

# DRAFT FOR TRUSTEE REVIEW

## MEMORANDUM

**TO:** Village of Cold Spring Planning Board  
**FROM:** Village Board of Trustees  
**DATE:** 14 July 2023  
**RE:** Response to Planning Board Comments Dated June 5, 2023

Colleagues:

Thank you for the comments you recently submitted regarding the proposed new text for Chapter 134 of Village Code, Zoning. The Planning Board was provided a draft of the chapter in advance of the public hearing and a report on the draft requested. This is in keeping with Village Code Chapter 134-32, and your report of June 5<sup>th</sup> is understood by the Trustees to complete that requirement. Further, in keeping with Code Chapter 21-8, the Planning Board was given a reasonable time – 30 days – to submit that report.

The Trustees take note that the Planning Board’s comments focus primarily on one section of the chapter, 134-12, that which is proposed to govern the Planned Mix Use Zone at what is commonly referred to as the Marathon site. It is further noted that the pagination and section references you cite for that section draw upon an early draft of the PMU that was provided to the Planning Board as courtesy on 3/21/2023. The actual draft of the full Chapter was submitted to the Planning Board on 4/3/2023; it is our hope that the full chapter, provided in the prescribed timeline, was in fact reviewed by the Planning Board.

A revised draft was made available to the public on 6/7/2023, available here: <https://www.coldspringny.gov/mayor-board-trustees/pages/chapters-76-noise-104-signs-and-134-zoning>. The public hearing for Chapter 134, Chapter 104 (Signs and placards) and 76 (Noise) will continue on 6/14. Both the Trustees and the Ad Hoc Working Group have reviewed your 6/5/2023 comments and take note that most of your comments and recommendations had overlap with public comment previously received by the Trustees, and appropriate modifications and clarifications are already included in the 6/7 draft. These include:

- The form-based language for the residential districts (R-O, R-N, and R-ML have been removed. The 2012 Comprehensive Plan recommended that the Village “consider” form-based standards (Objective 1.1.1). Such standards make sense for new construction, but we agree that they were not well-suited for existing neighborhoods. Form-based standards remain in place for the PMU.

# DRAFT FOR TRUSTEE REVIEW

- Adjustments have been made to sections on pre-existing non-conformities and will be discussed in public session on 6.14.2023 (section \_\_\_\_\_)
- A flood district overlay requires careful research and consideration, and the Trustees feel it is more appropriately discussed as part of a Comprehensive Plan Update.
- Data on parcel non-conformity was established for the *current*, standing Chapter 134. It is beyond the scope of this code update project to analyze non-conformity under the proposed chapter, but it stands to reason that in tailoring sub-districts of the former R-1 residential district with dimensional requirements that more closely aligning with the majority of properties in the sub-districts will reduce non-conformity.
- Non-conformity exists in every municipality; it is an inevitable by-product of collecting multiple parcels into zones. We don't zone for every circumstance, we zone to achieve the greatest bulk, height and use compatibility with prescribed standards. Pre-existing, non-conforming uses are a fact of zoning.

Particularly related to the Planning Board's comments on the PMU:

- Your membership recommended the retention of the I-1 zoning for the Marathon site, with a floating PMU overlay available to the developer. In such a scenario, the uses available under the I-1 would continue to be available as-of-right, and drawing down a mixed use overlay would be optional. This is direct opposition to the comprehensive plan's recommendations to remove uses inconsistent with the Comprehensive Plan, district by district (Objective 1.3.3), and to encourage mixed use on the Marathon property (see Objectives 7.2.9-10)
- Yes, the allowable uses on the Marathon site would, under the PMU be reduced from what they are under I-1; the potentially "dangerous, injurious, noxious or otherwise objectionable" uses have been discontinued.
- The Planning Board stated in its report: "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 Village Board disagrees, and feels that the unique size and qualities of the Marathon site, and its potential impact on the Village overall, is precisely why land use controls, a rigorous review process and enhanced public engagement must be enshrined in its zoning. Planned Unit Developments are intended to provide more municipal/public controls of outcomes on sensitive and/or valuable sites.
- The determination of "full site remediation" at Marathon is determined by the EPA and the DEC, not the Village. Please note that references to conformance with EPA & DEC requirements are part of concept plan approval, preliminary and site plan removal. The language has been strengthened and clarified in several portions of the text (INSERT REFERENCES TO SECTIONS).
- Traffic and road access studies before redevelopment at Marathon were already required in the draft you were provided; language has been updated and direct reference made to Code Chapter 57 (see \_\_\_\_\_).
- Language related to development phases in the PMU and follow-on reviews for phases have been clarified in the text 134-12 (see \_\_\_\_\_).

# DRAFT FOR TRUSTEE REVIEW

- Reliance on the Historic District Design Standards and the expertise of the HDRB in the PMU has been made clearer and more direct (see \_\_\_\_\_)
- The Village Board does not see the contradiction in a parcel with an industrial history, and part of the local Historic District, being integrated into the overall character of the Village. In fact, it could be argued that the history of the site, and the industrial heritage of Cold Spring and the surrounding Hudson Valley, could provide inspiration for compatible design innovation on the site.

Thank you to Planning Board members for your assistance in completing the very important and long overdue update of the Village of Cold Spring's zoning code.