



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 30, 2019

Ramapo Town Board
237 Route 59
Suffern, NY 10901

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

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

Map Date: 7/9/2019

Date Review Received: 8/5/2019

Item: *PASCACK RIDGE COMPREHENSIVE PLAN AMENDMENTS (R-2040F)*

Comprehensive Plan Amendments to change the zoning designation of 27.6 acres from R-15 to MR-12 to permit denser residential development.

South west corner of Ewing Avenue and North Pascack Road

Reason for Referral:

Pascack Brook, Town of Clarkstown, Village of Spring Valley, Federal Wetlands

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*

PASCACK RIDGE COMPREHENSIVE PLAN AMENDMENTS (R-2040F)

The proposed amendment to the Town of Ramapo's Comprehensive Plan is 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. Federal wetlands and floodplains are also present on the property. This proposal was first referred for a GML review in October of 2014. At that time, we recommended disapproval of the amendments to the Comprehensive Plan and Zoning Map.

A second version of the Comprehensive Plan Amendment was included as an appendix to a Draft Environmental Impact Statement (DEIS) for the proposed action submitted to this department in July of 2018. The Amendment asserted that "implementing a multi-family residential development designation for the Pascack Ridge area will advance the goals and objectives of the 2004 Town of Ramapo Comprehensive Plan." We disagreed and recommended disapproval of the Comprehensive Plan Amendment for a second time on August 14, 2018, primarily because the property did not meet most of the established siting criteria for multi-family housing. 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 multi-family 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 earlier Comprehensive Plan Amendments that the Pascack Ridge area was substantially consistent with these criteria, it was not. Eight criteria were identified in the Town's 2004 Comprehensive Plan to determine placement of a multi-family district. The proposed site met only two of the eight criteria for such a placement.

Additionally, this department has issued comments on the DEIS, the FEIS and the Technical Addendum to the FEIS on August 27, 2018, May 20, 2019 and August 28, 2019, respectively. Our position has not waived. An MR-12 zoning designation is not an appropriate transitional zone for the Pascack Ridge site.

The current submission includes the proposed text and map amendments to the 2004 Comprehensive Plan. It consists of 11 pages of text and a map. The pertinent sections of the 2004 Comprehensive Plan are cut and pasted into a single document with the proposed additions, revisions and deletions shown in the text.

The following comments address our reasons for recommending disapproval of this action.

1 Paragraphs 3 and 4 of the Summary of Planning Issues in the Housing Section continue to rely on 2000 Census data for housing values, monthly rent and household income. It is unacceptable to use 20-year old data in a Comprehensive Plan Amendment when more recent Census data and American Community Survey information is readily available. Current information must be provided for housing values, monthly rent and household income.

2 The new text added to the end of Paragraph 5 of the Housing Section is very vague lacking the level of detail warranted in a Comprehensive Plan Amendment. The continued growth in the need for multi-family housing can be documented. This paragraph must address the population increase and how it relates to the need for multi-family housing. The last sentence concludes that "it does not appear that the development of such housing has kept pace with this growth." The number of multi-family units constructed since 2004 is readily available. The Town's Building Department issues building permits for new construction, as well as additions. The consultant must document the number of multi-family units that have been added to the Town's housing inventory since 2004. This figure must include new construction and conversions in the R-15C zoning district where residential structures containing six units are permitted.

PASCACK RIDGE COMPREHENSIVE PLAN AMENDMENTS (R-2040F)

3 The Housing Goals and Objectives are listed on Page 2 and 3 of the amendment document. The first objective has been amended to add the word "relative" before "... proximity to community shopping, community facilities, and public transportation, ..." In our opinion, "relative proximity" is a very subjective standard. Modifying the goal language to diminish the applicable considerations is imprudent, as it will undermine the required siting criteria. This department has consistently argued that the Pascack Ridge site is not proximate to community shopping, community facilities, or public transportation, making it an inappropriate site for dense residential development.

4 The Housing Planning Recommendations and Implementation Strategies on Page 3 include the creation of multi-family housing districts. The amendment proposes to change the siting "criteria" to "considerations." Properties need only "possess most if not all" of the modified considerations. It is further stated that the requisite siting characteristics "should be balanced with relevant social, economic and environmental considerations and other needs of the Town." No recommendations are offered for undertaking this balancing test. Five of the original eight criteria have been weakened so that the subject site is generally compliant.

We strongly object to this dilution of the siting criteria put forth in the 2004 Comprehensive Plan for the following reasons. The site does not have access to, nor frontage on, a roadway or roadway system that can accommodate the anticipated traffic. The assemblage is not located on a State or County highway, but rather is served by local streets that meander through the neighborhoods. Multi-family sites must have convenient access to opportunities for mass transit. There is no bus service along Pascack Road. Several bus routes run along NYS 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. Though within walking distance, no sidewalks connect to NYS 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. Single-family residential neighborhoods are located immediately north, east and west of the Pascack Ridge site. The scattered, denser residential developments in Spring Valley are up hill of the site, and separated from it by steep slopes. Therefore, this site is not located within, or within proximity to, an area that contains high density residential or commercial development. The proposed revisions to the siting considerations related to environmental resources are most troubling. The 2004 Comprehensive Plan recognized that the environmental features on this site were worthy of protection by designating more than 3.5 acres in the northeast corner as open space. The original criteria specifically excluded sites with steep slopes, wetlands, streams and floodplains noting that they were not suitable for multi-family housing developments. This complete turnaround to permit a developer-driven zone change and development proposal must not be allowed. The very reasonable and well-considered siting criteria shall be retained.

5 The new paragraph at the top of Page 4 does not include any measurable considerations and must be revised to include more specific siting criteria.

6 The revisions to the first part of Section 1.c. are confusing. The components of the "balancing analysis" must be specified, and the process clearly explained, as it is repeatedly referenced throughout the amendment document. The siting criteria in the 2004 Comprehensive Plan was straightforward leaving no room for misinterpretation. The proposed changes are subjective and will likely have unintended consequences. Certain properties do not lend themselves to denser residential development due to site specific issues, as well as infrastructure and community character considerations. Pascack Ridge is a particularly inappropriate site for the density proposed. Diluting the siting criteria for multi-family housing developments to allow this developer-driven proposal to move forward will set a land use precedent in which other property owners seek the same relief for other unsuitable sites.

PASCACK RIDGE COMPREHENSIVE PLAN AMENDMENTS (R-2040F)

7 The 2004 Comprehensive Plan recommended specific areas for placement in one of the three multi-family zoning districts proposed at that time. These sites are listed on Page 4. The number of residential units constructed, or being constructed, must be provided for each of the sites with a multi-family zoning designation. This information is pertinent to the evaluation of the need for additional multi-family units, and must be considered in the analysis.

8 It is stated on Page 5, that "the need for multi-family housing remains unfulfilled in 2019." Evidence must be providing supporting this statement, as it is too general in nature and does not make a compelling case for the Comprehensive Plan Amendment.

9 The creation of different multi-family districts and considerations for placement within a particular multi-family district are discussed on Page 6. The 2004 Comprehensive Plan recommended three different multi-family zoning districts with densities of 8, 12 or 16 units per acre. The lower end of the density range was recommended for properties that abut existing single-family residential neighborhoods. The nature of the site, with slopes specifically called out, was also to be considered in the determination of the appropriate multi-family district. These considerations for the lower density, multi-family development have not been amended.

It is unclear why the MR-8 zoning designation was never seriously considered by the Town. If denser residential development is desired beyond the Monsey area, it must be transitional in nature. The proposed four-fold increase in residential density is a glaring departure from the single-family neighborhoods to the north and east that are characterized by less than three units per acre. It is almost twice as dense as the Clarkstown community to the south which has less than seven units per acre. While MR-8 might be the least dense multi-family zoning designation for Pascack Ridge at this time, the Town must consider a truly transitional density of no more than six units per acre. Given the current "Envision Ramapo" efforts to provide direction for future development of the municipality through action-oriented and focused goals and strategies, a strategic development plan for a larger area is more appropriate than a developer-driven zone change of 27.6 acres.

10 The amendments to the Future Land Use section begin on Page 8. It is noted that the appropriate residential density results from the examination of many factors. The 2004 Comprehensive Plan included a factor that stated "the form and intensity of residential development in relation to the nature of surrounding neighborhood." In our opinion, the proposed residential density is not compatible with the nature of the surrounding neighborhood. Our reasons are stated above and in previous reviews. As part of the Comprehensive Plan Amendment, the following language has been added to this factor: "and the ability of the site to mitigate potential impacts by a project design that incorporates landscaping and other mitigation measures to avoid or minimize such impacts." The current Pascack Ridge design does not adequately mitigate the impacts to the surrounding neighborhood. Many of the applicable land use regulations and some MR-12 bulk requirements are not achieved in the concept plan. This is yet another indication that the proposed zone change is not suitable for this site and must not be granted.

11 The second factor on Page 8 addresses infrastructure capacity and the minimization of impacts to natural resources. The addition of the words "of impacts" makes for a better sentence rather than a substantive change. With regard to the capacity to accommodate additional residential development in terms of the surrounding road system and opportunities for the use of public transportation, we note that the Pascack Ridge site is bounded by local roads and at a substantial distance from a State or County road. There are no opportunities for public transportation in close proximity to the site. The Pascack Ridge site is deficient when examining this factor, and therefore the density proposed is inappropriate and must not be permitted.

PASCACK RIDGE COMPREHENSIVE PLAN AMENDMENTS (R-2040F)

12 The multi-family residential land use category is discussed further on Page 9. The second paragraph on this page, notes that many of the areas rezoned as multi-family districts following the adoption of the 2004 Comprehensive Plan have been or are being developed or redeveloped. It goes on to state that the need for multi-family housing remains unfulfilled. The total number of units constructed in these districts must be provided, as it is relevant to the discussion of need. Additionally, the consultant must explain how it was determined that the need for multi-family housing remains unfulfilled. Other areas proposed for multi-family districts are identified in this section. Blueberry Hill, Summit Avenue and Monsey Glen have all been rezoned. A multi-family development proposal has been submitted for both Blueberry Hill and Summit Ave. The proposed unit counts must be included in this discussion. Monsey Glen is built and occupied. The total number of units must be provided in the amendment.

The Pascack Ridge Area is an addition to this section of the Comprehensive Plan. The Pascack Ridge paragraph claims that there are existing areas of high density in relatively close proximity to the subject area. It notes that the Town has considered other zone change petitions but has initiated a rezoning of the property on its own. The intent is to allow multi-family development, including a review of a conceptual plan submitted in support of the rezoning petition. It further states that an environmental review of the proposed rezoning indicates that the carrying capacity of the subject land and surrounding area appears adequate to accommodate additional multi-family residential development. We continue to dispute these assertions. The Comprehensive Plan Amendment has weakened the siting criteria for multi-family housing in an attempt to make this site compliant. We believe it has failed to accomplish that goal. This is a developer-driven proposal that is focused on constructing the maximum number of units rather than adequate carrying capacity or compatibility with the existing community character. Noting that a detailed site plan will be required for future projects, and that such projects will be subject to the site plan review process, offers no assurances if the permitted density is too high. The Town must not permit 12 units per acre as this is too dense for this environmentally constrained site surrounded on three sides by single-family neighborhoods. An MR-8 zoning designation is more appropriate. Alternatively, the Town must consider the creation of a truly transitional multi-family zone with a maximum residential density of six units per acre.

13 The "balancing analysis" is referenced on Page 10. As noted above, no specific criteria is outlined for this analysis. "Relevant social, economic and environmental considerations, and other needs of the Town" is too subjective and very vague. Meaningful standards must be established for the balancing analysis.

14 Exhibit A is entitled "Proposed Comprehensive Plan Amendments Associated with Pascack Ridge Petition." Interestingly, an actual multi-family zoning designation is not specified for the proposed 3.6-acre open space area or the remaining 24 acres comprised of R-15 lots. As we have stated throughout this review, if the Town has determined that multi-family development is appropriate and desirable in this area, a transitional zoning designation must be applied that respects the site's environmental constraints, as well as the infrastructure capacity, accessibility and community character of the surrounding area. An MR-12 zoning designation does not meet those very basic standards and must not be permitted.

15 A review of the Comprehensive Plan Amendment must be completed by the Rockland County Drainage Agency and any concerns addressed.

16 Due to the presence of federal wetlands on the site, a review of the Comprehensive Plan Amendment shall be completed by United States Army Corps of Engineers and any concerns addressed.

PASCACK RIDGE COMPREHENSIVE PLAN AMENDMENTS (R-2040F)

17 The Town of Clarkstown and the Village of Spring Valley are two of the reasons this proposal was referred to this department for review. The Clarkstown municipal boundary is along the southern lots lines of the assemblage; the Spring Valley municipal boundary is along the western lot lines of the Pascack Ridge 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 Town of Clarkstown is opposed to the downzoning of the 27.6-acre assemblage, as well as the connection to Spring Brook Road. They have repeatedly expressed their concerns about the proposal in writing to the Town of Ramapo. The Town Supervisor and Town Board members have attended public hearings to present their views to the Ramapo Town Board. These concerns must be adequately addressed.

The Village of Spring Valley 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 Spring Valley must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

18 A sanitary sewer capacity analysis must be submitted to the Rockland County Health Department, as requested in their letter of August 27, 2019.

19 A review of the Comprehensive Plan Amendment must be completed by the Rockland County Sewer District #1 and any concerns addressed. The aforementioned sanitary sewer capacity analysis has also been requested by the Sewer District, and must be submitted for their review.

20 A review of the Comprehensive Plan Amendment shall be completed by the Rockland County Office of Fire and Emergency Services or the Spring Valley Fire District to ensure that emergency access and sufficient water pressure for fire-fighting purposes has been adequately addressed.

21 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.

22 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 Drainage Agency

PASCACK RIDGE COMPREHENSIVE PLAN AMENDMENTS (R-2040F)

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 Environmental Conservation
Federal Emergency Management Agency
New York State Department of State
Rockland County Office of Fire and Emergency Services
Spring Valley Fire District
Orange and Rockland Utilities
SUEZ

Town of Clarkstown, Village of Spring Valley
Frederick P. Clark Associates

Dennis Lynch, Assistant 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.