



# 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

<b>Tax Data:</b> 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:** 7/1/2019

**Date Review Received:** 8/5/2019

**Item:** *PASCACK RIDGE ZONING LAW AMENDMENT (R-2040G)*

Proposed Local Law amending the Zoning Map of the Town of Ramapo to rezone certain parcels of land totaling 27.6 acres from the R-15 zoning classification to the MR-12 zoning classification.

Southwest 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 ZONING LAW AMENDMENT (R-2040G)**

The proposed Local Law to amend the Town of Ramapo's Zoning Map to permit the zoning designation of the Pascack Ridge property to be changed from R-15 to MR-12 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 August 30, 2019 GML review of the current version of the Comprehensive Plan Amendments accompanies this review. It offers a detailed evaluation of the amendments, and our reasons for recommending disapproval of the action. Our position has not wavered over the past five years. An MR-12 zoning designation is not an appropriate transitional zone for the Pascack Ridge site. The GML review of the Comprehensive Plan Amendments (R-2040F) serves as the basis for disapproving the proposed amendment of the Zoning Map, and shall be considered part of our review of the current action.

The current submission includes the Local Law, a list of the parcels to be rezoned and a proposed Zoning Map. The following comments address our reasons for recommending disapproval of proposed amendments to the Zoning Map.

1 The Legislative Intent section of the Local Law states that this action is based, in part, upon the petitioning of the owners of certain property. We submit that a developer-driven zone change petition is not in the best interests of the surrounding community. This department has consistently argued that the MR-12 zoning designation is inappropriate for this environmentally constrained site surrounded on three sides by single-family neighborhoods. This is perhaps most strikingly conveyed in Exhibit A, the proposed zoning map. The Pascack Ridge assemblage is centered on the map, and ALL of the surrounding area is labeled as R-15. If the Town is in favor of allowing multi-family housing beyond the Monsey area, a less dense zoning designation must be considered. Currently, the only lower density multi-family zone is the MR-8. The Town must evaluate whether this zoning designation is suitable. Alternatively, a new multi-family zoning designation can be created as part of the Envision Ramapo efforts. A transitional density of six units per acre is more appropriate for the property, and must be considered.

## **PASCACK RIDGE ZONING LAW AMENDMENT (R-2040G)**

2 The second part of the Legislative Intent notes that the Town Board considered the proposed rezoning action, including the petitions, proposed amendments to the 2004 Comprehensive Plan, a conceptual development plan and environmental review documents, and finds the proposed rezoning reasonable and appropriate to meet the current needs of the Town. We respectfully disagree. This department, the adjacent Town of Clarkstown, County agencies and concerned citizens have submitted written comments questioning the accuracy of data contained in the DEIS, FEIS and Technical Addendum to the FEIS, and noting that this property fails to comply with the siting criteria for multi-family housing contained in the 2004 Comprehensive Plan. The Town's response is to dilute this criteria so that the assemblage is more compliant. The Town Board clearly has not considered the very valid arguments against this rezoning. If it had undertaken a thorough evaluation of the responses to the DEIS and FEIS, a less dense zoning designation would be under consideration. The Town Board must consider the on-site environmental constraints, as well as the infrastructure capacity and community character of the surrounding community, and apply a transitional zoning designation that allows no more than six to eight units per acre, or leave the existing zoning intact and only permit single family residences.

3 The third part of the Legislative Intent references police powers. It states that "this Local Law is determined to be an exercise of the police powers of the Town to protect the public health, safety and welfare of its residents." Given the compelling evidence to the contrary, we must disagree. If the Town wishes to protect the public health, safety and welfare of its residents, the MR-12 zoning designation shall not be permitted. A less dense zoning designation of no more than six to eight units per acre shall be considered.

4 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.

5 Since the site contains the Pascack Brook, a County stream, a review of the proposed changes to the Zoning Map must be completed by the Rockland County Drainage Agency and any concerns addressed.

6 Due to the presence of federal wetlands on the site, a review of the proposed changes to the Zoning Map shall be completed by United States Army Corps of Engineers and any concerns addressed.

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

**PASCACK RIDGE ZONING LAW AMENDMENT (R-2040G)**

8 A review of the proposed changes to the Zoning Map 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.

9 The proposed downzoning of the 27.6 acres comprising Pascack Ridge will affect the provision of services and infrastructure capacity in the surrounding community. Therefore, a review of the suggested changes to the Zoning Map 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 are adequately addressed.

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 Drainage Agency  
United States Army Corps of Engineers  
Rockland County Department of Health  
Rockland County Sewer District #1  
United States Environmental Protection Agency  
Federal Emergency Management Agency  
New York State Department of Environmental Conservation  
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.*

## **PASCACK RIDGE ZONING LAW AMENDMENT (R-2040G)**

*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.*

