which includes consolidating four existing residential zoning districts into a single Residential zoning district. The proposed zoning amendments allow substantially higher residential density than the current regulations for residential zoning districts. Since a majority of the land area in the Village will be designated as Residential, proposed changes within this zone will have a substantial impact on future development.

The proposed Residential zoning district requires a minimum lot size of 3,500 square feet for zero lot line two-family dwellings and 7,000 square feet for a four-unit multifamily dwelling. This results in a residential density of 24.9 units per acre. In addition, each multifamily dwelling unit in excess of four units may require as little as 1,000 square feet in lot area, which adds additional units at a rate of 43.6 units per acre. By comparison, the existing R-1 zoning district requires 10,000 square feet for a two-family residence, which is a residential density of 8.7 units per acre. Other existing residential zoning districts have similar bulk requirements to what is currently proposed, with some requirements being more restrictive and others being less restrictive. However, the existing R-1 zoning district occupies roughly 40% of the village, and the allowed residential density within the R-1 zoning district will approximately triple.

This increase in residential density will have substantial impacts on traffic, water usage, sewer demand, drainage, and demand for community services. The Comprehensive Plan must acknowledge the impact of the proposed changes to the Village's zoning regulations. A build-out analysis, based on the higher proposed residential density, must be included within the Plan, and the subsequent impacts of this increased residential density discussed in the analysis.

2 Projected increases in population will create additional demands on existing infrastructure. These demands will be exacerbated by the increases in allowable residential density proposed by the zoning code amendments. One of the purposes of a Comprehensive Plan is to anticipate, and begin to prepare for, the future needs of a community. A full build-out based on the proposed residential density will likely require additional capacity in stormwater, transportation, and utilities infrastructure. By identifying future deficiencies in capacity, the Village can begin to plan for the investments that will be required. An analysis of existing infrastructure capacity levels must be performed and compared to the demands created by projected population growth and increased residential density.

3 The proposed Comprehensive Plan, like many others, presents several goals and objectives that act as a guide for future action by the Village. However, the Village is also currently proposing comprehensive amendments to its zoning regulations. This represents an opportunity for the village to incorporate its stated goals into its land use requirements. There are several proposed goals in the comprehensive plan that are not reflected in the proposed zoning regulations. Specifically, the planting of street trees for new developments (p. 4.1), providing and screening garbage enclosures (p. 4.1), and requiring sidewalks with a minimum of five feet for new construction (p. 7.5) are goals that can be written into the formal requirements for new development. Requirements for the above goals must be incorporated into the proposed zoning regulations governing site plan applications, or in some other appropriate section of the regulations. In addition, Section 11 discusses the need for additional outdoor recreational facilities throughout the village. The Village must consider incorporating an open or recreational space requirement for multifamily dwellings to help achieve this goal, as well.

4 The draft Zoning Map depicts the Residential zoning district as white space. The draft Land Use Map also uses white space to depict vacant land, and the adjacent lands outside of the Village boundary. As a result, it is difficult to distinguish the municipal boundary on both maps. The maps must use colors to depict all zoning districts or land uses, or use a thicker, more visible line to demark the municipal boundary. In addition, the legend for the draft Zoning Map has a typo for the Public zoning district, and is missing the "C" for the commercial district, which must be corrected.

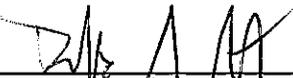
5 The Land Use Map includes a single category for all residential uses and does not distinguish between single-family, two-family, or multi-family dwellings. The map must provide additional information and differentiate between various residential uses.

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- 6 The Land Use Map designates several isolated parcels as Neighborhood Shopping. The creation of zoning districts that are comprised of only a single parcel essentially amounts to spot zoning. Although the Village may be motivated to recognize and acknowledge current uses through this designation, one of the purposes of a Comprehensive Plan is to guide future development. The Neighborhood Shopping designation should be made based on whether an immediate area is suitable and desirable for the use, not to simply preserve the status quo. If designated as a different zoning district, any existing use can continue to operate as a legally non-conforming use. This would not deprive the community of the services provided or the owner from making use of their property, but would guide future development in a more carefully planned and consistent manner. The Village must consider amending the proposed zoning map to limit instances of spot zoning.
- 7 The Bus Transportation section discusses the Tappan ZEE Express (TZx) service on page 7.4. The TZx service was replaced by the Hudson Link service approximately one year ago. The Bus Transportation section must be updated.
- 8 The proposed zoning amendments include a village-wide maximum floor area ratio (FAR) of 100%. The proposed regulations must include a definition of floor area ratio to ensure that it is calculated in a clear and consistent manner. This definition must, at a minimum, include all finished living space within residential structures, and stipulate whether basements, porches, decks, and similar areas are included in ratio calculation.
- 9 Page 7.3 mentions County offices in New City, but should be updated to reflect that the majority of County offices are now located at the Health Complex in Pomona.
- 10 The population projection on page 6.3 does not include any source reference or details about how the estimate was reached. This information must be provided.
- 11 The discussion of existing gas and electric services on page 8.2 is inadequately brief and does not address the anticipated increase in population and households. Population projections provided in Section 6 of the plan estimate a 32% increase in population from 2016 to 2025. Considering the proposed increase in allowable residential density, it is reasonable to assume the number of households will also increase in a similar fashion, and that actual population growth may exceed the stated projections. Orange and Rockland Utilities has recently needed to upgrade and expand their substation on South Mountain Road. A tripling in populations will impact the demand for both gas and electricity. The proposed zoning amendments and a build-out analysis must be forwarded to Orange and Rockland Utilities for their review to ensure adequate supply will be available to serve the growing populations. Any concerns or comments must be considered.
- 12 Goal 3 of the Housing section indicates that new housing is expected to be single family, two family, three family and multifamily. This statement does not articulate any particular goal. In addition, the proposed zoning amendments strongly encourages the development of multifamily housing, not single family structures. This goal must be removed from this section, or a definitive statement as to the desired types and percentage of each unit must be provided.
- 13 The Recreation section must include the goal of encouraging recreational space requirements for all multifamily developments, so that there are adequate and safe designated locations for the Village's children.
- 14 The Transportation section should specify that access to the County bus system is gained only from stops along Route 45, along the municipal boundary. A review must be made by the Rockland County Department of Transportation to ensure that service can adequately accommodate the projected population increase.
- 15 Section 7.4 of the proposed zoning code lists requirements for drawings submitted as part of a site plan application. These requirements must include a north arrow, scale, vicinity map, bulk table, and floor area ratio calculations.

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- 16 Section 7.5 of the proposed zoning regulations requires that site plan applications be reviewed in accordance with the New York State Environmental Quality Review Act (SEQRA). SEQRA regulations apply to all discretionary decisions, not just site plan applications. The proposed zoning amendments must clarify that SEQRA is applicable to all discretionary actions by any land use board.
- 17 Article XI of the proposed zoning regulations must clarify that all discretionary decisions by the Zoning Board of Appeals are also subject to SEQRA regulations.
- 18 The Subdivision Regulations in the amended zoning text must include a requirement for deeds to be filed with the County Clerk's office so that they are recorded properly.
- 19 Landscaped buffers must be required along municipal boundaries for all development since the proposed residential density significantly greater than the existing adjacent municipal uses.
- 20 The Village must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of September 23, 2019.
- 21 As previously mentioned, the proposed zoning amendments will have the general effect of increasing residential density throughout the Village. The adjacent municipalities of the Town of Ramapo, the Town of Clarkstown, and the Village of New Hempstead must be given the opportunity to review the proposed amendments and their comments considered.
- 22 A review of the proposed zoning amendments shall be completed by the New York State Department of Transportation and their comments considered.
- 23 A review of the proposed zoning amendments must be completed by the Palisades Interstate Park Commission and their comments considered.
- 24 The proposed zoning amendments must be reviewed by the Hillcrest Fire Department to ensure that any issues that could arise with the increase in residential density, such as the spacing of buildings and adequacy of water pressure, are properly addressed prior to the need.
- 25 A review must be made by the Rockland County Department of Highways since the projected population increase will increase congestion along New Hempstead Road, a County highway, and their comments considered.
- 26 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.
- 27 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 Israel Spitzer, New Square
New York State Department of Transportation

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Palisades Interstate Park Commission
Rockland County Sewer District #1
Rockland County Department of Health
Orange and Rockland Utilities
SUEZ
Hillcrest Fire District
Rockland County Department of Public Transportation
Rockland County Department of Highways

Tim Miller Associates, Inc.
Village of New Hempstead Planning Board
Town of Ramapo Planning Board
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.

