



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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October 24, 2018

Ramapo Town Board
237 Route 59
Suffern, NY 10901

Tax Data: 49.17-2-67

49.17-2-66

49.17-2-65

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

Map Date: 4/20/2018

Date Review Received: 9/21/2018

Item: *HIGHVIEW HILLS SPECIAL PERMIT AMENDMENT (R-1957E)*

Amendment of the special permit granted in 2008 which approved an Active Adult Housing Development consisting of 88 units (46 townhouses and a 42-unit condominium building) on 10.9 acres in an RSH zoning district. The applicant seeks to reduce the required number of garage and underground parking spaces, and to be allowed to apply for bulk variances for maximum number of bedrooms in a unit, minimum distance between detached buildings, and parking areas located closer than ten feet from any building.

North side of Highview Road, east side of Carlton Road

Reason for Referral:

Village of Montebello, Highview Road/North Airmont Road (CR 64), Spook Rock Road (CR 85)

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***

1 This department reviewed the zone change required to permit an active adult housing development on this property in January of 2008. The special permit application was reviewed in April of 2008. We recommended that each of these actions be denied because the proposed density and building type was not consistent with the community character of the surrounding low density, single-family neighborhoods. We considered the proposal to be deficient in meeting several of the special permit standards. While a site plan reviewed in April of 2009 included fewer units, the density reduction was minimal, and the scale and massing of the buildings was still a concern. The adjacent Village of Montebello has raised concerns about the proposed density, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The Tallman Fire District continues to recommend that the townhouses be sprinklered. As proposed, the active adult housing development will result in an overutilization of the site.

It has always been the position of this department, that development proposals on parcels approved for a rezoning must meet the applicable bulk requirements of the new zone. Special permit uses are subject to a

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higher standard of review. These standards cannot be relaxed as a project proceeds through the review process. The expectation of surrounding property owners, within unincorporated Ramapo and the adjacent municipality, that the special permit conditions will stand is not unreasonable. Community character and negative impacts on adjacent municipalities are valid considerations under the NYS General Municipal Law. The Town cannot change the rules in the midst of the review process. Resolution No. 2008-378 cannot be a moving target; the conditions adopted by the Town Board on May 28, 2008 must stand.

2 The proposed amendments to the special permit resolution reinforce the validity of the concerns noted above. The project attorney specifies that 88 parking spaces, or half of the required resident parking spots, are provided in garage or underground spaces. This is incorrect. The April 20, 2018 Layout Plan submitted with this GML referral indicates that 27 parking spaces are proposed beneath the condominium building and each of the 46 townhouses will have one garage space for a total of 73 spaces. This amounts to less than 37 percent of the onsite parking shown on the Layout Plan. It does not even meet the minimum standard of 40 percent proposed in the amendment. Our only comment on an amendment that fails to meet its own minimum standard is to recommend that it be denied.

3 The special permit requirement that "substantially all" of the resident parking be located underground or in garages was to reduce the visual impact of the active adult housing development on the surrounding low-density area. The zone change and special permit were granted on the premise of meeting this condition. Previous versions of this project provided that 55 percent of the proposed parking spaces would be underground or in garages. In our view, "substantially all" is greater than 55 percent. We believe capping this requirement at only 55 percent was more than generous.

So while it is questionable whether 55 percent can be considered "substantially all," the proposed 40 percent cannot. The applicant is seeking to reduce the adopted condition of "substantially all" to less than half of the resident parking, and fails to even meet this more lenient standard. The Town Board must not relax this special permit condition so that additional or larger units can be provided.

4 The requested changes that will permit the applicant to seek bulk variances must be denied, as they will allow for larger units with insufficient parking. The townhouses are too close at only ten feet apart, raising serious concerns about fire safety. The 20 parking spaces proposed in the central space of the condominium building are not in their final configuration, as noted in the project engineer's February 5, 2018 narrative summary; "Final architectural plans are still being prepared." Since sidewalks and entrances are not shown, it is possible that there will not be sufficient area for two rows of parking spaces.

5 This active adult housing development is meant to serve empty nesters looking to downsize from their current housing situation. Typically, active adult housing is designed as a community to facilitate interaction between the residents. The changes proposed to the Highview Hills special permit do not encourage downsizing in terms of household size or possessions. The likelihood of additional rooms being used as bedroom space rather than storage space is great. The size of the units must be restricted to a typical two-bedroom or smaller. Extra rooms shall not be permitted.

6 The number of townhouse units must be reduced so that the minimum distance of 30 feet between buildings can be achieved, as required in Section 376-163.F. The applicant is not willing to sprinkler these units to address the concerns of the Tallman Fire District. Permitting a 20-foot or 67 percent reduction in the separation space is negligent and will put both residents and firefighters at risk. We caution the Town against waiving this requirement. Granting a variance for building separation only serves to improve the applicant's bottom line while increasing the possibility of lost lives due to the spread of fire from one townhouse to another.

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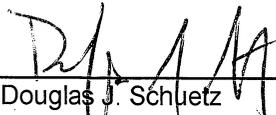
7 The minimum onsite parking requirement is not achieved for the condominium units. Only 60 of the required 84 parking spaces are provided. This amounts to 71 percent. Given that final architectural plans are still being prepared, it is possible that additional parking spaces may be lost. This is unacceptable, as there is no available area to relocate parking spaces. Curbside parking must not be permitted. The interior road is too narrow so emergency access will be compromised if vehicles are parked in the street. The number of condominium units must be reduced.

8 The current configuration of the 20 parking spaces immediately adjacent to the condominium building is unsafe. There is approximately five feet between the parking spaces and the building. This is insufficient for pedestrian access, and an inadequate separation space between vehicles and the building. Sidewalks and building entrances are not shown in the parking area because there is no available area for them. A very shallow turnaround area is proposed. This constrained layout is a clear indication that too many condominium units are proposed. The building footprint and number of units must be reduced so that the parking standard can be safely achieved.

9 A Short Environmental Assessment Form (SEAF) was included in the GML referral materials. While the Highview Hills proposal is technically an unlisted action under SEQRA, a Full Environmental Assessment Form may be more appropriate given the size of the property, the number of units and the residential density proposed. There are several deficiencies in the SEAF. The description of the proposed action does not include the bedroom count/storage space issue. Since the size of the units and potential occupancy is a concern, this is a significant omission. Question 6 is answered affirmatively. This department, the neighboring property owners and the adjacent Village of Montebello consider the proposed action to be inconsistent with the predominant character of the existing built or natural landscape. The answer must be changed to a "no." Question 8 is answered negatively; the applicant maintains that the proposed action will not result in a substantial increase in traffic above present levels. Without a current traffic study, it is not possible to reach such a conclusion. The project was first proposed in 2008. Any traffic data collected at that time is woefully out of date. Given the development trends of the last ten years, a new traffic analysis must be prepared.

10 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.

11 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: Supervisor Michael B. Specht, Ramapo
Rockland County Department of Highways
Rockland County Department of Health
Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
Tallman Fire District
Maser Consulting P.A.

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Village of Montebello
Terry Rice

Alan Berman, Deputy Town Attorney

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.