

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

May 24, 2017

Haverstraw Town Board
One Rosman Road
Garnerville, NY 10923

Tax Data:

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

Map Date:

Date Review Received: 5/2/2017

Item: *TOWN OF HAVERSTRAW - FLOATING OVERLAY ZONE (H-255)*

Zoning Code Amendment to add two new sections to Chapter 167. The first new section will add a "Route 202 Floating Overlay Zone District" for parcels that are located along a state road. The second section is allowing an Assisted Living Residence Floating Overlay Zone District as a special permit use, also to be located along a state road. New definitions related to these two overlay zone districts have also been included in the amendments.

Along US Route 202

Reason for Referral:

NYS Route 202, Palisades Interstate Parkway, Thiells-Mt. Ivy Road (CR 47), S. Central Highway (CR 33), Gurnee Park & Amphitheater, South Mountain Park, Long Path, High Tor State Park, Towns of Clarkstown & Ramapo, 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***

1 The proposed floating zones are being proposed in any zoning district that lies within the state corridor, US Route 202. In several locations there is land that would qualify for the floating overlay zone implementation that are within the R-40 zoning district. Since this zoning district is a low-density residence district, that is often designated on parcels that contain environmentally sensitive features (i.e. with steep slopes) as a way to protect these elements, it is not appropriate to allow a more intensive use on these sites. The amendment must specifically state that these floating overlay zones are not permitted in the R-40 zoning district.

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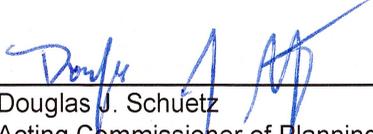
2 The new "Route 202 Floating Overlay Zone District" is permitting many non-residential uses as a way to permit greater flexibility in future land use development. The uses listed vary significantly in their intensity of use and parking demands, and therefore, the impact to the adjacent properties. For example, a restaurant will be busiest during the mealtime hours and on weekends, and need longer-term parking; while a pharmacy peak demand hours may vary, and the parking demands are for a shorter duration. Section B.c.a. states "The required number of parking spaces shall be in accordance with the requirements of this chapter." The proposed zoning code amendment does not state elsewhere specific parking requirements. Given that all of the sites are located directly on a State highway, it is essential that adequate parking be provided, and that no vehicles back into the roadway. Specific parking standards must be provided for each permitted use in the floating overlay district to ensure that these more intense uses will not negatively impact the State highway.

3 Section B.c.e. states "The aisle width between 90 degree parking stalls shall be 24 feet." Does this mean that angled parking is not permitted? If it is permitted, what is the required aisle width? This must be clarified.

4 The proposed Assisted Living Residence Floating Overlay Zone District (ALR) is being added as a new use (167-67.2) under Article VIII, Specific Bulk Regulations of Chapter 167. It is not clear why this new section is not being added to Article V, Special Permit Uses, since this new floating zone is only being permitted as such. The Town must determine if the new ALR floating zone should be instead located in the Special Permit Use Section of the Chapter.

5 The permitted density for the ALR Floating Overlay Zone is 30 units per acre. This density is significantly higher than the density permitted in other zoning districts within the Town that also permit multi-family housing. For example, multi-family housing in the RG zoning district permits only six units per acre; and multi-family housing in the WRD permits 11 units per acre if it is an 8-story building (only 6 units per acre for a 3-story building). The ALR overlay zone would in essence triple the density of any other use permitted in the Town. A minimum lot area of 3.5 acres could result in a housing development that contains 100 units. The Town must re-evaluate the density for this proposed overlay zone to ensure that this density is what is envisioned for the area, particularly when adjacent to a single-family district/use.

6 It is not clear if lots can be combined in order to meet the lot area requirements for either of the overlay zones. If the Town only wants to permit individual lots that currently meet the acreage requirement, then the law must be amended so that lot area conglomerations are not permitted.



Douglas J. Schuetz
Acting 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 Division of Environmental Resources
New York - New Jersey Trail Conference

Village of West Haverstraw
Towns of Clarkstown & Ramapo

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**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.

