

**DEPARTMENT OF PLANNING**

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**Douglas J. Schuetz**  
*Acting Commissioner*

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

January 8, 2019

Ramapo Planning 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:** 11/30/2018

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

**Item:** *HIGHVIEW HILLS (R-1957F)*

Revised site plan application for an active adult housing development consisting of 46 townhouses and a 42-unit condominium building on 10.94 acres in an RSH zoning district.

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:

***\*Recommend the following modifications***

1 The Village of Montebello is one of the reasons this proposal was referred to this department for review. The municipal boundary is along Carlton Road directly adjacent to the site. 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 Montebello 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 Montebello must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

## **HIGHVIEW HILLS (R-1957F)**

2 An updated review of the November 30, 2018 site plan must be completed by the Rockland County Highway Department. In addition, the applicant must comply with the conditions of the Highway Department's April 4, 2018 letter.

3 An updated review of the November 30, 2018 site plan must be completed by the Rockland County Health Department. In addition, the applicant must comply with the conditions of the Health Department's April 3, 2018 and May 15, 2018 letters.

4 An updated review of the November 30, 2018 site plan must be completed by the Rockland County Sewer District #1. In addition, the applicant must comply with the conditions of the Rockland County Sewer District #1's August 2, 2018 letter.

5 The proposed residential buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

6 An updated review of the November 30, 2018 site plan must be completed by the Town of Ramapo Fire Inspector. In addition, the applicant must comply with the conditions of the Town of Ramapo Fire Inspector's December 12, 2017 and February 26, 2018 letters.

7 An updated review of the November 30, 2018 site plan should be completed by the Tallman Fire Department. In addition, the applicant must satisfactorily address the concerns raised in the Tallman Fire Department's April 3, 2018 letter.

8 On June 19, 2018, this department issued GML comments on a site plan with a revision date of April 20, 2018. The site plan submitted with this current GML referral was last revised on November 30, 2018. After discussions with the applicant's engineer, we were informed that the Layout Plan was further revised on December 31, 2018. A PDF of Revision 5 was emailed to our land use planning staff this afternoon (January 8, 2019) and only hours before the Planning Board meeting. The most notable change is the addition of a "breezeway" connection between the townhouse units. Seventeen of these breezeways will serve as additional covered parking spaces. Breezeways are usually used to connect buildings together, but are not used for parking spaces; these "breezeways" might be better classified as carports. Some of the driveways providing access to these additional parking spaces will also serve as parking spaces. However, it is unclear which of these driveways are proposed to be used for parking. All parking spaces must be clearly labeled on the site plan.

9 We consider the addition of the breezeways to be an attempt to circumvent the need for a building separation variance. While 17 of the proposed breezeways are to serve as additional parking, the connection between Units 22 and 23 serves no such purpose. The Town must consider whether these connections are warranted, as well as if they raise fire safety concerns.

10 The parking schedule indicates that 123 parking spaces are proposed for the 46 townhouses, and 75 spots are designated for the 42 condominium units. It is unclear why 31 additional parking spaces are provided for the townhouses, and less than the required number of spaces are proposed for the condominium units. This must be clarified. In addition, the location of the 13 parking spaces to the west of the condominium building is not ideal. They are not proximate for the condominium residents, particularly the handicapped space. The inability to provide the required on-site parking in a convenient location for residents of the condominium building is a clear indication that too many units are proposed. We continue to recommend that the total number of residential units be reduced.

## **HIGHVIEW HILLS (R-1957F)**

11 The addition of 17 breezeways and driveways will increase the impervious surface area, yet the proposed development coverage has only increased by one percent. A development coverage calculation must be provided that indicates the increased impervious surface area. If a variance is now necessary for development coverage, a review by this department will be required as mandated under the New York State General Municipal Law.

12 As noted above, the proposed breezeways actually serve as carports. Since the Town's Zoning Code does not define breezeways or specify their purpose, it is unclear if parking is an appropriate use. A breezeway definition must be added to the Zoning Code that clearly indicates allowed uses.

13 This department has reviewed multiple GML referrals for garage conversions to additional living space. We have repeatedly cautioned against eliminating required on-site parking. A deed restriction must be in place that prohibits enclosing and/or converting the breezeways for additional living space. A map note referencing the deed restriction must be added to the site plan.

14 While the PDF of the December 31, 2018 Layout Plan is not an acceptable substitute for a full-size drawing, it appears to show the parking configuration for the underground parking beneath the condominium building. Support columns are not illustrated; neither are staircases or an elevator making it difficult to determine how the senior citizen residents will access their condominium units from the parking garage. We note that catty corner spaces are proposed in the southeast corner of the underground parking area. These spaces are difficult to maneuver into or out of, and must be redesigned. A full-size drawing, that is not shaded, must be submitted that shows more detail for the underground parking so that the layout can be properly evaluated.

15 All proposed building features including exterior staircases, entrances and window wells must be delineated on the site plan demonstrating that they will not impact yard, setback or distance requirements. This is especially critical for the townhouse units which are already very deficient in meeting the minimum distance required between buildings.

16 As noted in the December 3, 2018 narrative summary, the site is within the Scenic Road District. The Town Planning Board must be satisfied that the proposal meets the requirements of Chapter 215. The Town's Department of Public Works and its planning consultant have both raised concerns about conformance with the Scenic Road District requirements in correspondence dated March 5, 2018 and March 6, 2018, respectively. These concerns must be satisfactorily addressed.

17 Wall heights are provided for the retaining walls proposed on the east side of the site and on the west side of the condominium building. The height of the landscape walls proposed on the north, west and south sides of the site must also be provided.

18 Retaining walls that are over four (4) feet in vertical height shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS Professional Engineer.

19 An almost 15-foot high retaining wall runs along the west side of the condominium building. A staircase and a sidewalk are proposed between the building and the retaining wall. The proximity of the residential structure and the wall will create a canyon effect. The building footprint must be reduced or the wall must be relocated further west to provide sufficient space between these features.

20 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. This will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by residents and their guests.

## HIGHVIEW HILLS (R-1957F)

21 It will be difficult for vehicles to maneuver out of the catty-corner spaces serving Townhouse 22 and 23 as there is not sufficient room. The building locations and parking spaces must be reconfigured so there is no overlap in turning area.

22 Traffic flow must be indicated in the parking lot at the center of the condominium building. A deeper turnaround area may be required at the southern end of this parking area.

23 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. The water system must be evaluated to determine if the additional water supply demands of the proposed development can be met. Domestic and fire demands of the project must be determined by a Licensed Professional Engineer and provided to the supplier of water for analysis. Demand calculations and results of the analysis must be provided to the Rockland County Department of Health for review.

24 For installation of a sanitary sewer system, engineering plans and specifications shall be reviewed and approved by the Rockland County Department of Health prior to construction.

25 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.

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

27 A stormwater pollution prevention plan (SWPPP) was not provided. The SWPPP, if required, shall conform to the current regulations, including the New York State Stormwater Management and Design Manual (January 2015) and local ordinances.

28 General Note 38 must be corrected to reference Sections 239 L and M of the General Municipal Law as Section 239 K no longer exists.

29 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of \$2,000 per day.

30 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.

31 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.

**HIGHVIEW HILLS (R-1957F)**

  
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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  
Tallman Fire District

Maser Consulting P.A.  
Village of Montebello

Highview Hills, LLC

Mona Montal, Chief of Staff

*\*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.*

