COUNTY OF ROCKLAND

DEPARTMENT OF PLANNING

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County Executive

THOMAS B. VANDERBEEK, P.E.
Commissioner

ARLENE R. MILLER
Deputy Commissioner

June 7, 2013

Ramapo Planning Board
237 Route 59
Suffern, NY 10901

Tax Data: 49.12-2-52.1

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 N

Map Date: 3/28/2013 **Date Review Received:** 5/13/2013

Item: ***VIOLA ESTATES (R-1682F)***

Two-lot subdivision of 11 acres in an R-25 zoning district. An existing synagogue and religious school will remain on one 5.5-acre parcel. The applicant is seeking a zone change from R-25 to MR-8 for the remaining 5.5 acres in order to construct a 44-unit, multi-family development.
South side of Viola Road, 955 feet east of Route 306

Reason for Referral:

Viola Road (CR 74), Village of New Hempstead

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

On April 10, 2013, this Department issued a GML review recommending disapproval of the proposed zone change for the western 5.5 acres from R-25 to MR-8. We noted that with regard to residential development, the Town of Ramapo's Comprehensive Plan recommended an overall pattern of density that generally mirrored the existing pattern with the highest densities located in and recommended to remain in Monsey, and decreasing densities in roughly concentric circles around this area. The Low Density Residential land use category was to encompass the large-lot single-family residential areas located within the R-25, R-35, R-40A and R-40 Residential Districts in portions of Monsey, Viola and the northeast portion of the Town. These areas were to retain their existing zoning designation with a permitted density between one and two units per acre. Houses of worship were and continue to be permitted by right in these zones; schools are allowed by special permit.

The subject site is located within an R-25 zoning district in the Viola portion of the Town. The maximum permitted residential density is 1.74 units per acre. While the zoning petition submitted for this property analyzes the permitted densities in the adjacent zoning district, it does not acknowledge the maximum density allowed in the R-25 zone or the fact that the density permitted

in the MR-8 district is almost five times greater. The surrounding neighborhood to the east, south and southwest of the site is also zoned R-25 and is characterized by single-family residences on lots ranging from just over half an acre to just under three-quarters of an acre. An MR-8 zoning designation to permit multi-family housing immediately adjacent to this low density residential district is inappropriate despite the argument put forth in the zone change petition. Holland House is 365 feet east of the site and on the opposite side of Viola Road. Surrounding Holland House is the Village of New Hempsteads's 2R-15 zoning district. As noted in the zone change petition, one- and two-family residences are permitted in this zone. The dormitory buildings proposed on the adjacent Ohr Samayach site are accessory to the the primary use, a school of religious instruction. Dormitory housing is unlike other residential uses by virtue of the transient nature of the tenancy, and is therefore an invalid comparison. The proposed Avon Gardens project is located 2,300 feet or nearly half a mile west of the subject site. Spring Valley's R-1 zone, a single-family residence district, is located between the Ramapo's R-25 zone and Avon Gardens resulting in a transitional increase in residential density.

The applicant is not proposing a transitional increase in density. In fact, a non-conforming, multi-family housing development with the maximum permitted residential density is proposed. Several yard and seback variances are required. The minimum separation distance between buildings is not achieved giving rise to firematic safety concerns. Traffic impacts are also not addressed. This is one of several issues raised in the Rockland County Highway Department's letter of March 18, 2013.

As noted above, the permitted density in the MR-8 zone is 4.6 times greater than the R-25 maximum of 1.74 units per acre. Given that the R-25 lots to the east, south and southwest are conforming in terms of lot area, a nearly fivefold increase in residential density will be greatly inconsistent with the community character of the surrounding single-family neighborhood in the Town of Ramapo. In addition, the residential uses permitted by right in the adjacent municipalities are single-family dwellings in Spring Valley, and one- and two-family residences in New Hempstead. Given all these considerations, the zone change must not be granted.

This department cannot approve or recommend modifications for the two-lot subdivision since the zone change petition is still pending. We recommend disapproval of the two-lot subdivision as currently conceived for the reasons stated above. The minimum lot area requirement in the R-25 zoning district is 25,000 SF. A nine-lot subdivision is achievable on this 238,558 SF parcel. The 44 multi-family units proposed represent an almost fivefold increase in the number of units permitted under the current R-25 zoning. A 389 percent increase over the maximum residential density permitted in the R-25 zoning district is not compatible with the surrounding residential development.

Thomas B. Vanderbeek, P.E.
Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo
Rockland County Department of Highways
Rockland County Drainage Agency
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Office of Fire and Emergency Services
Leonard Jackson Associates
Village of New Hempstead

VIOLA ESTATES (R-1682F)

Ira M. Emanuel, P.C.
New York Department of State,
Division of Code Enforcement and Administration
Ephraim Grossman

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.