


**TOWN OF HARRISON
VILLAGE OF HARRISON
ATTORNEY'S OFFICE**

MEMORANDUM

TO: Supervisor Richard Dionisio
Members of the Town Board

FROM: Jonathan D. Kraut, Village Attorney 

DATE: June 8, 2023

RE: **Proposed Local Law No. __ of 2023 Amending Chapter 235-17, by adding Section CC, creating a GC-RF Zoning District and amending Attachment 3, entitled "Business Districts: Table of Use Regulations" and Attachment 4, entitled "Business Districts: Table of Dimensional Regulations" accordingly**

E-13

Attached for review is a draft Public Notice, proposing amendments to the above-referenced Sections of the Zoning Code of the Town of Harrison, together with the recommendations of the Town of Harrison Planning Board and Westchester County Planning Board.

Kindly schedule a Public Hearing on the matter to be held at the Town Board meeting of July 12, 2023.

JDK:ld

Attachments

cc: Rocco Germani, Building Inspector
Patrick Cleary, Planning Consultant

TOWN OF HARRISON

MEMORANDUM

To: Mayor/Supervisor Dionisio & Members of the Town/Village Board

From: Patrick Cleary, AICP, CEP, PP, LEED AP

Date: May 19, 2023

Re: **General Commercial - Residential Floodplain District (GC-RF) -
Planning Board Referral**

At their April meeting, the Planning Board forwarded a positive recommendation concerning the creation of a new General Commercial - Residential Floodplain (GC-RF) zoning district for the area adjacent to Oakland Avenue.

The positive recommendation included two comments; that the proposed building height of 50' and the building and impervious surface lot coverages be further studied; and that the maximum number of bedroom restriction be studied.

1. Building Height and Coverage:

Building Height - The new GC-RF zoning incorporated a permissible building height of 50'. A story limitation was not imposed. This was due to the fact that the topography of the district drops away from Oakland Avenue toward the Beaver Swamp Brook, and the anticipated likelihood that any new building would be constructed on a podium, with parking below. Facilitating such a development, while accommodating the applicable floodplain regulations will necessitate this type of configuration.

The Planning Board's concern related to the visual impact of such a building from Oakland Avenue.

It is recommended that the height requirement be amended to include a setback requirement for the upper floor of the building. This zoning technique is frequently used to minimize the visual impact of the upper floors of taller buildings.

The following language is recommended as a footnote to the table of dimensional regulations:

The upper floor of the building shall be setback and shall incorporate architectural elements that minimize its visual impact.

Building and Impervious Surface Coverage - The new GC-RF zoning includes both a building coverage limitation (70%) and an impervious surface coverage limitation (85%).

The Planning Board was concerned that these relatively generous provisions may create excessive amount of impervious surfaces, which may in turn adversely impact the adjacent floodplain.

The recommended coverage percentages were designed to accommodate the nature of anticipated development within the zone. To protect the adjacent floodplain, extensive floodplain protection Special Exception Use criteria have been imposed including avoidance of the regulated floodway, elevation of habitable space above the 500-year floodplain, design of hydrostatic flood flows to pass through uninhabited portions of a building (such as a parking garage), 4:1 compensatory flood storage, unimpeded emergency access above the 500-year base flood elevation, etc.

By way of comparison the coverage requirement in the existing TOD zone is 95%. The proposed coverages are not inconsistent with those that already exist in the downtown. Given the extensive flood protection criteria embedded in the proposed Special Exception Use regulations, it does not appear necessary to adjust the originally proposed coverage percentages.

2. Maximum Number of Bedrooms:

One Planning Board member expressed concern over two provisions in the recommended zoning. This opinion was not shared by other members of the Board, but was thought to be necessary for the Town Board to consider.

The two provisions of concern were:

d. The design of the project, number of bedrooms, size of units, unit mix and all other factors relating to the intended occupants of the dwelling units shall be primarily geared toward young people, empty nesters, and residents without young children.

e. No more than 10% of the units in any residential development shall consist of three (3) bedrooms.

A Board member expressed the concern that this limitation was prejudicial to families with children and particularly to divorced couples where separate bedroom accommodations for children are often required.

The bedroom limitation derives from recommendations in the Town's Comprehensive Plan that are intended to minimize impacts on the school system. This is a well-considered strategy and has been universally employed in most municipalities as a proven method to mitigate school district impacts. This policy

has been utilized in all of the recent multi-family developments in Town, and has achieved the desired result of minimizing school impacts.

Part of the broader underlying strategy associated with the current development cycle involves the construction of multi-family housing. This housing type accommodates young people just entering the housing market, but more importantly, older people that are downsizing from their multi-bedroom single homes. This results in a beneficial housing cycling, allowing families with children to re-occupy the single-family homes. As those home generally previously accommodated school-aged children, the net effect on the school district is minimal.

Modifying the language proposed for the GC-RF to encourage multi-bedroom units, would require amending the housing recommendations of the Comprehensive Plan.

Finally, multi-bedroom units are not prohibited in the GC-RF district. Only the number of such units are limited.

PLANNING BOARD RESOLUTION PB2023/26
APRIL 25, 2022

TOWN BOARD REFERRAL RESOLUTION
CREATION OF A GENERAL COMMERCIAL-RESIDENTIAL
FLOODPLAIN (GC-RF) DISTRICT
ZONING TEXT AMENDMENT

WHEREAS, the Planning Board has received a referral from the Town Board for a recommendation, pursuant to the ordinance amendment procedure established by Article VIII, Section 235-76, of the Zoning Code; and

WHEREAS, the Planning Board has reviewed the referral to Amend Chapter 235-17 by adding Section CC, creating a General Commercial-Residential Floodplain (GC-RF) District.

NOW THEREFORE BE IT RESOLVED, that the Planning Board hereby offers a positive recommendation regarding the Zoning Text Amendment with two comments:

- Height and lot coverage percentage should be further studied.
- The limit on the number of bedrooms should be studied.

BE IT FINALLY RESOLVED, that this resolution shall have an effective date of April 25, 2023.

On the motion of Planning Board Member Chip Marrano, seconded by Planning Board Member Jeffrey Spano, it was adopted by the following vote:

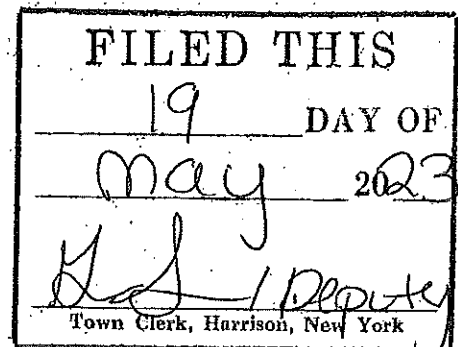
AYES: Joseph Stout, Chip Marrano, Jeffrey Spano, Kimberly Burkan and David Gelfarb

NAYES: None

ABSTAINED: None

ABSENT: Nonie Reich and Marshall Donat


Joseph Stout, Chairman



The resolution was thereupon duly adopted.

George Latimer
County Executive

April 27, 2023

Jackie Greer, Town/Village Clerk
Town/Village of Harrison
1 Heineman Place
Harrison, NY 10528

**County Planning Board Referral File HAR 23-005 – GC-RF District Establishment
Zoning Text and Map Amendment**

Dear Ms. Greer:

The Westchester County Planning Board has received a proposed local law to amend the text of the Harrison Zoning Ordinance to create a new zoning district named GC-RF – General Commercial – Residential Floodplain. This new zone would be applied to seven properties east of Oakland Avenue along Grant Avenue and Wilson Drive, south of Malfitano Park and west of the City of Rye boarder and Beaver Swamp Brook. The proposed zone would replace the existing B – Two-Family Residence designation of these properties. The properties currently host multiple single-story commercial buildings, with one residential property.

The proposed zone would permit multiple dwellings and townhouses, providing that the lowest habitable residential floor be elevated above two feet over the 500-year base flood elevation. Parking garages or other uninhabitable space may be located under this elevation, provided any floodwaters can pass through the structure. Landfill conducted due to construction within the floodplain must be balanced by excavation within the floodplain, preferably on-site, at a ratio of 4:1. Pedestrian access must be provided from the building to the nearest portion of a public street located above the 500-year flood elevation. Mechanical equipment must be located above the flood elevation. Other existing regulations regarding flood damage and wetlands protection would remain in effect.

Commercial uses within the zone would be restricted to offices, retail, trade and business schools, and non-profit organizations (not including places of worship). No dwelling units would be permitted in floors over first floor commercial uses. 1.25 parking spaces per dwelling unit would be required, and 300 square feet of recreation space must be provided for each residence. One enclosed bicycle parking space would be required for every two dwelling units. Dimensional requirements would prescribe a 15 foot front yard setback, 10 foot side yard setbacks, and a 20 foot rear yard setback. Maximum building heights would be 50 feet, with no floor area ratio requirement.

We have no objection to the Harrison Town/Village Board assuming Lead Agency status for this review.

We have reviewed this matter under the provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code and we offer the following comments:

1. Construction within floodplains.

Though the ability to construct additional housing is greatly needed within the County, we are concerned that increased development within an area that consistently floods would exacerbate the issue and increase the flooding potential along the Beaver Swamp Brook. We note that the Malfitano Park neighborhood is particularly flood prone, especially as the Brook widens north of Park Avenue. We also note that the New York State Department of Environmental Conservation is currently studying flooding in the Beaver Swamp Brook watershed as part of the Resilient NY Streams program and a report will be completed in approximately six months, providing more information on flood hazard areas and listing potential projects to mitigate flooding. We further note the Federal Flood Risk Management Standards as well as the Community Risk and Resiliency Act and Climate Leadership and Community Protection Act recommend using a climate informed science approach as the preferred method to create local floodplain development standards, while approaches based on the 0.2% annual chance flood are the least preferred method.

While we understand that the proposed amendments would limit residential uses to floors above the flood stage, and that construction requirements would be included to allow floodwater to pass through lower stories, placing future residents within hazard areas and allowing automobiles to be parked at or below base flood elevations creates additional risk to life and property as well as potentially generate water pollution and create or exacerbate flooding elsewhere. We question the advisability of locating dense new construction in an area already susceptible to flooding. We strongly encourage municipalities to redirect development potential to more appropriate areas of the community and enact regulations to protect and enhance the natural and beneficial functions of floodplains to absorb floodwaters and mitigate flooding.

2. County Stream Control Permits.

The Beaver Swamp Brook, which is located adjacent to the area proposed to be rezoned, is a County stream channel. A County Stream Control Permit will be required from the Westchester County Department of Public Works as part of the approval process for any projects that are proposed alongside the stream. We recommend that the Town/Village contact the County Department of Public Works for this review, in order to ensure the proposed regulations are compatible with existing requirements.

3. Mixed-use buildings.

Our comments about not recommending residential use within this floodplain aside, we question why the proposed regulations would not permit dwelling units over first-floor nonresidential uses. As the location of the proposed zone is within walking distance to the Harrison Metro North train station and the Downtown, and the existing buildings are currently mostly commercial, we recommend that this restriction be removed. Permitting mixed-use buildings within the area would provide more options for infill development along Oakland Avenue (for properties not in the floodplain), while also allowing for the adaptive reuse of existing buildings.


Please inform us of the Town/Village's decision so that we can make it a part of the record.

April 27, 2023

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Thank you for calling this matter to our attention.

Respectfully,
WESTCHESTER COUNTY PLANNING BOARD

By: 
Norma V. Drummond
Commissioner

NVD/MV

cc: Jeffrey A. Dean, Senior Engineer (Civil), County Department of Public Works and Transportation
Michael Dispenza, Contract Administrator, County Department of Public Works and Transportation