

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 14, 2019

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: 6/21/2019

Date Review Received: 7/25/2019

Item: *OAK TREE APARTMENTS - 22 ROSMAN ROAD (H-250B)*

A text and map amendment to create a new multifamily zoning district, entitled OT-18, for two parcels with a total of 14.48 acres currently in the RG and R-15 zoning districts. A concurrent site plan application for a 228-unit multifamily development is being made to the Town of Haverstraw Planning Board.

The northeastern side of Rosman Road, approximately 590 feet north of West Ramapo Road

Reason for Referral:

Village of West Haverstraw, Minisceongo Creek County Park, West Ramapo Road (US Route 202)

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***

1 The proposed text and map amendments essentially amount to spot zoning. The proposal creates an entire new zoning district for the benefit of a single development, rather than as part of a comprehensive plan. The creation of a new zoning district must be the result of a careful analysis by the Town of Haverstraw with regard to the land use challenges, needs, and opportunities throughout the municipality. The current proposal is a custom-made district to advance the development of a single project. As stated in the petition, the lot area requirement and special site condition requirements limit the zone's implementation elsewhere within the Town of Haverstraw, which is explicitly characteristic of spot zoning. Even the name "OT-18" indicates that the proposed district is intended for a single site. Moreover, multifamily residences are allowed by right in the RG zoning district, which is immediately adjacent to and partially comprises the subject property. Although the bulk requirements in the RG zone are generally more stringent than the proposed district, the expansion of the RG zone to the subject property would also achieve the result of allowing a multifamily use, without the need to create a new district. Lastly, the proposed text amendment does not include any additional uses beyond multifamily dwellings, and would preclude any future development of the property without additional text amendments.

The County would welcome a comprehensive analysis and plan for the inclusion of multifamily uses in additional,

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appropriate areas throughout the Town of Haverstraw. However, the proposed amendment does not reflect such an analysis and must be disapproved.

The following comments address our additional concerns about this proposal.

2 The Village of West Haverstraw is one of the reasons this proposal was referred to this department for review. The municipal boundary is adjacent to the northern and eastern property lines of the parcel. The parcels located within the Village of West Haverstraw are zoned R-2, which permits single-family detached residences on 8,500 square foot lots. 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.

3 A review shall be completed by the Rockland County Division of Environmental Resources and any comments or concerns addressed.

4 The applicant must comply with all comments made by the Rockland County Department of Health in their letter of August 13, 2019.

5 A review shall be completed by the New York State Department of Transportation and any required permits obtained.

6 The applicant must comply with all comments made by the Rockland County Highway Department in their letter of July 31, 2019.

7 The description provided in the Environmental Assessment Form indicates the new zoning district is to be entitled OT-16 and have a maximum residential density of 16 units per acre. This is not consistent with the proposed text amendment. The EAF must be corrected to indicate the proposed district is to be entitled OT-18 and have a maximum residential density of 18 units per acre.

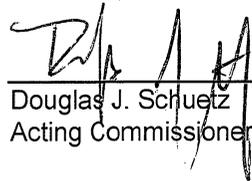
8 The proposed text amendment does not include any requirements for landscaping, buffering from adjacent properties, or outdoor recreation space, and does not include any restrictions on illumination that may impact adjacent properties. The text amendment must be amended to require landscaped buffers and outdoor recreation space, and to limit fields of illumination to less than 0.1 lumens at the property line.

9 The narrative and site plan bulk table indicate that the proposed zoning district will have a maximum FAR of 0.75. However, the amendment to the Table of General Bulk Requirements does not include an FAR requirement. All materials must be consistent. The proposed addition to the Table of General Bulk Requirements must include an FAR requirement of 0.75.

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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 Howard Phillips, Haverstraw
Rockland County Division of Environmental Resources
New York State Department of Transportation
Rockland County Department of Highways
Rockland County Department of Health

Sparaco & Youngblood, PLLC
Village of West Haverstraw Planning Board

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.

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.

