

**DEPARTMENT OF PLANNING**

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

**Richard M. Schiafo**  
*Deputy Commissioner*

June 14, 2024

New Hempstead Village Board  
108 Old Schoolhouse Road  
New City, NY 10956

**Tax Data:** 42.15-1-1

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

**Map Date:**

**Date Review Received:** 05/30/2024

**Item:** *Denton Acres - 870 NYS Route 45 (GML-24-0046)*

Zoning Code amendment to identify Old Schoolhouse Road as a Collector Road under Section 290-3, and to rezone the subject site and abutting areas from 1R-35 to the Neighborhood Commercial District (NCD), which would allow business or professional offices as an as-of-right use. The subject site is located on 8.6 gross acres (3.95 net acres) and contains approximately 5.4 acres of state regulated wetlands.

East side of NYS State Route 45, west side of Old Schoolhouse Road, approximately 240 feet north of New Hempstead Road

**Reason for Referral:**

County Route 80 - New Hempstead Rd, State Route 45 - N Main St, Ramapo

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 A review must be completed by the Rockland County Department of Health, any comments or concerns addressed, and any required permits obtained.
- 2 A review must be completed by the Rockland County Highway Department, any comments or concerns addressed, and any required permits obtained.
- 3 A review must be completed by the New York State Department of Transportation, any comments or concerns addressed, and any required permits obtained.
- 4 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The

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municipal boundary is located along the eastern edge of the site along Old Schoolhouse Road. 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 Ramapo 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 Town of Ramapo must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

- 5 A letter from the applicant's engineer, dated May 24, 2024, indicates that a full site plan for a proposed office building on the subject site was submitted. This was not included in the documents sent to our department for review. The site plan shall be provided.
- 6 The May 24, 2024 letter from the applicant's engineer indicates the site is 8.6 acres, with approximately 5.4 acres of wetlands. The petition states the site is 9.07 gross acres with approximately 6.03 acres of wetlands. This discrepancy must be clarified and corrected where appropriate.
- 7 If the zone change is approved, and the proposed office building moves forward, the areas to be preserved in their natural state (including the wetlands), must be flagged in the field prior to the start of construction to ensure their protection.
- 8 Should the zone change be approved, we request the opportunity to review the site plan needed for this proposal, as required by New York State General Municipal Law, Section 239-m(3)(a)(iv).
- 9 The petition indicates that area variances may be needed for the development of this parcel, should the zone change be approved. This department is not generally in favor of granting variances for new construction, particularly on land that was rezoned for said construction. The proposed development should be designed in a manner that complies with the regulations of the NCD zoning district. However, if variances are needed, we request the opportunity to review them, as required by New York State General Municipal Law, Section 239-m(3)(a)(v).
- 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.
- 12 The following additional comments are offered strictly as an observation and are not part of our General Municipal Law (GML) review. The Board may have already addressed these points or may disregard them without any formal vote under the GML process:

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- 12.1 The penultimate page of the petition references Section 290-5 of the Village Zoning Code when requesting it be amended to include Old Schoolhouse Road as a Collector Road. Section 290-5 is also incorrectly referenced in the SEQR Notice of Intent to Be Lead Agency. These shall be corrected to Section 290-3.
- 12.2 If approved by the Village Board, resolutions for the amended zoning map must be filed with the New York State Department of State. The County also strongly recommends that the Village forward resolutions to the Rockland County GIS division, so that maps maintained by the County can be properly updated. These maps are a widely available resource, and ensuring their accuracy maximizes their usefulness and benefit to the public and municipalities.
- 12.3 The May 24, 2024 letter from Brooker Engineering incorrectly indicates that the property is currently located within the NCD zoning district. This shall be corrected to the 1R-35 zoning district.
- 12.4 Should this Zoning Code Amendment be adopted, the Village should provide General Code with this recer update so the Village's online code, as posted to [www.ecode360.com](http://www.ecode360.com), reflects these changes.



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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Abe Sicker, New Hempstead  
NYS Department of Environmental Conservation  
NYS Department of Transportation  
Rockland County Department of Health  
Rockland County Drainage Agency  
Rockland County Highway Department  
Rockland County Planning Board  
Rockland County Sewer District No. 1  
Town of Ramapo Planning Board  
Brooker Engineering

\*New York State General Municipal Law § 239(5) requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.

The review undertaken by the County of Rockland Department of Planning 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 determines whether the proposed action reviewed implicates the Religious Land Use and Institutionalized Persons Act. The County of Rockland Department of Planning defers to the municipality referring the proposed action to render such opinions and make such determinations as 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.

Pursuant to New York State General Municipal Law §§ 239-m and 239-n, the referring body shall file a report of its final action with the County of Rockland Department of Planning within thirty (30) days after the final action. A referring body that 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.