

V2 DRAFT FOR TRUSTEE REVIEW

MEMORANDUM

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

Colleagues:

Thank you for the comments you recently submitted regarding the proposed ~~amendments new text for to~~ Chapter 134 of Village Code, Zoning. Pursuant to Section 134-32 and Section 21-7 and 21-8, the Village Board of Trustees referred a draft of the proposed zoning amendments to the Planning Board, and requested a report, on April 3, 2023. This was over three (3) weeks before the public hearing on the zoning amendments was first opened. 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, . It is our understanding that and your letter report, dated of June 5th, is in response to the Village Board's request for a report and it is understood by the Trustees to completes that requirement. The Planning Board's report was provided approximately sixty-one (61) days after the draft zoning amendments were delivered. Further, in keeping with Code Chapter 21-8, a draft of the full Chapter was submitted to the Planning Board on 4/3/2023, with a request for a report. A reasonable period the Planning Board was given a reasonable time — 30 days — was given to the Planning Board to respond. The public hearing on the zoning chapter was by the Board of Trustees on 4/26/2023 to submit that report. The Board of Trustees received the Planning Board's report on 6/5/2023, sixty one days after draft delivery.

The Trustees take note that the Planning Board's comments focus primarily on one section of the proposed zoning amendments chapter, §134-12, that which is proposed to govern the Planned Mixed Use (PMU) 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 §134-12 the PMU that was provided to the Planning Board as courtesy on March 21, 2023/21/2023, giving an additional 14-days of opportunity for consideration of the new PMU district and its regulatory structure.¹. ~~The actual draft of the full Chapter was submitted to~~

¹ Modifications between the 3/21/2023 draft of the PMU and the PMU section of the full 4/3 draft were not substantive. The PMU was provided to the Planning, Zoning and Historic District Review Boards in advance if the

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~~the Planning Board on 4/3/2023; It is~~ the Board of Trustees' ~~our~~ hope that the full chapter, provided in the prescribed timeline, was in fact reviewed by the Planning Board.

A revised draft of the proposed zoning amendments was made available to the public on June 7, 2023/6/7/2023, available here: <https://www.coldspringny.gov/mayor-board-trustees/pages/chapters-76-noise-104-signs-and-134-zoning>. In the June 7, 2023/6/7/2023 Village Board meeting, modifications in the draft were reviewed on a page by page basis by the consulting planner. The recording of that session, including screen shares of the chapter draft, can be found here: <https://www.youtube.com/watch?v=kipAWKIVCdl>. Revisions. ~~Further~~ revisions were also reviewed within the document, for public review, and the recording can be viewed here: <https://www.youtube.com/watch?v=jzSKjRstNY>. The June 7, 2023 version of the draft zoning amendments also included a revised Part 3 to the Environmental Assessment Form.

Another revised draft of the proposed zoning amendments was made available to the public on June 14, 2023, which changes were discussed at the Village Board meeting that same day. Similarly, some additional clarifications and minor adjustments have been made since June 14th and that revised version (dated _____, 2023) is now available to the public.

The public hearing for Chapter 134, Chapter 104 (Signs and placards) and 76 (Noise) was continued multiple times, most recently to ~~the~~ [June 21, 2023/6/21/2023](#).

Both the Trustees and the Ad Hoc Working Group have reviewed the Planning Board's ~~your~~ June 5, 2023/6/5/2023 comments and take note that most of the ~~your~~ comments and recommendations had overlap with public comments s previously received by the Trustees; i and appropriate modifications and clarifications are already included in the latest 6/7 drafts. 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.
- Adjustments have been made to sections on pre-existing non-conformities and have will been discussed in public session on June 6-14, 2023 (sections 134-19B, 134-19D, and 134-19H).
- 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.

full chapter draft so that more time would be available for review is this new and comparatively more complex section of the zoning code. Therefore, the Planning Board had an additional 13 days to review the PMU section.

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- 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 would not be consistent in keeping with 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)^[M1]. That said, both processes would require a special use permit review by the Planning Board, in which existing conditions, as well as potential impact from new development, can be addressed.

As stated in the Comprehensive Plan: "The Village has little land available for new development, a fact that has limited construction in the 1990s and 2000s. From being an industrial powerhouse in the 19th century, the Village has little manufacturing of any kind today, though several areas are zoned for industrial use, a legacy of the days when the West Point Foundry dominated our economy."² Both the existing and future land and water uses maps developed for the Village's Local Waterfront Revitalization Strategy (as a counterpart to the Comprehensive Plan) do not identify any lands that are occupied by either existing nor potential future uses by industry. No adverse impacts on industrial uses are expected as a result.

- 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

² Village of Cold Spring Adopted Comprehensive Plan, January 10, 2012, section on Economic Vitality, page 48. 12-07-2011 adopted comprehensive plan 0.pdf

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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 (see sections 134-12B(11) and 134-12D(2)(a)3.c).
 - The page Environmental Assessment form specifically addresses environmental concerns. However, please note that in a rezoning proposal, environmental impacts are reviewed on a generic basis, as there are no details or even concepts of potential development within the Village.
- 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 sections 134-1D, 134-12C(4)(i)1, 134-12D(2)(a)3.f, and 134-12D(2)(b)5.d).
- Language related to development phases in the PMU and follow-on reviews for phases have been clarified in the text 134-12 (see 134-12D(2)(b)2).
- Reliance on the Historic District Design Standards and the expertise of the HDRB in the PMU has been made clearer and more direct (see 134-1F, 134-12B(3), 134-12D(2)(a)3.g, 134-12D(4)(a)4.e, 134-12C(4)(d), 134-12D(2)(a)Process Chart, 134-12D(2)(a)3.g, and 134-12D(2)(a)4.e).
- 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.

Finally, the Planning Board asked a number of questions about approval procedures for the PMU. You have rightly pointed out that the review process for the proposed PMU is different than what you are accustomed to under existing site plan and/or special use reviews. Training will be provided to the Planning Board. New York State requires annual training for land use boards, which the Village has been lax in ensuring. Particular sessions will be arranged to inform and prepare Planning Board members on working through a review of a PMU proposal. Additionally, the PMU code section itself lays out clear process, and calls for consulting professionals such as planners, engineers and attorneys to be available to the Planning Board. This will be a growth opportunity for the Planning Board, the Trustees and the community

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overall, as we incorporate modern and appropriate tools into our Village's planning and land use kit.

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.