



## **Village of Cold Spring - Planning Board**

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### **Planning Board Response to Village Board of Trustee Regarding Chapter 134 Zoning Code | June 5, 2023**

#### **General Statement**

The Cold Spring Planning Board in accordance with the NYS Zoning laws and in conjunction with the Village Comprehensive Plan has been established for the Village of Cold Spring in the interest of the protecting and promoting public health, safety, and welfare. Regulations have been made and the responsibility has been given to the Planning Board to act as stewards upholding the character of the Village and its suitability for uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout our municipality.

Based on the Comp Plan Vision and Goals it seems clear that any proposed rezoning should consider environmental concerns and ensure safe and efficient public access across the Village. If access and environmental issues can't be fully solved or understood, then a rezoning should not proceed. If we are trying to maintain a 'historic residential character' in an area that has been historically industrial, we should consider how to impact the Industrial area without changing the character of the adjacent parts of the Village. The need to tailor make zoning code and planning board procedures that guide the development of the last large parcel of land in the Village should be avoided.

The implications of tailoring a zoning code and planning board approval procedures to a proposed development is not advisable. Insofar as it might add inconsistencies and the need for variances rather than the actual intent, which is to reduce inconsistencies. Rezoning and mixed use could be achieved under the current code. It is possible with the existing I1 we can add a PMU overlay available by Special Use Permit if the gating issue of environmental and access have been satisfactorily addressed. This would avoid conflict and costly concept planning because the code can require a developer to address these issues as a prerequisite. Further, this could also serve to achieve the same end without creating additional non-conformity to an already developed village.

Additional consideration to re-zoning existing developed parts of the village should include topography, as the forms-based approach contradicts with 'keeping the character of the village.' The updated Chapter 134 appears to try and increase conformity in a Village that is authentic in its organic development; one that needs guideline and maintenance rather than forced conformity in areas that cannot conform due to topography and layout.

Below are our key recommendations and open questions. We request that we receive written responses/answers to the questions posed below.

**Key Recommendations:**

- 1- Any re-zoning of Marathon Site should require full site remediation prior to any development.
- 2- Any re-zoning of Marathon Site should require a traffic and road access study with solutions to achieve Comp Plan goals prior to any development.
- 3- Maintain the I1 and add a PMU overlay by Special Use Permit, adding specific, objective criteria for Comprehensive Plan Policy 7.2.2; make appropriate access to and from the [Marathon and environs] area a prerequisite for any development.
- 4- Revisit the proposed zoning maps and tables. For example, 44% of R1 lots do not meet the criteria. Limiting Multifamily to 1 building with a max of 4 units would move all existing Multifamily's out of conformity (including the Butterfield Mixed-Use apartment/retail building currently under construction and without a Certificate of Occupancy in place)
- 5- Move away from forms-based zoning because it contradicts the intent of keeping the character of the Village. Rules-based zoning guidelines are a better fit for an existing Village already built out.
- 6- Add a flood district overlay to allow properties near the shore to survive in the changing environment.

**VBOT Open Questions:**

*New Draft Version of Chapter 134*

- When will the next draft be ready for Planning Board review?
- When will next set of public hearing(s) be held on the new draft?
- NYSERDA invoice deadline is 6/30, how should we be working within this date? How can we align on public feedback and Planning Board redline to impact the final draft before the end of June? What is your recommendation?

**Zoning Committee Open Questions:**

*New Draft Version of Chapter 134*

- What are the major changes being made (E.g.: delete streetscape standards, landscape standards). Are we moving away from form-based code? Why or why not?

*Regarding Maximum Density of the Site:*

- Page 2, C. is inconsistent with Code, "the provisions contained in this Section shall govern and prevail." Does this mean that this will allow for greater density, etc. than the Village Code?
- Page 3, d)1, "multi-family buildings shall be consistent with the over-all character of the Village and resemble a single-family building as shown in the photograph... of a fourplex

building". Is this cookie cutter building the 'standard' or example of multi-family buildings proposed?

- 5-page 15- Item 2. To encourage flexibility in the design, forma and type intended by this section, if PMU project plans occur over "a period of years" - how many years? - the development may authorize a departure from the density or intensity of use established for the entire project for each phase to be developed - is this at odds with the prior stipulation on p.12 item K- "the proposed development is properly phased so that the density of any phase when combined with previously constructed phases, does not exceed the approved overall project density...etc." 2a & 2b make sure the density/concentration is lower than a prior phase, but the language at the beginning should indicate that, rather than saying a 'departure in density or intensity; it should say something like: 'a reduction...in density.'

#### *Contradictions and Incompatibility:*

- How compatible are the requirements on pg.11 Item e: "based on traditional forms of development in terms of placement, design, and quality of materials as described in the Village off Cold Spring Historic District Design Standards," and the requirements laid out in items g & h, specifically "green streets principles, innovative low impact techniques, impervious surface?" Does one set of standards take precedence if the historic district design standards do not allow for particular green, low impact, and innovative materials or techniques?
- Regarding HDRB Review (pg.6) is the currently Industrial zone also in the historic district? Conceptually this situation is interesting when we are trying to achieve a 'historic residential character,' in an area that has been historically industrial. What is 'historic'? Are we suggesting a more varied re-zoning of the site? Does a re-zoning that allows more varied uses (rather than primarily residential by the proposed PMU) better fit the historic character of this particular area?
- By creating a designation of PMU, the working draft is more limiting than the current permitted uses listed in the Zoning Update slideshow. Does that seem right? (pg.5 of the draft calls for non-residential uses as 5% min, 10% max (including office, personal services, and retail. How can we articulate in a clearer manner, perhaps at the outset?
- Regarding the housing-types section, what has been done to remove potential conflicts with the limitations of what is outlined in the HDRB language?

#### *Planning Board Approval Procedures*

- How does the proposed Planning Board Review process for the PMU / PUD at Marathon compared to our standard site review process? How can we make the planning boards role and responsibility clear & feasible, with respect to the measures by which we would review the concept plans and consider stakeholder input?
- There are so many specific questions such as designs of street, water, sewage, traffic -- these remain very vague in the draft; however, these are exactly what the Planning Board needs to understand and review. Are there plans to expand the procedures or include specific parameters for approval to address these areas?
- There are no little to no provisions in the procedure for approvals to confirm appropriate access to and from the PMU area, a prerequisite for any development, ensuring the development does not create traffic problems that will unreasonably adversely affect

current residents. Are there plans to expand the procedures for approval to address these areas? Without clear objective criteria here, the Planning Board is concerned that our decision(s) could be determined to be arbitrary. Specifically in access being reviewed after the developer has spent effort and dollars to develop a concept plan. The Planning Board needs objective criteria on access and environmental issues in order to do its job effectively and objectively.

- Does the re-zoning of the R, B, and other zones, as well as the adjustment of definitions appear to achieve the stated goals of reducing non-conformance, and making the approvals processes more efficient and reflective of current character/uses?
- When will the Village Board of Trustees or working group provide the statistical data of conformity pre and post this proposed zoning that the VBOT has said at the beginning of the hearing will be provided?
- pg.9 the public engagement piece, there is a lot of work for the Planning Board, in terms of engaging stake holders, how this could be described more procedurally, what is the actual impact of the feedback from the Village boards and community stakeholders?