



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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October 9, 2015

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: 4/16/2015

Date Review Received: 9/14/2015

Item: *HUDSON HIGHLANDS - AKA OAK TREE LANE (H-250A)*

Zoning code amendment to create a new zoning district entitled Senior Citizen Housing, that will be an overlay district with specified parameters. This new zoning district will allow the provision of housing for senior citizens over the age of 55.

Zone change of two parcels, that together comprise 14.48 acres, located currently in the R-15 and RG zoning districts to a newly created zone entitled Senior Citizen Housing or SRC.

LOCATION: For the proposed zoning code amendment (overlay zone creation) - Throughout the Town of Haverstraw

For the zone change - Land that encompasses Oak Tree Lane, which is located off of the north side of Rosman Road; east of Crescent Drive, south side of the Village of West Haverstraw border

Reason for Referral:

For the zoning code amendment - State and county roads, parks, county streams, state facilities, Villages of Haverstraw, Pomona, & West Haverstraw, Towns of Ramapo & Stony Point

For the two specific parcels to be rezoned - Village of West Haverstraw, Minisceongo Creek County Park, US Route 202 (W. Ramapo Road)

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

HUDSON HIGHLANDS - AKA OAK TREE LANE (H-250A)

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:

- 1 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, within any residential zoning district. A new Use Group "U" is cited in the proposed Table of General Bulk Requirements, with specific bulk standards provided for most of the criteria. Column 3 lists the Uses as "All Permitted Uses" for the SRC zone, with an asterisk at the top of the column further indicating that "specific bulk requirement may apply for special permit uses." Since the Town Board can exercise its full legislative discretion in determining whether to grant SRC designation to a parcel or not, it is not clear if this is an allowable use or a special permit use. It is further confusing since the Section assigned for the new use is listed as Section 167-37.4, which is under Article V Special Permit Uses, and Average density procedure. This must be clarified.
- 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 existing Attachment 2 lists the zoning district and the use group associated with the district. Since this is an overlay district, the specific residential district lists must be amended showing that senior housing is a special permit of the Town Board, if that is the case, and the associated new "U" use group for each zoning district. Adding SRC as a new zoning district under Column 1, when in fact it is only an overlay district is confusing. For example, the senior citizen housing use should be added to Column 3, under the 1-family detached residences use for the R-120 zoning district, and the Use Group "U" added in Column 2. The associated bulk standards for each zoning district must also be amended to reflect the special criteria. Otherwise, a special footnote must be added to the proposed Table of General Bulk Requirements to indicate that the SRC zoning district is an overlay district.
- 4 The proposed Table of General Bulk Requirements lists the permitted uses under Column 3 as "All permitted uses." Since only senior citizen housing is being proposed in this overlay zone, then that column should specify "Senior Citizen Housing."
- 5 The proposed zoning code amendment states that this use is allowed in a residential zoning district of the Town of Haverstraw. Does this include the RMH (Mobile Home Residence) or WRD (Waterfront Recreation Development) zoning districts? This must be clarified.
- 6 To determine if other locations within the Town of Haverstraw would meet the criteria for this proposed overlay zone, a comprehensive analysis must be undertaken, illustrating all parcels that meet the proposed parameters. This will ensure that the application is not proposing spot zoning, and that the other sites are in locations amenable to having multi-family housing developments.

HUDSON HIGHLANDS - AKA OAK TREE LANE (H-250A)

7 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 section 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.

8 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 before the senior citizen housing overlay zone is 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 identify 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, thereby resulting in more optimum sites.

9 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 a calculation for determining the number of parking spaces that would be required for the development, whether it be based per the number of bedrooms, or some other factor.

10 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.

11 Since multi-family housing developments are more intensive in use, and since the overlay zone is being proposed to be allowed in any residential district, additional bulk requirements for buffer areas must be considered as part of the standards. By requiring the provision of increased yard buffer areas, such as for the side and rear yards, the impact to an adjacent residence can be reduced. Other requirements within these buffers areas must also be included, such as requiring landscaping, berms, fencing, etc. as a way to mitigate the impact to the existing residential areas.

12 Is an affordable housing component being considered as part of the creation of the overlay zone? Since the Town has a section in their code on Affordable Housing under Article VIIA, requiring a component of affordable housing should be considered.

HUDSON HIGHLANDS - AKA OAK TREE LANE (H-250A)

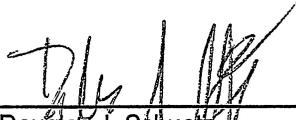
13 It is not clear if deductions for lands within the 100-year floodplain, underwater, within easements or rights-of-way for overhead utilities, within a designated street line, or with slopes greater than 20% is proposed for the overlay zone. As this and other sites may be located in areas that contain these features, this must be clarified. These deductions are critical in ensuring that environmentally sensitive lands are protected, or those with other encumbrances, are developed sensibly.

14 The Village of West Haverstraw is one of the reasons this proposal was referred to this department for review. The municipal boundary is along the northeastern property line of the site proposed to be rezoned. 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 West Haverstraw 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 West Haverstraw must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

15 The Villages of Haverstraw and Pomona, and the Towns of Ramapo and Stony Point are some of the reasons this proposal was referred to this department for review. The municipal boundaries about the residential districts of the Town of Haverstraw. As required under Section 239nn of the State General Municipal Law, these municipalities must be given the opportunity to review the proposed zone change and zoning code amendment and provide any concerns related to the project to the Town of Haverstraw.

16 Reviews must be completed by the following agencies for the proposed zoning code amendment, and any raised issues or concerns addressed. These agencies include: New York State Department of Transportation, Palisades Interstate Park Commission, Rockland County Department of Highways, Rockland County Division of Environmental Resources, Rockland County Drainage Agency, Rockland County Solid Waste Management Authority, Joint Regional Sewerage Board, and Helen Hayes Hospital.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Howard Phillips, Haverstraw
New York State Department of Transportation
Rockland County Division of Environmental Resources
Rockland County Department of Highways
Rockland County Drainage Agency
Rockland County Solid Waste Management Authority

HUDSON HIGHLANDS - AKA OAK TREE LANE (H-250A)

Palisades Interstate Park Commission
Helen Hayes Hospital
Rockland County Planning Board
Joint Regional Sewerage Board
Atzl, Nasher & Zigler P.C.
Villages of Haverstraw, Pomona, West Haverstraw
Ira Emanuel
Towns of Ramapo & Stony Point

**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.

