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August 14, 2018

Ramapo Town Board  
 237 Route 59  
 Suffern, NY 10901

<b>Tax Data:</b>	50.19-1-70	50.19-1-52	50.19-1-60
	50.19-1-55	50.19-1-68	50.19-1-69
	50.19-1-45	50.19-1-59	50.19-1-71
	50.19-1-51	50.19-1-67	50.19-1-66
	50.19-1-65	50.19-1-64	50.19-1-63
	50.19-1-62	50.19-1-61	50.19-1-72
	50.19-1-49	50.19-1-48	50.19-1-58
	50.19-1-57	50.19-1-56	50.19-1-47
	50.19-1-46	50.19-1-44	50.19-1-50
	50.19-1-53	57.07-1-19	57.07-1-10
	57.07-1-8.1	57.07-1-2	57.07-1-8
	57.07-1-7	57.07-1-5	57.07-1-4
	57.07-1-3	57.07-1-9	

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

**Map Date:**

**Date Review Received:** 7/12/2018

**Item:** *COMPREHENSIVE PLAN AND ZONING MAP AMENDMENT/PASCACK RIDGE (R-2040E)*

Comprehensive Plan and Zoning Map Amendment to change the zoning designation of 27.6 acres from R-15 to MR-12 to permit denser residential development.  
 Southwest corner of Ewing Avenue and North Pascack Road

**Reason for Referral:**

Pascack Brook, Town of Clarkstown, Village of Spring Valley

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***

## **COMPREHENSIVE PLAN AND ZONING MAP AMENDMENT/PASCACK RIDGE (R-2040E)**

The proposed amendments to the Town of Ramapo's Comprehensive Plan and Zoning Map are subject to a General Municipal Law (GML) review by this department because the Pascack Brook, a county stream, flows through the subject site, and the Town of Clarkstown and the Village of Spring Valley are immediately adjacent municipalities. This proposal was first referred for a GML review in 2014. At that time, we recommended disapproval of the amendments to the Comprehensive Plan and Zoning Map. The current Comprehensive Plan Amendment was included as an appendix to a Draft Environmental Impact Statement (DEIS) for the proposed action. While this department will issue separate comments on the DEIS within ten days of the August 15, 2018 Public Hearing, we did consider the information presented in the document in preparing our GML review. The Amendment asserts that "implementing a multifamily residential development designation for the Pascack Ridge area will advance the goals and objectives of the 2004 Town of Ramapo Comprehensive Plan." We disagree.

Addressing the Town's housing needs and providing for a diversity of housing opportunities for the Town's growing and changing population was a stated goal in the Housing Chapter of the 2004 Plan. The creation of multifamily housing districts was a planning recommendation and implementation strategy. In furtherance of that recommendation, design and site layout considerations were outlined, and very specific criteria were established for placement within a multi-family district. Despite the assertion in the Amendment that the Pascack Ridge area is substantially consistent with these criteria, it is not. Eight criteria were identified in the Town's 2004 Comprehensive Plan to determine placement of a multifamily district. The proposed site meets only two of the eight criteria for a such placement.

1 The site does not have access to, nor frontage on, a roadway that can accommodate the anticipated traffic, one of the criteria for placement of a multifamily development. The assemblage is not located on a State or County highway, but rather is served by local streets that meander through the neighborhoods.

2 Another criterion is that the site must have convenient access to opportunities for mass transit. There is no bus service along Pascack Road. Several bus routes run along Route 45 and Eckerson Road, but these roadways are quite a distance from the site. Pedestrian access is currently difficult, as an established sidewalk network does not exist.

3 Though within walking distance, no sidewalks connect to Route 45, the closest location for community shopping and transit options from all streets. A resident living in portions of the proposed site would have to walk over a half mile to reach NYS Route 45, the distance determined to be the farthest people are willing to walk for transit services or shopping uses. These limitations further indicate that the site does not meet most of the criteria established for multifamily development, as identified in the Town's 2004 Comprehensive Plan.

4 Another criterion is for the site to be in an area that contains existing high density residential or commercial development. While higher density residential development is located on smaller, scattered sites to the west of Pascack Ridge in the adjacent Village of Spring Valley, it is not the predominant housing type surrounding the site. The residential neighborhoods to the north, east and south are characterized by one- and two-family dwellings. The nearest multifamily development in Clarkstown, with access to Pascack Road, is one mile south of the site. This 25-unit condominium complex is located on more than five acres; the residential density is less than five units per acre. Clarkstown's denser residential districts are further to the east with direct access to New Clarkstown Road, a County road.

## **COMPREHENSIVE PLAN AND ZONING MAP AMENDMENT/PASCACK RIDGE (R-2040E)**

5 Pascack Ridge is encumbered by several environmental constraints, including steep slopes, wetlands, floodplains and a County stream. The 2004 Plan criteria for placement of a multifamily development specifically stated that the site should be unencumbered by environmental resources, and that such factors would suggest that the property is not suitable for the intensity of development proposed. In addition, the Amendment and the DEIS do not include a net lot area calculation deducting the appropriate land area for these environmental constraints, as required in Section 376-42 of the Zoning Law. This information would quantify the extent of these constraints using the established formula, and provide a more realistic density than what is proposed. The maximum number of residential units permitted may be less than 290 given the numerous environmental features to be protected. The Special Bulk Requirements section of the Zoning Law is especially relevant to this proposal and must be considered. This issue is also raised in the Town of Ramapo's Department of Public Works April 18, 2018 memo to the Town Board.

6 Specific areas were identified in the 2004 Town Comprehensive Plan for placement of a multifamily district. We do not agree that the site is located within an area of the Town with a need for such housing, based on this listing, nor is it identified on the map contained in this section of the comprehensive plan. This department recognizes that single-family residences will not fulfill the housing needs of all of Ramapo's residents. However, dense residential development is not appropriate in many existing neighborhoods within the Town. We would argue that is the case with this site. Since most of the siting criteria are not met for Pascack Ridge, the comprehensive plan and zoning map amendments to allow a multifamily district seem inappropriate.

7 The Future Land Use Chapter of the 2004 Plan specifically recommended that the R-15 zoning designation be retained in Hillcrest. This medium density residential zoning was considered appropriate given the surrounding land use patterns within unincorporated Ramapo and the adjacent Town of Clarkstown. The R-15 District allows a density of three to four dwelling units per acre, and is characterized by a mixture of one- and two-family homes. The 2004 Plan noted that "these areas generally represent a transition from the more intensive areas of Monsey and the Village of Spring Valley and the lower-density suburban areas to the west and north of them."

8 The Amendment implies that the proposed Pascack Ridge project is consistent with zoning and development patterns in the adjacent Village of Spring Valley and Town of Clarkstown. As noted above, there are several multifamily housing developments in Spring Valley to the west, northwest and southwest of the site. A variety of other residential uses also exist in this section of Spring Valley, including one-, two- and three-family dwellings. The adjacent neighborhood to the south in Clarkstown is zoned R-15; the predominant land use is semi-attached, single-family residences. The Town of Clarkstown is opposed to this zone change proposal. Their Town Planner and Deputy Director of Environmental Control raise numerous concerns about the proposed development and the contents of the DEIS in separate memos dated July 6, 2018. The Town Planning Board unanimously adopted these two memoranda by resolution on July 11, 2018.

9 The DEIS does not contain any references to the 2011 Rockland County Comprehensive Plan. This Plan was adopted by the County Legislature, and serves as the County's land use planning guide. Ramapo's rapid pace of development was recognized in the Land Use and Zoning chapter of "Rockland Tomorrow," as were the environmental constraints throughout the Town. The 2011 Plan noted that "Ramapo's future land use plan suggests an overall growth pattern of the highest density located in Monsey (around Route 59)." Infrastructure capacity issues were also discussed. The County Plan recommended that growth be concentrated in existing centers, and that the existing character and quality of life be preserved. The Housing Chapter of "Rockland Tomorrow" recommends that municipalities must protect against out-of-scale development patterns. Neighborhood character issues are noted. The 2011 Plan recognizes that zoning and other land use regulations are the purview of the towns and villages, and the County cannot dictate changes to these regulations. However, it is stated that "the County should encourage its municipalities to address out-of-scale residential development through appropriate bulk regulations and by encouraging higher density development in areas served by adequate public transit modes." The County Plan recommends that the existing residential fabric not be disturbed. We believe the amendments to the 2004 Comprehensive Plan and the Zoning Map will unravel the single-family fabric in the existing residential neighborhoods to the north, east and south.

## **COMPREHENSIVE PLAN AND ZONING MAP AMENDMENT/PASCACK RIDGE (R-2040E)**

10 The Comprehensive Plan Amendment asserts that the current land use arrangement on the Pascack Ridge site does not conform to the existing zone plan for the area. It attributes this to nonconforming uses and substandard lots, and states that this results in a nonconforming area of the community with development densities exceeding those envisioned in the Town's R-15 Zone and the Land Use Plan designation. This is an overstatement as most of the Pascack Ridge site is vacant land. A multifamily apartment is located on one parcel; this is the only nonconforming use. Eleven of the fourteen developed parcels are undersized. The developed area is just over seven acres so close to 20 acres are vacant land. A multifamily development of 290 units will be a stark contrast to existing conditions on the site, and in the surrounding community.

11 While this department recognizes that denser residential development is preferred by the property owners, we do not believe a four-fold increase in the permitted residential density is appropriate for this 27.6-acre assemblage. The surrounding neighborhoods are characterized by a variety of housing types ranging from single-family homes in Hillcrest and Clarkstown, to one-, two- and three-family structures and multi-family housing in the Village of Spring Valley. The scattered multifamily sites in Spring Valley have densities between 10 and 36 units per acre. These sites range in size from 0.9 acres to 5.0 acres, and are significantly smaller than the subject site. There are also townhomes and condominiums in Ramapo and Clarkstown within 500 feet of the site with densities between three and five units per acre. As noted in the DEIS, the average density of the Clarkstown multifamily developments is eight units per acre. However, these multifamily developments front on a County road that feed directly into Route 59. The traffic generated by these condominium complexes is predominantly absorbed by a road system designed to accommodate greater traffic volumes. The same cannot be said of the roads proposed to serve Pascack Ridge. These local streets are not designed to handle this additional traffic. The proposed zoning for Pascack Ridge allows up to 12 units per acre or a 33.3 percent higher density than the Clarkstown average. It is not a contextual change even when compared to multifamily housing in the adjacent town.

12 Many of the community benefits of a multifamily development outlined on page 5 of the document are code requirements, and could be achieved with a less dense proposal. The public benefits of multifamily use are listed on pages 16 and 17. The environmental benefits are listed first. The properties are constrained by both environmental features and utility easements, and as such, are subject to the requirements of Section 376-42, as well as United State Army Corps of Engineers (ACOE), New York State Department of Environmental Conservation and Rockland County regulations. The Pascack Brook runs through the east side of the property. The Rockland County Drainage Agency has jurisdiction over this County stream. Their letter of July 30, 2018 includes several conditions that must be satisfactorily addressed, including a review by ACOE.

13 There are steep slopes along the site's western boundary and the Pascack Brook. A 100-foot Orange and Rockland utility easement with towers and high-tension wires bisects the property. The Rockland County Sewer District No. 1 also has two ten-foot wide easements running through the site. In a letter dated July 11, 2018 in response to this proposal, the Sewer District states that these easements must be widened to 20 feet to maintain the sewers. No permanent structures can be built within the Sewer District easements. There are currently buildings proposed directly on top of the sewer mains, and too close to the existing sewer easement. In addition, there are several other conditions contained in this letter. The Sewer District letter also notes that two lots are designated as Environmentally Sensitive Areas (ESAs) by the United States Environmental Protection Agency (EPA). The applicant cannot connect any buildings on these lots to sanitary sewers without obtaining a waiver of the EPA's grant condition, which restricts sewer connections from ESA lots.

14 The Rockland County Health Department specifies its permit requirements in a letter dated July 6, 2018. They reiterate the Sewer District easement concerns and note the need for an ESA waiver.

## **COMPREHENSIVE PLAN AND ZONING MAP AMENDMENT/PASCACK RIDGE (R-2040E)**

15 While not specifically enumerated in the Amendment, a full build-out population projection of 1,062 persons is included throughout the DEIS. Several interested and involved agencies, including this department, consider this projection to be low. This issue is addressed in the Clarkstown Principal Planner's July 6, 2018 memo and the Rockland County Health Department's July 6, 2018 letter. The DEIS specifies that the proposed 290 units will contain a mix of two, three and six bedrooms; the total bedroom count is 1,136. Table 2 in the Amendment specifies this to be even higher, with a count of 1,150 bedrooms. It is unlikely that there will be fewer residents than bedrooms at full buildout. Spouses, as well as some siblings will likely share bedrooms, potentially increasing the resident population beyond 1,136. The underlying premise of the Amendment and the DEIS is the need for varied residential options to house Ramapo's growing population. So why are 74 bedrooms projected to be empty?

16 The Amendment does not indicate whether the proposed multifamily development will require variances. At a minimum, a parking variance will be necessary, as less than the required two parking spaces per unit are provided. Conformance with the MR-12 bulk standards must be addressed. No variances should be granted for new construction, especially one in which the density appears to be too high for the site, given the environmental and locational constraints.

17 Within Section VIII of the Amendment, it is stated that a benefit of multifamily use is to increase the groundwater capability of the site post development, compared to existing conditions. Since the site is mainly vacant at present, this seems unlikely. A 290-unit multifamily development will include far more impervious surface area than current conditions.

18 On page 17, the Amendment lists several community benefits that will be produced by a zone change from R-15 to MR-12. We submit that most of these benefits can be achieved under several other zoning designations, including R-15. In fact, the R-15 maximum development coverage standard is stricter than the MR-12 standard, resulting in less impervious area and more open space.

19 The conclusion section of the Amendment raises the issue of exclusionary zoning, and resultant zoning ordinance amendments to compel a community to meet its fair share of housing needs. The Town of Ramapo has 15 separate residential zoning districts. At least seven of these districts permit residential structures containing three or more units. Multifamily residential development is also allowed in the two mixed use districts. The Town of Ramapo's Zoning Law cannot be considered exclusionary given the range of housing options currently permitted.

20 The proposed amendments to the Comprehensive Plan and Zoning Map do not consider a more transitional zoning designation. Given the immediately proximate single-family neighborhoods to the north, east and south, as well as the residential density of the nearest multi-family developments in Ramapo and Clarkstown which ranges from three to five units per acre, an MR-12 zoning designation is inappropriate. We believe that a less dense zoning designation is more suitable for the environmentally-constrained Pascack Ridge site. An update of the 2004 Comprehensive Plan has been espoused as an imminent goal of the current Town Administration. Updating the Plan will allow the Town to consider whether to permit increased density on large assemblages bordering single-family neighborhoods, and to look at the housing needs of the Town of Ramapo as a whole. The multifamily zoning adopted to implement the goals and objectives of the 2004 Plan is not appropriate adjacent to R-15 zones, nor was it meant to be, given the criteria and the specific recommended places identified in the Plan. The land use analysis required as part of a comprehensive plan update will evaluate appropriate transitional densities that can provide additional housing opportunities, while still protecting established neighborhoods and the environment.

**COMPREHENSIVE PLAN AND ZONING MAP AMENDMENT/PASCACK RIDGE (R-2040E)**

21 The Town of Ramapo's 2004 Comprehensive Plan provides well-thought out goals and recommendations for addressing future housing needs. Criteria to identify important factors when siting a multifamily development are provided, as well as recommended areas for placement of a multifamily zoning district. The proposed amendments to the Plan and the Zoning Map undermine the major goals and recommendations of the Town by inappropriately locating multifamily housing, as evidenced with the fact that most of the criteria are not met. In addition, the immediate neighborhoods surrounding the subject site are generally single-family in nature, and the character of these residential communities will be greatly changed with the proposed amendments and development. For the multitude of reasons cited above, these amendments must not be adopted.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, Ramapo  
Rockland County Drainage Agency  
United States Army Corps of Engineers  
Rockland County Department of Health  
Rockland County Sewer District #1  
United States Environmental Protection Agency  
New York State Department of State  
Rockland County Office of Fire and Emergency Services  
Spring Valley Fire District  
Orange and Rockland Utilities  
SUEZ

Atzl, Nasher & Zigler P.C.  
Town of Clarkstown, Village of Spring Valley

Town of Ramapo

Mona Montal, Chief of Staff  
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.*