

**VILLAGE OF HASTINGS-ON-HUDSON
BOARD OF TRUSTEES**

Protest Petitions for Route 9A Property Withdrawn

Purdue Pharma L.P. and Millsaw Realty L.P. have unconditionally withdrawn their protest petitions filed in October and November, 2004 in opposition to the proposed rezoning of a 7.45 acre parcel of land located on Route 9A, Hastings-on-Hudson. The applicant for the project is Saw Mill Lofts, LLC (formerly Ginsburg Development, LLC).

Mayor Wm. Lee Kinnally, Jr. announced the withdrawal at the Hastings Board of Trustees meeting on Sept. 27, 2005. The Board directed the Village Clerk to file the local law establishing the new zoning, Mixed Use Planned Development District (MUPDD), with the Secretary of State.

The Board had voted on the local law on Oct. 5, 2004 with a vote of 3-2. Because the protest petitions required a supermajority vote of 4-1, the law was considered not passed and was not filed at that time.

For Further Information:

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LOCAL LAW NO. 7 OF 2004

AMENDING THE ZONING LAW TO CREATE A NEW ZONING DISTRICT, THE MIXED-USE PLANNED DEVELOPMENT DISTRICT (MUPDD), AND TO REZONE A 7.45 ACRE PROPERTY LOCATED ON SAW MILL RIVER ROAD FROM LIMITED INDUSTRY (LI) TO MUPDD

BE IT ENACTED by the Board of Trustees of the Village of Hastings-on-Hudson as follows:

Section 1. The Local Zoning and Planning Law of the Village of Hastings-on-Hudson, New York is hereby amended by adding a new section, § 295-72.3, which establishes the zoning regulations for the new Mixed-Use Planned Development District (MUPDD), as attached.

Section 2. Section 295-5, Definitions, of the Local Zoning and Planning Law of the Village of Hastings-on-Hudson, New York is hereby amended by adding the definitions of the terms "senior assisted-living housing," "senior enriched/independent living housing," "senior housing," "mixed-use residential buildings," and "maximum development coverage," as defined in the attached regulations.

Section 3. Section 295-6, Enumeration of Districts, of the Local Zoning and Planning Law of the Village of Hastings-on-Hudson, New York is hereby amended by adding the following to the enumeration of districts, after Multifamily Residence/Commercial (MR-C):

Mixed-Use Planned Development District MUPPD

Section 4. The Zoning Map of the Village of Hastings-on-Hudson is hereby amended to rezone the 7.45 acre property on the west side of Saw Mill River Road designated on the Tax Map as Section 11, Sheet 22, Parcels P4 and P4A from Limited Industry (LI) to Mixed-Use Planned Development District (MUPDD).

Section 5. This local law shall take effect immediately.

§ 295-72.3. Mixed-Use Planned Development District (MUPDD)

A. Purpose and intent. The purpose and intent of the Mixed-Use Planned Development District (MUPDD) is to create planning and zoning flexibility in order to achieve environmentally sensitive, economically beneficial, and socially desirable development that is more creative in its mixture of compatible land use and design than is possible under more rigid, conventional zoning regulations. This type of zoning is also designed to minimize traffic impacts on adjacent and neighboring streets, protect the Hastings-on-Hudson central business district, protect the character of neighboring properties, respect culturally and environmentally significant resources, and provide access to village and county trailways.

B. Principal uses. The following uses are permitted principal uses in a MUPDD District:

(1) Dwellings for three or more families, including senior enriched/independent living housing and senior assisted living housing, provided that:

(a) The maximum number of dwelling units per acre shall be 6 and the maximum number of bedrooms per acre shall be 12.

The maximum number of dwelling units and bedrooms per acre may be increased by not more than 33-1/3% beyond the basic permitted density if the applicant agrees to dedicate to the Village, or an entity designated by the Board of Trustees, land for open space or recreation purposes, and if the Board of Trustees determines that such dedication of land is of sufficient size and

suitability to permit the increased density, which determination shall lie within the absolute discretion of the Board of Trustees.

Any such land dedicated in exchange for increased density shall not be included in lot area for purposes of calculating maximum building coverage and maximum development coverage under paragraph E of this Section, nor shall it reduce the applicant's open space requirement under the following paragraph.

(b) For each dwelling unit, there shall be provided suitably improved and usable recreation area and open space in the following amounts:

[1] One hundred square feet for each studio (efficiency) dwelling unit;
and

[2] Two hundred square feet for each bedroom.

(2) Attached single-family townhouses, provided that:

(a) The maximum number of townhouses per acre shall be 6 and the maximum number of bedrooms per acre shall be 12.

The maximum number of dwelling units and bedrooms per acre may be increased by not more than 33-1/3% beyond the basic permitted density if the applicant agrees to dedicate to the Village, or an entity designated by the Board of Trustees, land for open space or recreation purposes, and if the Board of Trustees determines that such dedication of land is of sufficient size and suitability to permit the increased density, which determination shall lie within the absolute discretion of the Board of Trustees.

Any such land dedicated in exchange for increased density shall not be included in lot area for purposes of calculating maximum building coverage and maximum development coverage under paragraph E of this Section, nor shall it reduce the applicant's open space requirement under the following paragraph.

(b) For each townhouse, there shall be provided at least 100 square feet of suitably improved and usable recreation area and open space for each bedroom.

(3) Municipal parks, municipal playgrounds, and municipal conservation areas, including customary refreshment and service buildings.

(4) Business and professional offices, excluding medical or dental offices.

(5) Mixed-use residential buildings, provided that:

(a) The maximum number of dwelling units per acre shall be 6 and the maximum number of bedrooms per acre shall be 12.

The maximum number of dwelling units and bedrooms per acre may be increased by not more than 33-1/3% beyond the basic permitted density if the applicant agrees to dedicate to the Village, or an entity designated by the Board of Trustees, land for open space or recreation purposes, and if the Board of Trustees determines that such dedication of land is of sufficient size and suitability to permit the increased density, which determination shall lie within the absolute discretion of the Board of Trustees.

Any such land dedicated in exchange for increased density shall not be included in lot area for purposes of calculating maximum building coverage and maximum development coverage under paragraph E of this Section, nor shall it reduce the applicant's open space requirement under the following paragraph.

(b) For each dwelling unit, there shall be provided suitably improved and usable recreation area and open space in the following amounts:

[1] One hundred square feet for each studio (efficiency) dwelling unit;
and

[2] Two hundred square feet for each bedroom.

(c) The portion of the building used for residential purposes shall have an entrance that does not require access through the portion of the building used for nonresidential purposes, other than by means of a common lobby.

(d) Only the following nonresidential uses are permitted in a mixed-use building:

[1] Artist studios, not to exceed 1,500 square feet.

[2] Stores and shops, not to exceed 1,500 square feet of gross floor area, for the retail sale of antiques, books, art, gifts, or similar specialty items.

[3] A store or shop, not to exceed 1,500 square feet of gross floor area, for the retail sale of food, sundries, perishables, and other convenience goods. Not more than one such store or shop shall be permitted per 7-acre site.

[4] Business and professional offices, excluding medical or dental offices.

(6) Health or athletic clubs.

C. Principal uses requiring a special permit. The following uses are permitted principal uses in a MUPDD District but require a special use permit issued pursuant to Article X of this chapter:

(1) Research, design, and development laboratories, provided that:

(a) All research and related activities shall be carried on within fully enclosed buildings.

(b) None of the following shall be permitted:

[1] Chemical plants.

[2] Motor-testing laboratories.

[3] The keeping and use of large animals, but nothing herein shall prohibit the keeping and use of small animals that are commonly used in scientific laboratories incidental to the experimentation, development, and research conducted in the laboratories, provided that such animals be kept only in the interior of any building or structure located on the property of the laboratories, and further provided that no animals shall be kept that will create any noise or cause offenses, annoyances, or disturbance to any of the surrounding properties and to their owners, occupants, and users.

[4] Facilities engaged in research in the field of explosives.

(c) There shall be no display or sale of goods at retail.

(d) There shall be no manufacturing or fabrication, except that a small number of pilot or experimental models, which require the supervision of the technical staff of such laboratory for their productions, may be produced on the premises.

(e) No offensive noises, gases, fumes, odors, vibrations or radio, electric or electronic emanations, or other objectionable influences or hazards shall

emanate from such use, and no waste products shall be discharged therefrom of a character to create a nuisance.

(f) No radioactive materials shall be kept or used on the premises.

(2) Public utility substations, public utility transmission and distribution lines, public utility water towers and railroads and public utility rights-of-way and structures necessary to provide service within the village, but not personal wireless service facilities, except as permitted by § 295-85 of this chapter, provided that:

(a) Any lot on which a public utility substation or water tower is located shall have an area of at least 7,500 square feet and a frontage of at least 75 feet. The station or tower shall be set back at least 35 feet from the front property line and 50 feet from all other property lines and shall be enclosed by protective fencing and a gate, which shall be closed and locked except when necessary to obtain access thereto;

(b) Any such facilities shall be so designed, enclosed, painted, or colored and screened with evergreens that they will be harmonious with the neighborhood in which they are located. All such property shall be suitably landscaped and maintained in reasonable conformity with the standards of property maintenance of the neighborhood in which it is located;

(c) All new or additional power transmission or distribution lines shall be placed underground, wherever possible; and

(d) All such facilities shall comply with the requirements set forth in § 295-95 of this chapter.

D. Accessory uses.

(1) Residential uses. The following accessory uses are permitted in a MUPDD District in conjunction with a principal residential use that is permitted in a MUPDD District.

(a) The office or studio of an architect, artist, dentist, engineer, lawyer, musician, teacher, physician, or similar profession, but not including veterinarians, provided that:

[1] The office or studio is incidental to the residential use of the dwelling unit and is carried on by a resident therein with not more than one nonresident assistant, including partners, associates, and part-time and full-time employees;

[2] The office or studio shall not occupy more than 30% of the floor area of the dwelling unit;

[3] The office or studio shall not create a nuisance to any surrounding residents;

[4] There shall be no outside storage and no display, advertising, or other visible evidence of the use outside the dwelling unit in which it is located, except for a single identification nameplate not exceeding one square foot in area; and

[5] The parking area shall be subject to site plan review to determine that it is of adequate size for the particular use, suitably screened with evergreen planting, walls, or fences, or combinations thereof, and with entrance and exit drives designed in a safe and adequate manner.

(b) Customary home occupations, as defined in § 295-5 of this chapter, provided that:

[1] The occupation is incidental to the residential use of the premises and is carried on in the dwelling unit by a resident therein with no more than one nonresident assistant, working at the same time, including partners, associates, and part-time and full-time employees;

[2] Only customary household tools, appliances, and equipment are used;

[3] The occupation does not occupy more than 30% of the floor area of the dwelling unit;

[4] The occupation does not create a nuisance to any surrounding residents;

[5] The use does not create waste disposal requirements significantly in excess of those normally produced in a residential district unless a suitable method for the disposal of such wastes is provided, as determined by the approving authority;

[6] There shall be no outside storage and no display, advertising, or other visible evidence of the use outside the dwelling unit in which it is located, except for a single identification nameplate not exceeding one square foot in area;

[7] All products sold in the dwelling unit shall be made in the dwelling unit, except for the sale of items that are incidental to the provision of a permitted service;

[8] There shall be no mechanical or structural fabrication, assembly, or processing of any products or items, except that which is incidental to the permitted accessory use;

[9] The parking area shall be subject to site plan review to determine that it is of adequate size for the particular use, suitably screened with evergreen planting, walls, or fences, or combinations thereof, and with entrance and exit drives designed in a safe and adequate manner;

[10] No more than one commercial vehicle, which vehicle shall be less than three-fourths ton in design capacity, shall be used in connection with such a permitted accessory use. Such vehicle shall be housed in an enclosed garage when not in actual use; and

[11] Where the proposed use involves structural alterations or additions requiring a building permit, the use shall be permitted only if the dwelling unit in which it is to be located is deemed by the Building Inspector to be adaptable to the proposed use from the point of view of public health and safety and the other requirements of this chapter.

(c) A garden house, toolhouse, playhouse, greenhouse, or similar occupancy use customarily incidental to the permitted principal use of the premises and not operated for profit.

(d) Accessory recreational facilities, including swimming pools, customarily incidental to multifamily dwellings, provided that such facilities are limited to the use of the residents of the premises and their accompanying, nonpaying guests and are not operated for profit.

(e) Off-street parking facilities serving the permitted principal and accessory uses in the lot and conforming with this chapter.

(f) Signs, but only as permitted by the Board of Trustees in the Concept Plan Approval, and provided they comply with § 295-50 of this chapter.

(2) Nonresidential uses. The following uses are permitted accessory uses in a MUPDD District but only in conjunction with a principal nonresidential use that is permitted in a MUPDD District:

(a) Accessory buildings and uses customarily incident to the permitted principal uses.

(b) Parking and loading facilities, provided that no loading shall take place nearer than 100 feet to a residence district or a residential use or between the hours of 7:00 p.m. and 8:00 a.m.

(c) Signs, but only as permitted by the Board of Trustees in the Concept Plan Approval, and provided they comply with § 295-50 of this chapter.

E. Development regulations. Each site in the MUPDD District shall be subject to the following development regulations:

(1) Minimum site size: 7 acres.

(2) Maximum building coverage: 30% of lot area.

(3) Maximum development coverage: 60% of lot area.

(4) Site perimeter setbacks

(a) Minimum site perimeter setback:

[1] Front: 35 feet.

[2] Side: 50 feet.

[3] Rear: 50 feet.

[4] From designated trailway or other significant environmental feature: 50

feet

(b) Except for driveways and walkways providing access to a structure or parking on the site, no portion of the area within a site perimeter setback may be paved. Areas within a site perimeter setback are to be landscaped and kept as open space.

(c) No motor vehicle, trailer, recreational vehicle, snowmobile, mobile home, boat, or permanent or temporary structure shall be placed in any area within a site perimeter setback.

(5) Maximum height: three stories or 40 feet, whichever is less.

F. General MUPDD application review process. Application for approval of any use within the MUPDD zoning district shall follow a two-phase review process:

(1) Application for approval of a MUPDD Concept Plan by the Village Board of Trustees; and

(2) Application for subdivision approval, if necessary, and site plan approval by the Planning Board, subject to the requirements of the approved MUPDD Concept Plan.

G. Specific MUPDD application review process.

(1) The Concept Plan submission shall be made to the Building Inspector and shall include 15 copies of the following information, in form and detail sufficient to enable the reviewers to understand the general nature and scope of the applicant's proposal:

(a) A location map of the site in relation to the surrounding area showing all roads and key development features, including significant neighboring land uses and zoning district boundaries.

(b) A current topographic map of the property indicating the general nature and location of any wetlands, hydrogeologic zone boundaries, special groundwater protection areas, special wildlife habitat areas, and any other significant environmental features.

(c) A conceptual sketch plan map indicating the approximate quantity, nature, and location of proposed land uses; the proposed open space system and its relationship to neighboring open spaces; the proposed principal means of access to the site and major elements of the site circulation system; the proposed provision for parking; the existing and proposed availability of mass transportation services; water supply and wastewater disposal facilities; and, to the extent known, the height, bulk, location, and general design of buildings and other structures, interior lot lines, if any, and the general floor plans for each building.

(d) A written statement describing the general reasons why the applicant believes that approval of its application would further the legislative purpose and intent of the MUPDD zoning, and any other pertinent supporting rationale or documentation.

(e) A quantitative analysis for the entire site (including subtotals for each school district) that indicates preserved land areas, the floor space of the various types of proposed commercial and other non-residential uses, the proposed number of residential dwelling units by size and type, and the area, percentages of the site, and floor area ratios proposed for each type of land use.

(f) Proposals for the construction, operation, and maintenance of all planned utility systems, roadway improvements, sidewalks, trails, and other infrastructure.

(g) Proposals for the ownership, use, and maintenance of all preserved open spaces.

(h) A description of any proposed covenants and restrictions intended to be offered by the applicant.

(i) A list of all governmental approvals, permits, and licenses required for each phase of development.

(j) Proof of title and an affidavit as to ownership and/or control of all involved properties. The MUPDD site may be owned by one or more persons, partnerships, limited partnerships, trusts, or corporations, but must be presented as a single property at the time of the application to the Village Board. Such multiple owner applications shall be jointly filed and consented to by all owners and, if approved, shall be binding on all of them and all future owners. Legal agreements, in recordable form and in substance satisfactory to the Village Attorney, shall be provided to assure this.

(k) Demonstration by the applicant that potential traffic generation shall be within the reasonable capacity of the existing or planned road(s) or street(s) providing access and that traffic circulation, exit and entrance drives are laid out to minimize traffic hazards and nuisances.

(l) The names and addresses of the owners of properties in a radius of 500 feet from each property line of the site.

(m) Projected schedule for development.

(2) Review by Board of Trustees

(a) Upon receipt of a complete application as determined by the Building Inspector for Concept Plan Approval, the Building Inspector shall distribute the application to the Board of Trustees. The Board of Trustees shall conduct a preliminary review of the Concept Plan to determine whether a public hearing shall be scheduled on the application. If it so determines, the Board of Trustees shall refer the Concept Plan to the Planning Board and schedule a public hearing with the same notice as required by this chapter for a zoning variance.

(b) Before the close of the public hearing on the Concept Plan, the Planning Board shall file with the Board of Trustees an advisory report on the Concept Plan. In recommending the adoption or rejection of the Concept Plan, the Planning Board shall state the reasons for its recommendations. The failure of the Planning Board to file an advisory report as required by this section shall not affect the power of the Board of Trustees to act on the proposed Concept Plan.

(c) The Board of Trustees, without limiting its legislative discretion, shall consider at least the following matters in determining the suitability of the proposed MUPDD Concept Plan:

[1] The extent to which the application implements the legislative purposes and intent, as set forth in this section.

[2] The proposed mix of land uses and their planned design and arrangement on the site, including compatibility with site conditions, and with neighboring streets and land uses.

[3] The potential impact of the proposed development upon the area in which it is located, and upon the Village and surrounding areas.

[4] The adequacy of the phasing plan to ensure that the uses in each phase will be self-sufficient if future phases should be delayed or abandoned.

(3) Action by Board of Trustees

(a) The Board of Trustees shall approve, conditionally approve, or disapprove the proposed MUPDD Concept Plan. Approval or conditional approval shall not be deemed to create vested rights or to waive any right of the Village to a subsequent detailed review of any aspect of the proposed development or of any specific subdivision or site plan as required pursuant to this article, including environmental review pursuant to the New York State Environmental Quality Review Act (SEQRA).

(b) Conditions of approval may include, without limitation:

[1] Required modifications of any aspect of the proposed MUPDD Plan, including partial approval of all or any portion of the Concept Plan.

[2] Restrictions on the quantity, type, and location of each permitted land use;

[3] Creation or modification of access roadways and/or overpasses, including access to any designated trailway;

[4] Requirements related to the construction, ownership, operation, and maintenance responsibility for both on-site and off-site infrastructure improvements;

[5] Provisions assuring the permanent ownership, preservation, and maintenance responsibility for required open spaces and for buildings or sites of significant historical and/or archaeological value;

[6] The dedication of open or recreational space;

[7] The establishment of standards, including design, performance, and/or bulk standards, as determined appropriate by the Village Board, to govern the future approval of detailed subdivisions and/or site plans for individual sections of the proposed development by the Planning Board;

[8] Requirements related to the phasing, timing, and/or sequencing of the proposed development and related improvements; and

[9] Any other items relating to the health, safety, and general welfare of the public.

(c) Any proposed amendment to the approved MUPDD Concept Plan may be made by the Board of Trustees and only after a public hearing with the same notice as required for the initial MUPDD application.

(d) Approval or conditional approval of the MUPDD Concept Plan shall expire in three years or as set forth in the Board of Trustees' approval, unless the required development progress has been made or such time limit has been extended by the Board of Trustees.

(4) Subdivision/site plan application to Planning Board.

(a) The approval or conditional approval of a MUPDD Concept Plan application by the Board of Trustees shall authorize the applicant to proceed with the detailed design and planning of individual sections of the planned development and to submit applications to the Planning Board for subdivision and/or site plan approval, as appropriate, and in accordance with the procedures and requirements for such applications as set forth in this chapter. All such applications must conform with the requirements of the approved MUPDD Concept Plan, and any findings and conditions issued in connection therewith by the Board of Trustees. Subdivision and/or site plan approval, as appropriate, shall be required prior to the issuance of any permit for building, demolition, land clearance, land use, or land development within a MUPDD or any section thereof.

(b) Although the procedural requirements for subdivision and site plan review shall be the same as those applicable to other subdivision and site plan applications in the Village, in reviewing subdivision and site plan applications within a MUPDD, the Planning Board shall also consider the following:

[1] The conformity of the application to the approvals, agreements, and conditions imposed by the Board of Trustees.

[2] Any section or sections for which the Planning Board shall grant approval or conditional approval, shall be determined to be capable of being self-supporting, sustainable, and environmentally sound, in the event that the applicant does not proceed with other sections.

[3] The dedication of land for permanent preservation and the construction of on-site and/or off-site infrastructure improvements shall be accomplished in conformance with the approved phasing plan and shall be installed so as to properly serve the proposed site development. In order to make such determination, the Planning Board may require the preparation and submission of such additional detailed plans and/or studies with respect to water supply, sewerage service, stormwater drainage, road improvements, and other utilities and services, as the Planning Board may find necessary to allow it to determine their adequacy not only to serve the individual section(s) proposed but also to be properly related to utilities and services which, in the future, will serve the MUPDD as a whole.

[4] The conformity and progress of development in preceding sections of the MUPDD in relation to all applicable timing and sequencing requirements and conditions.

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