

MEMORANDUM

To: Village of Hastings-on-Hudson Planning Board  
From: Stuart Mesinger, Caren LoBrutto  
cc: Linda Whitehead  
Date: June 13, 2017  
Re: Hastings-on-Hudson Senior Housing Zoning Text Amendments  
Enclosure: State and County Road Accessible Parcels

During the May 18<sup>th</sup>, 2017 Planning Board meeting, a discussion was held regarding the proposed Senior Housing Zoning Text Amendments (ZTA), and the following was discussed:

- Permitted Maximum Density Methodology;
- Senior Enriched/Independent Living Housing Term and Definition;
- Multiple Senior Housing Uses on a Single Site;
- Inconsistency Clauses; and
- Other Recommendations

Our response is as follows:

*Permitted Maximum Density Methodology*

In the zoning districts<sup>1</sup> that would be affected by this action, there is currently no density restriction on Nursing Homes and “Nursing Homes Without Medical Care” are restricted to 5 patients per acre. Neither of these permitted density scenarios is realistic or responsive to current practices; therefore, the following was considered for the proposed zoning text amendment:

- Assisted-Living Housing and Nursing Homes require a reasonably high density because they are more than simply housing units; they are facilities with an operational component. A greater level of density than for conventional multi-family housing is required to make them economically feasible given their operational costs.
- Land and building costs in Westchester County are quite high. To recoup such costs, sufficient density is needed.
- Higher densities may help keep resident fees lower.
- Assisted-Living Housing and Nursing Homes are low impact uses. Except for emergency medical transport, they make very little demand on community services. They do not generate school children; they generate very little traffic and otherwise have few impacts. Allowing Assisted-Living Housing and Nursing Homes at a greater density than underlying residential zoning will not result in correspondingly greater impacts, all other things being equal.

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<sup>1</sup> R-20, R-10, MR-1.5, MR-2.5, MR-O, and MR-C.

Based on the foregoing, we have proposed 40 units/acre as the maximum density for Assisted-Living Housing and Nursing Homes, the lowest impact uses. We think this density is reasonable given the need and desire for this use, its low impact operational characteristics, the financial considerations that go into building and operating such facilities, and the characteristics (including available lot sizes) of the districts in which they could be located. We further note that each project will be subject to a special use permit and site plan approval process, which includes a SEQRA review. Where site or project specific considerations point towards allowing less than the maximum permitted density, the Planning Board can reduce density. That is, every project is subject to and must pass muster on a case by case basis.

There is not a formula or zoning standard for senior living facilities. At the outset, we looked for an American Planning Association Planning Advisory Service memorandum or similar guidance, but found none. Every community is different and the allowed densities should be based on the characteristics and goals of that community.

We can look for examples of other projects but we believe it is of limited value because design is dependent on site. That is, two projects of the same density may look very different depending on site characteristics and the skills of the designers involved. For example, an 80-bed project may be constructed on only two acres of ten-acre parcel for any number of reasons (site constraints, parcel configuration, easements, financial considerations, market demand etc.), resulting in an apparent density of 8 beds/acres, but an actual density of 40 beds/acre.

Lastly, we surveyed senior living density and height regulation in ten nearby communities. As discussed above, there is no pattern, and in our opinion, little that can be applied to Hastings-on-Hudson. For example, in the Town of Ossining and Village of Dobbs Ferry, density ranges from 54 units/acre to unlimited. In Mount Pleasant, density is limited to 4.4 units/acre. In Croton-on-Hudson, assisted living can only occur in buildings constructed prior to 1931. Pleasantville allows from 29 to 35 units/acre, depending on the district. The table below summarizes our findings.

<b>Municipality</b>	<b>Assisted Living/Nursing Home Density (beds or units/acre)</b>	<b>Height</b>
Village of Ardsley	24.2	45' + 1' for each 2' from highway
Village of Briarcliff Manor	10 - 25 persons (including staff)	26 - 35'
Village of Croton-on-Hudson	Not specified, but limited to buildings existing as of 1931	N/A
Village of Dobbs Ferry	Unlimited - 54.45	Up to 42'
Town of Greenburgh	8 - 25	25 - 50'
Village of Irvington	8.7 - 34.8	35' - unlimited
Town of Mount Pleasant	4.4	35' - 40'
Town of Ossining	Unlimited	35' - unlimited
Village of Ossining	Same as underlying zoning; up to 32/acre	Up to 72'
Village of Pleasantville	29 - 34.8	Lesser of 2 1/2 stories or 30'

Based on the foregoing, we believe 40/units acre is a reasonable density for Assisted-Living Housing and Nursing Home facilities in Hastings-on-Hudson.

#### *Senior Enriched/Independent Living Housing Term and Definition*

Currently, the Hastings-on-Hudson Zoning Law defines Senior Enriched/Independent Living Housing as, “a category of senior housing in which senior citizen residents are provided with services that may include meals, housekeeping, shopping, transportation, social activities, and some personal care assistance.” There are a few issues with this term and definition as described below.

The inclusion of the word, “enriched” is misleading because in New York State regulations, “Enriched Living” facilities like “Adult Home” facilities are intended for seniors that can no longer live independently. Therefore, given that the definition is intended to define senior independent living, the zoning text should be revised to replace the Senior Enriched/Independent Living Housing term with Senior Independent Living Housing.

In addition, there may be some advantage in redefining the Senior Independent Living Housing term in a manner that differentiates these types of developments from other multi-family developments that do not offer shared or common facilities for dining, laundry, security and housekeeping. The current definition notes that this use is a category of Senior Housing. The Village’s Zoning Law defines Senior Housing as, “Multiunit apartment buildings, condominiums, cooperatives, that are restricted to a person or persons who meet the minimum age requirement for “housing for older persons” contained in Section 3607 of the Federal Fair Housing Act, as amended, or are restricted to at least one person who is at least age 55, whichever is the higher age.” The following examples are from nearby municipalities, and are provided for your reference:

Greenburgh -

INDEPENDENT LIVING FACILITY

Handicapped-adaptable individual or multifamily dwelling units with individual kitchens and bathrooms where, because of age and either disability or infirmity of the residents, the following services are provided to residents within the dwelling unit or in common facilities on site: dining, laundry, security and housekeeping.

[Added 10-14-1992 by L.L. No. 6-1992; amended 9-8-1994 by L.L. No. 7-1994]

Harrison -

INDEPENDENT LIVING UNIT

A unit specifically designed to accommodate individuals with increasing frailty, which unit shall contain a kitchen, and for which there are also common amenities available for the residents thereof outside of the unit, including dining facilities, laundry, security and housekeeping services.

Ardsley -

INDEPENDENT-LIVING UNIT

A dwelling unit specifically designed for use and occupancy by a senior-citizen household, which unit contains a kitchen but which has available for its use common amenities, including dining facilities, laundry, security and housekeeping services.

[Added 11-6-2000 by L.L. No. 2-2000]

Briarcliff -

INDEPENDENT LIVING

Dwelling units with individual kitchens and bathrooms where at least one meal per day plus one or more of the following services are provided to residents within the dwelling unit or in common facilities on site: laundry, security and housekeeping.

We understand the intention of the defined term is to allow age-restricted housing that provides an independent living experience coupled with shared or common facilities, such as dining, laundry, security, and housekeeping with minimal or limited medical care assistance. The following definition is suggested for Senior Independent Living Housing:

SENIOR INDEPENDENT LIVING HOUSING

A dwelling unit specifically designed for use and occupancy by a SENIOR HOUSING household, which unit contains a kitchen but which has available for its use one or more personal care assistance and common amenities, such as dining facilities, laundry, security and housekeeping services.

*Multiple Senior Housing Uses on a Single Site*

The proposed ZTA would allow for multiple senior housing uses to be developed on one lot. The Planning Board questioned how the density would be handled for these types of development. As currently written, a project that was proposed to include Assisted-Living Housing and Senior Independent Living Housing would be allowed the maximum permitted density for each use. For example, in the R-20 Zoning District, the proposed ZTA would allow up to 40 units per acre of Assisted-Living Housing units, and up to 12 units per acre for Senior Independent Living Housing units. The same treatment would apply to Nursing Homes and Senior Housing. The build out of each use would be further articulated by the underlying bulk and dimensional requirements of the zoning

district. In the R-20 example, the front yard shall be  $\geq 40$  feet; rear yard  $\geq 40$  feet; side yards  $\geq 50$  feet in total, with each side yard  $\geq 20$  feet. The buildings and structure together could not cover more than 15% of the lot, and the maximum permitted height would be 40 feet.

However, the law as written is not clear on whether the minimum lot requirement is cumulative for each use on a lot. We think it should be and suggest that Section 6 (4)(a), (5)(a) and (6)(a) of the proposed local law be amended to clarify this.

Additional zoning regulations may apply that are not captured here due to the particularities of the site and/or development. All lots are subject to the View Preservation District regulations, and the Planning Board would have the opportunity to apply more restrictive conditions during the special permit process.

#### *Inconsistency Clauses*

The ZTA utilizes the following clause (or similar) to clarify for applicants and the zoning administrator the unique regulations that pertain to Assisted-Living Housing, Senior Independent Living Housing, and Nursing Homes.

In the event of any inconsistencies between the standards contained in this Section 295-67(B)(5) and any other provisions of this chapter, the provisions of this Section 295- 67(B)(5) shall control and shall supersede such inconsistent provisions.

The clause is included because the affected zoning districts allow different permitted maximum heights than what has been suggested for Assisted-Living Housing, Senior Independent Living Housing and Nursing Homes in the ZTA. In addition, the Zoning Law does not permit more than one use on a lot. For these reasons, we felt it would be useful to include the clause presented above.

However, the clause should be applied consistently within the ZTA, and currently there is an error in how it is applied to the Nursing Home text. Nursing Homes would be allowed to be combined with other senior housing uses on one lot, and a maximum permitted height of 40 feet<sup>2</sup> would be allowed. Therefore, this clause should be included in the zoning text as it applies to nursing homes.

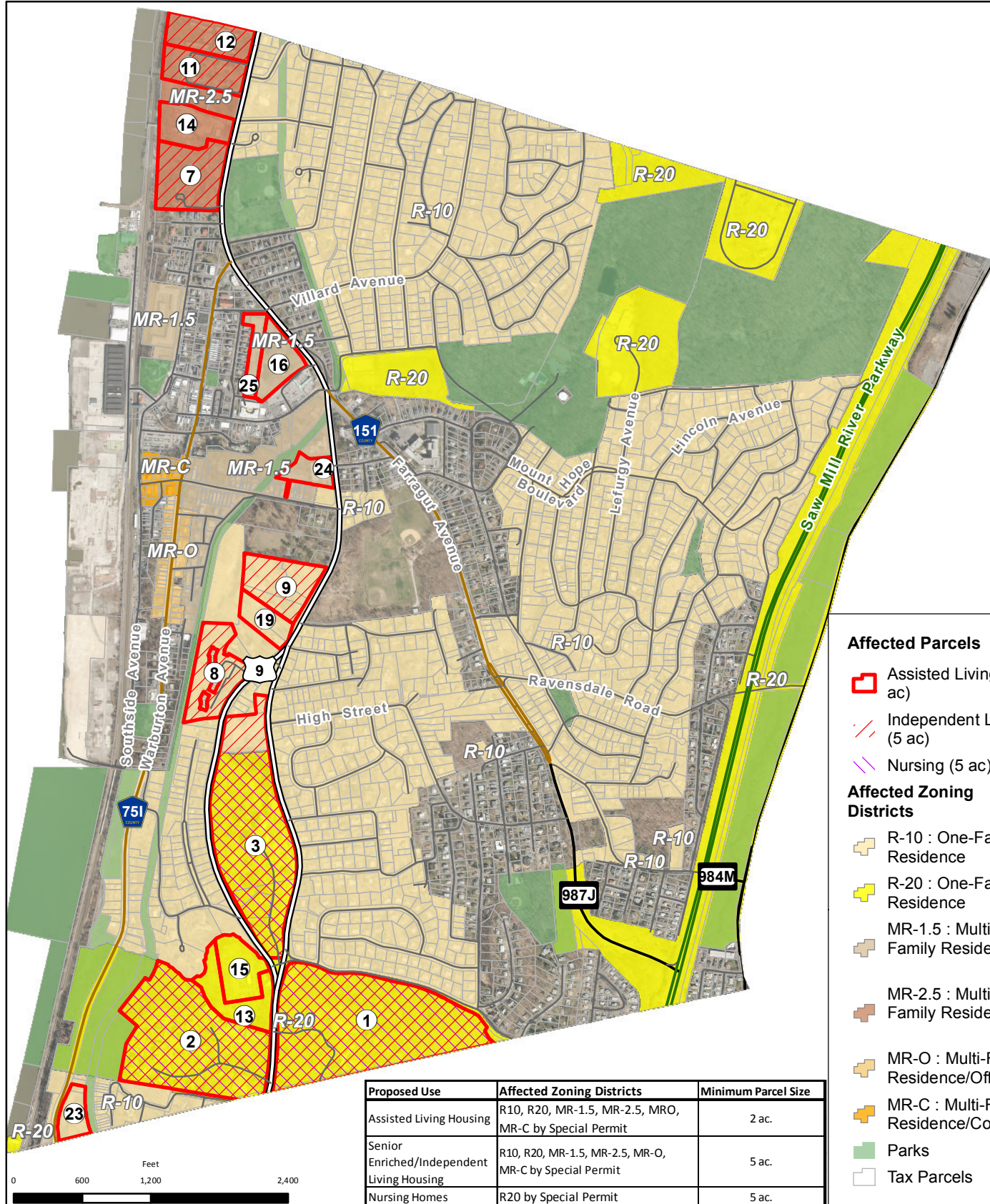
#### *Other Recommendations*

During the discussion with the Planning Board, other recommendations were discussed as follows:

- Revise the ZTA to limit Assisted-Living Housing, Senior Independent Living Housing, and Nursing Homes to lots with frontage on a State or County Road. The enclosed State and County Road Accessible Parcels information indicates parcels that may be affected by the ZTA.
- Revise the ZTA to eliminate the MR-1.5, MR-2.5, MR-O, and MR-C Zoning Districts from the zoning districts that would allow Assisted-Living Housing and Senior Independent Living Housing.
- Ensure that additional programs run on the Andrus campus are permitted to continue.
- Consider reducing base density and height and provide for discretionary increases.

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<sup>2</sup> The proposed ZTA would allow for a maximum permitted height of 40 feet for nursing homes. The zoning text amendment as presented in Attachment A of the Full Environmental Assessment Report dated April 28, 2017 did not indicate this and this section will be corrected with regard to maximum permitted height as it is determined by the Board of Trustees.



#### Affected Parcels

- Assisted Living (2 ac)
- Independent Living (5 ac)
- Nursing (5 ac)

#### Affected Zoning Districts

- R-10 : One-Family Residence
- R-20 : One-Family Residence
- MR-1.5 : Multi-Family Residence
- MR-2.5 : Multi-Family Residence
- MR-O : Multi-Family Residence/Office
- MR-C : Multi-Family Residence/Comm...
- Parks
- Tax Parcels

Proposed Use	Affected Zoning Districts	Minimum Parcel Size
Assisted Living Housing	R10, R20, MR-1.5, MR-2.5, MRO, MR-C by Special Permit	2 ac.
Senior Enriched/Independent Living Housing	R10, R20, MR-1.5, MR-2.5, MR-O, MR-C by Special Permit	5 ac.
Nursing Homes	R20 by Special Permit	5 ac.

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**North Country Office:**  
375 Bay Road, Queensbury, NY 12804  
Phone: (518) 812-0513

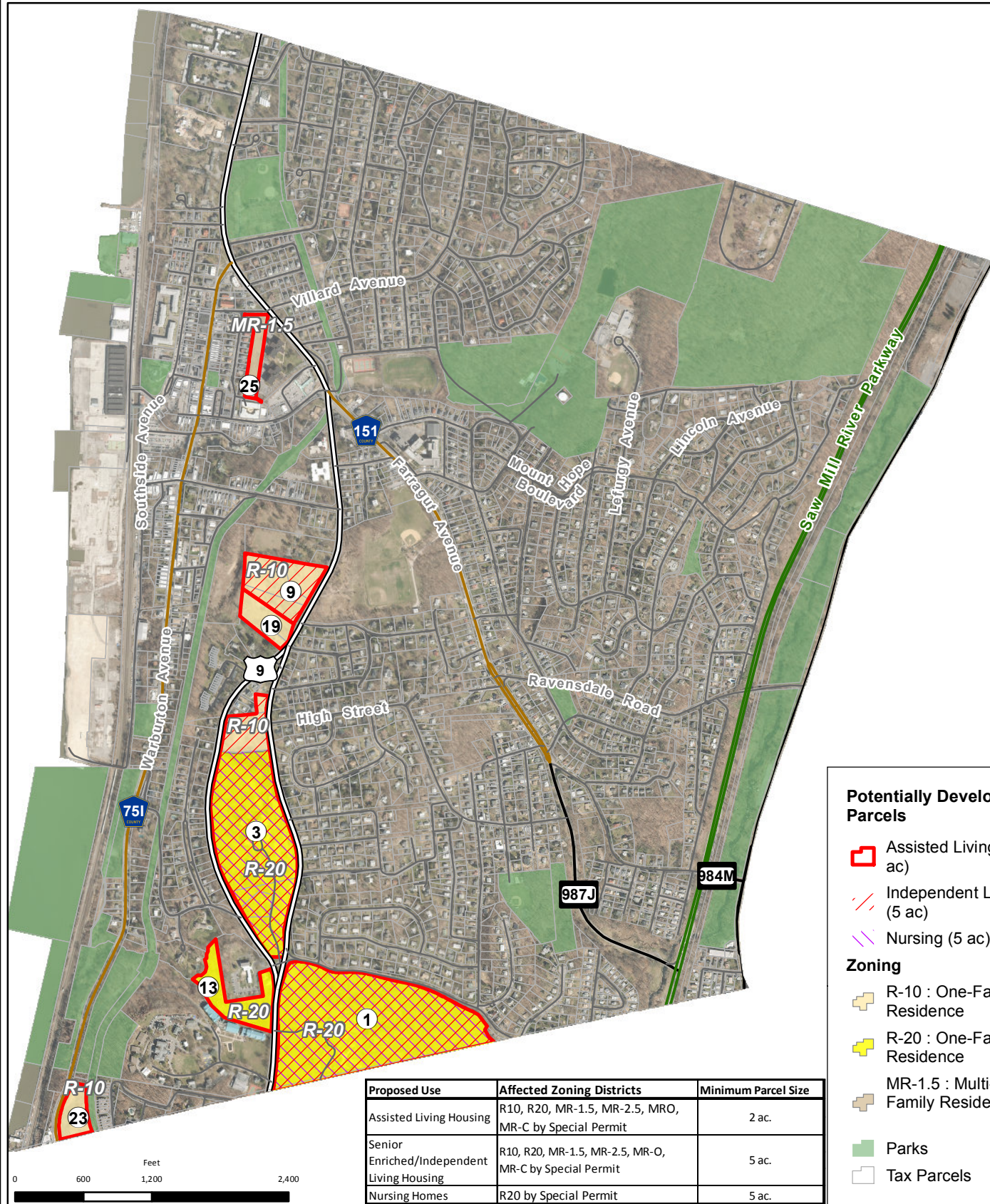
#### Senior Housing Zoning Text Amendment

### Potentially Developable Parcels with Frontage on a State or County Road




Village of Hastings-on-Hudson - Westchester County, NY

Drawn:	RL-B
Date:	04/18/2017
Scale:	1 in = 1,200 ft
Project:	81650.00
Figure:	11










#### Potentially Developable Parcels

-  Assisted Living (2 ac)
-  Independent Living (5 ac)
-  Nursing (5 ac)

#### Zoning

-  R-10 : One-Family Residence
-  R-20 : One-Family Residence
-  MR-1.5 : Multi-Family Residence

-  Parks
-  Tax Parcels

Proposed Use	Affected Zoning Districts	Minimum Parcel Size
Assisted Living Housing	R10, R20, MR-1.5, MR-2.5, MRO, MR-C by Special Permit	2 ac.
Senior Enriched/Independent Living Housing	R10, R20, MR-1.5, MR-2.5, MR-O, MR-C by Special Permit	5 ac.
Nursing Homes	R20 by Special Permit	5 ac.

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#### Senior Housing Zoning Text Amendment

### Potentially Developable Parcels with Frontage on a State or County Road

Village of Hastings-on-Hudson - Westchester County, NY

Drawn:	RL-B
Date:	06/05/2017
Scale:	1 in = 1,200 ft
Project:	81650.00
Figure:	12

**Table 1: Potentially Developable Parcels with Frontage on a State or County Road**

Map ID	Owner	Acres	Square Feet	Land Use	Parcel ID	Zoning	Location	Large Tract	Accessible by State or County Road
1	JULIA DYCKMAN ANDRUS MEMORIAL	31.3	1,364,921.1	Community Services	4.140-150-2	R-20	85 OLD BROADWAY	Yes	Yes
2*	GRAHAM WINDHAM HOME	23.7	1,033,805.4	Community Services	4.130-139-1.1	R-20	1 S BROADWAY	Yes	Yes
3	JOHN E. ANDRUS MEMORIAL	21.6	940,896.0	Community Services	4.110-105-1	R-20	OLD BROADWAY	Yes	Yes
				Community Services	4.140-142-1	R-20	OLD BROADWAY		
	HELEN A. BENEDICT FOUNDATION			Community Services	4.140-142-2	R-20	OLD BROADWAY		
	JOHN E. ANDRUS MEMORIAL	3.2	139,392.0	Community Services	4.110-105-2	R-10	OLD BROADWAY		
				Community Services	4.110-105-3		OLD BROADWAY		
7*	RIVER GLEN TENANTS	7.5	327,977.7	Apartments	4.30-20-35	MR-2.5	645 N BROADWAY	No	Yes
8*	HASTINGS LANDING CONDO	6.2	269,083.6	Residential		R-10	1-23 HASTINGS LANDINGS	No	Yes
9	LEHNER TRUST, CHRISTINE R	6.1	267,598.6	Vacant	4.80-69-1	R-10	BROADWAY	Yes	Yes
				Residential	4.80-69-2		271 S BROADWAY		
				Residential	4.80-69-3		381 BROADWAY		
11*	HASTINGS GARDENS OWNERS	5.0	217,741.7	Apartments	4.10-1-12	MR-2.5	737-751 BROADWAY	No	Yes
12*	HASTINGS HOUSE TENANTS	5.0	216,698.4	Apartments	4.10-1-13	MR-2.5	765 N BROADWAY	No	Yes
13	JULIA DYKMAN ANDRUS MEMORIAL	4.7	205,685.2	Community Services	4.130-139-2	R-20	BROADWAY	Yes	Yes
14*	BLUE RIVER VALLEY LLC	4.5	197,006.1	Residential	4.10-1-5	MR-2.5	663-665 BROADWAY	Yes	Yes
15*	CONGREGACION MITA, INCORPORATED	4.4	190,467.9	Community Services	4.130-139-3	R-20	95 BROADWAY	Yes	Yes
16*	HASTINGS TERRACE CONDO	3.8	166,081.2	Apartments	4.40-44-2	MR-1.5	555-565 BROADWAY	No	Yes



Map ID	Owner	Acres	Square Feet	Land Use	Parcel ID	Zoning	Location	Large Tract	Accessible by State or County Road
19	O'HALLORAN, MICHAEL	2.7	117,612.0	Residential	4.110-98-3.1	R-10	255 S BROADWAY	Yes	Yes
	MCHALE, JUDITH				4.110-98-3.2				
23	ARTIS SENIOR LIVING HOLDING	2.2	97,862.4	Vacant	4.160-167-4	R-10	WARBURTON AVE	No	Yes
				Vacant	4.160-167-7				
24*	445 BROADWAY HASTINGS	2.1	93,408.7	Apartments	4.80-60-2	MR-1.5	445 BROADWAY	No	Yes
25	ST MATTHEWS SCHOOL	2.0	87,191.1	Community Services	4.40-44-3	MR-1.5	VILLARD AVE	No	Yes
				Community Services	4.80-59-2		CHRISTIE TER		

\* Removed from analysis due to conditions that make re-development unlikely such as being developed with institutional uses that are currently active and whose discontinuation would be unlikely given their social and cultural contributions to the Village and surrounding area. In addition, apartments, cooperatives, common open space area owned by condominiums, and parcels with no access were not considered in the analysis. Finally, properties owned or occupied by school districts, and Village property, were excluded from the analysis.