COUNTY OF ROCKLAND

DEPARTMENT OF PLANNING

Building T
Pomona, NY 10970
(845) 364-3434
Fax. (845) 364-3435

EDWIN J. DAY
County Executive

THOMAS B. VANDERBEEK, P.E.
Commissioner

ARLENE R. MILLER
Deputy Commissioner

April 16, 2014

Haverstraw Town Board
One Rosman Road
Garnerville, NY 10923

Tax Data: 26.05-1-42 26.09-2-8

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

Map Date: 1/4/2014 **Date Review Received:** 3/14/2014

Item: ***OAK TREE LANE HAVERSTRAW, LTD. (H-250)***

Zoning code amendment to create a new zoning overlay classification for the purposes of providing housing for senior citizens over the age of 55. Specifically two parcels totaling 14.48 acres are proposed as the impetus for this new overlay zoning classification, and are currently located in the R-15 and RG zoning districts.

East side of Rosman Road, approximately 630 feet north of US Route 202

Reason for Referral:

State and County roads, State and County parks, County streams, municipal boundaries - specifically to the site - US Route 202, Minisceongo Creek County Park, Village of West Haverstraw

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

There is always concern when one specific parcel or project is the impetus for changes to the zoning ordinance of a municipality. Oftentimes, as is the case with this application, the proposed amendments focus on what is being proposed and on a specific parcel, rather than on the broader picture of how the amendments will affect other conforming parcels within the Town. To ensure that the Town of Haverstraw is creating a Senior Citizen Housing (SRC) Overlay District that can be applied to other parcels, and not to just the ones proposed (which would result in spot zoning), more specific criteria and additional requirements must be included in the proposed Zoning Code amendments. Below are concerns that must be addressed:

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1 It is not specified if the new zoning overlay district is being proposed in only residential zones, or all of the zoning districts within the Town of Haverstraw. The proposed new district is being tailored after the Town of Stony Point's ordinance for Senior Citizen Housing Developments, and is using this as the basis for the new code language. However, Stony Point allows this use as a special permit use by the Town Board in the SRC (Senior Citizen Housing District); whereas this zoning code amendment is proposing the use as an overlay zone, with no specific zoning district(s) defined. It does not seem that this use would be appropriate in every district in the Town. A new Use Group "U" is cited in the new Table, but which zones are allowing this new use? The specific zoning districts in which the Town of Haverstraw would permit this use by applying the proposed overlay district must be identified.

2 Exhibit E depicts the bulk standards for the new use, and is being used to illustrate that the subject parcel can comply with the proposed regulations. As part of this zoning code amendment, a bulk and use table must be provided, and the section in which the table will be amended cited. For example, will a new table be added with the SRC zoning overlay district as Section 167n? This must be clarified.

3 As mentioned above, Exhibit E depicts the bulk standards for the new proposed use and overlay zone. The table is listed as "167 Attachment 2" and as the "Table of General Use Requirements." However, the existing "167 Attachment 2" is referred to as the "Table of General Bulk Requirements." The title to this table must be corrected. In addition, the existing Attachment 2 lists the zoning district and the use group associated with the district. Since this is an overlay district, the specific districts that will be allowing this use must be indicated in Column 1, rather than the existing text of "SRC," as this is not a zoning district. Column 3 lists the permitted uses as "All permitted uses" though only Senior Citizen Housing Developments are allowed, and not as a permitted use, but rather as a special permit use. Column 3 must also be changed to reflect what is permitted in this zoning overlay district.

4 It is not clear why this Overlay Zone is being added to the Zoning Ordinance as a new Section 167-37.4, which falls under the category of Section 167-37, "Average Density Procedure." This section allows the use of a more flexible design for new subdivision applications, so that natural and scenic qualities of the site can be preserved. When reading the criteria for applying for average density, it does not seem that this is an appropriate application for the overlay zone. (In fact, it does not seem that the other three uses [Adult entertainment use business, Oil change/lubrication facilities at car washes, or County commercial uses] listed under this section are properly located within the Zoning Ordinance, and the Town of Haverstraw may want to amend the code to place these land uses in a more appropriate location of the Zoning Ordinance.) It would seem more logical to create a new Section 167-38 specifically written for the Overlay Zone. This reference to the Zoning Ordinance must be corrected.

5 To better locate future senior citizen housing developments throughout the Town of Haverstraw, additional criteria, other than lot size, must be specified in the zoning ordinance in order to allow the senior citizen housing overlay zone to be implemented. For example, as done in other municipalities, the placement of a floating zone must meet a variety of factors, such as site suitability to public transportation; pedestrian access to off-site locations for retail services, medical care, or recreation; compatibility with the neighborhood; located in an area suitable for residential purposes; and reasonably free of objectionable conditions such as noise, high traffic volumes, environmental constraints, etc. Exhibit H, provided in the application packet, seems to be included to illustrate that the proposed site is in close proximity to public transportation routes, and that this criteria was a factor considered in selecting the specific site. Specific criteria must be provided so as to qualify the types of parcels that the Town would want to consider to be eligible for senior citizen housing, other than by the parcel size alone.

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6 No parking standards are provided in the bulk requirements, though reference is given to the Town of Stony Point's requirements. The Senior Citizen Housing Developments criteria must specify how the number of parking spaces are required for the development, whether it be based per the number of bedrooms, or some other criteria.

7 Has the Town of Haverstraw determined how many potential sites there might be that meet the 13 acre minimum? To fully determine the impact of the proposed zoning code overlay zone creation, a comprehensive analysis of the entire town should be undertaken, with the parcels that meet the criteria identified.

8 Specifics about the site design are provided by the applicant for the subject site proposal. A mix of housing unit types are proposed, with the percentage for each type provided. The number of units for each building is also provided. To help better define the site design and layouts for any other future senior housing developments, the Town of Haverstraw should specify in the code such factors as the type of desired housing (such as townhouses, condominiums, apartments, etc.), the physical size limitation of the buildings (both in maximum length and total number of units in each building), a percentage for how many units should be of which number of bedrooms (one, two, or three bedrooms), and the amount of recreational amenities that need to be provided, based on square footage, number of units, etc.

Thomas B. Vanderbeek, P.E.
Commissioner of Planning

cc: Supervisor Howard Phillips, Haverstraw
New York State Department of Transportation
Palisades Interstate Park Commission
Rockland County Department of Highways
Rockland County Drainage Agency
Rockland County Division of Environmental Resources
Rockland County Planning Board
Villages of Haverstraw & West Haverstraw
Towns of Clarkstown & Ramapo
Town of Stony Point
Village of Pomona

**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.