

**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: July 5, 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**

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 August 10, 2023.

JDK:ld

Attachments

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

PUBLIC NOTICE

Proposed Local Law No. ____ of 2023 Amending Chapter 235, entitled “Zoning”

by adding a new district known as “GC-RF - General Commercial - Residential Floodplain” to Attachment 3 - Business District: Table of Use Regulations, by adding new dimensional regulations for the GC-RF district to Attachment 4 - Business District: Table of Dimensional Regulations, and by adding new Special Exception Use Regulations for Multiple Dwellings and Townhouses in the GC-RF district as §235-17 CC.

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Harrison, at its meeting to be held at 7:00 P.M., on August 10, 2023, will hold a Public Hearing pursuant to Article 2, Section 10 and Article 3, Section 20 of Municipal Home Rule Law, to amend Chapter 235, entitled “Zoning”, by adding to Section 17, entitled “Special conditions and safeguards for specific uses”, subsection CC, entitled “GC-RF Multiple Dwellings and Townhouses.” to the Town Code of the Town of Harrison. Additionally, Chapter 235, Attachment 3, entitled, “Business District: Table of Use Regulations” and Chapter 235, Attachment 4, entitled “Business District: Table of Dimensional Regulations” will be amended accordingly to reflect the regulations within the General Commercial – Residential Floodplain (GC-RF) District. **New material is underlined and deletions are in brackets [].**

§ 235-17 Special conditions and safeguards for specific uses.

No authorization for a building permit shall be granted by the Planning Board for any use listed in this section, unless the Board shall specifically find that, in addition to meeting all general conditions set forth in § 235-16, the proposed special exception use also meets the special conditions and safeguards required in this section.

§ 235-17 CC. GC-RF Multiple Dwellings and Townhouses

- (1.) The proposed development shall comply with Chapter 146 of the Town Code - Flood Damage Protection, except as follows:
 - a. No building or structure shall be permitted in the Regulatory Floodway.
 - b. The habitable space within residential structures shall have the lowest floor elevated to or above two feet above the 500-year base flood elevation.
 - c. A parking garage or other uninhabited portion of a structure that is designed to allow a 500-year flood to pass through the structure without causing an adverse impact to public health and safety, is permitted within the floodplain. A

hydrological analysis shall be submitted to demonstrate compliance with this provision.

- d. Whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at the development site, or in an alternative location within the same watershed, approved by the Town Engineer. The compensatory flood storage volume shall be provided at a 4:1 ratio.
 - e. An unimpeded pedestrian access route shall be provided, which shall be located above the 500-year base flood elevation, from a central point of refuge in a multi-family building, or in the case of a townhouse, in a centralized location, to the nearest public street that is also situated above the 500-year base flood elevation.
 - f. All building HVAC and mechanical equipment, including emergency generators shall be located above the 500-year base flood elevation.
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- (2.) The applicant shall submit a recent (no earlier than 12 months from the date of application) market survey indicating there are a sufficient number of individuals that would occupy the proposed number of housing units in the proposed price range (either purchase or rental) to assist the Planning Board in its review of the feasibility of the proposed project.
 - (3.) The applicant shall submit a municipal service and infrastructure analysis that addresses the project's impact on community services, schools, infrastructure and traffic conditions.
 - (4.) 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.
 - (5.) No more than 10% of the units in any residential development shall consist of three (3) bedrooms.
 - (6.) A minimum of 300 square feet of recreation space per dwelling unit is required, which may include interior spaces such as a community or recreation room, fitness room, etc. This requirement shall supersede the usable open space requirements set forth in § 235-25 of the Zoning Ordinance.
 - (7.) A minimum of 1.25 off-street parking spaces for each dwelling unit shall be provided.
 - (8.) To facilitate the proximity of a GC-RF residential development to the Metro North train station and the downtown, 1 enclosed bicycle parking space, or bicycle locker shall be provided for every 2 dwelling units.

- (9.) High quality architectural elements shall be employed to provide visual interest, reduce building scale and promote the integration of various design elements.

The use regulations for the GC-RF district shall be as follows as set forth in Chapter 235, Attachment 3 - Business Districts: Table of Use Regulations:

[illegible]

Cleaning establishments	X	SE	SE	X	X	X	X	X	X		<u>X</u>
Coffee shop										SE	<u>P</u>
Dance and martial arts studio										SE	<u>X</u>
Delicatessen										SE	<u>X</u>
Personal wireless services facilities ²											<u>X</u>
Structurally mounted	X	X	X	SE	SE	SE	SE	X	X		<u>X</u>
Monopole	X	X	X	SE	SE	SE	SE	X	X		<u>X</u>
Tower	X	X	X	SE	SE	SE	SE	X	X		<u>X</u>
Eating establishment: drive-in, open front or curb service	X	X	X	X	X	X	X	X	X		<u>X</u>
Equipment storage building ²	X	X	X	X	X	X	X	X	P		
Executive learning center, corporate management training facility	X	X	X	X	X	SE	SE	X	X		<u>X</u>
Food-processing shop	X	X	X	X	X	X	X	X	X		<u>X</u>
Guest facilities (See § 235-17K)	X	X	X	X	X	X	SE	X	X		<u>X</u>
Health maintenance, rehabilitation and fitness centers	X	SE	X	SE	SE	SE	SE	X	X		<u>X</u>
Hotel/motel	X	X	X	SE	X	X	X	X	X		<u>X</u>
Job printing	P	X	P	X	X	X	X	X	X		<u>X</u>
Newspaper establishment	X	X	X	SE	X	X	X	X	X		<u>X</u>
Nursing home	X	X	X	X	X	X	X	X	X		<u>X</u>
Private parking garage pursuant to Article VII	SE	SE	SE	SE	SE	SE	SE	SE	SE		<u>SE</u>
Professional and business offices and financial institutions	P	P	P	P	P	P	P	P	P	SE	<u>P</u>
Planned office park	X	X	X	SE	SE	SE	SE	X	X		<u>X</u>
Public parking garage	SE	X	SE	X	X	X	X	X	SE		<u>SE</u>
Public off-street parking	P	X	P	X	X	X	X	X	P		<u>P</u>
Private off-street parking lot or garage										SE	<u>X</u>
Restaurants	X	P	P	X	X	X	X	P	X	SE	<u>X</u>
Retail service establishments	P	P	P	X	X	X	X	P	P		<u>P</u>
Retail stores	X	P	P	X	X	X	X	P	P	SE	<u>P</u>
SB-0 Restaurant				SE							<u>X</u>
SB-0 Retail				SE							<u>X</u>
SB-0 Retail Service				SE							<u>X</u>
SB-0 Stand-alone fitness center	X	X	X	SE	X	X	X	X	X		<u>X</u>
SB-0 Stand-Alone Retail	X	X	X	SE	X	X	X	X	X		<u>X</u>
Scientific research, excluding manufacturing of products for sale	P	P	P	P	P	P	P	X	X		<u>X</u>
Secretarial, business, trade or similar schools	SE	SE	SE	SE	SE	SE	SE	X	SE		<u>SE</u>

Telephone exchange	SE	SE	SE	SE	SE	SE	SE	X	X		<u>X</u>
Theater										SE	<u>X</u>
Undertaker's establishment	X	X	SE	X	X	X	X	X	X		<u>X</u>
Accessory uses											
Customary accessory uses incidental to a permitted use on the same premises	P	P	P	P	P	P	P	P	P	P	<u>P</u>
Kiosks										P	<u>P</u>
Private off-street parking pursuant to Article VII	P	P	P	P	P	P	P	P	P		<u>P</u>
Retail service or wholesale trade only as an incidental activity to a permitted use	P	P	P	SE	SE	SE	SE	P	P	P	<u>P</u>
SB-0 Day-care center	X	X	X	SE	X	X	X	X	X		<u>X</u>
Signs pursuant to Article VIII	P	P	P	P	P	P	P	P	P	P	<u>P</u>

The dimensional regulations for the GC-RF district shall be as follows as set forth in Chapter 235, Attachment 4 - Business Districts: Table of Dimensional Regulations:

Dimension	P B	NB	CBD	SB- 0	SB- 1	SB- 35	SB- 100	MFR	G C	TOD	GC- RF
Lot area (square feet)											
Minimum	No requirement			5 ac	5 ac	35 ac	100 ac	4,000 sqft	No require ment	2 ac	<u>No require ment</u>
Minimum per family unit	No requirement			Residential use not permitted				750 sqft	No require ment	1,000 sqft	<u>750 sqft</u>
Lot Coverage											
Maximum building coverage											
Maximum coverage for multiple dwellings	No requirement			20%	20%	10%	10%	50%	50%	95%	<u>70%</u>
Lot width (Minimum in feet)	50	50	50	300	300	400	500	50	50		<u>50</u>
Required yards (minimum in feet)											
Front	No requirement			50	50	200	200	No requi rement	15	No requi rement	<u>15</u>
Side											
Adjoining a residence district	20	20	20	100	100	200	200	20	20	No requi rement	<u>10</u>
Adjoining a business district	0 or 10' if provided			75	75	200	200	0 or 10' if provi ded	No require ment	0 or 10' if provi ded	<u>10</u>
Rear	20	20	20	100	100	200	200	20	20	No requi rement	<u>20</u>
Habitable floor area (minimum in square feet)	600	600	Residential use not permitted					600	600	600	<u>600</u>
Buffer strips (minimum in feet)											
Front yard											
Adjoining residence districts	No requirement			50	50	200	200	No requirement			

Adjoining business districts	No requirement			25	25	100	200	No requirement			
Side and Rear Yard											
Adjoining residence districts	No requirement			50	50	200	200	No requirement			
Adjoining business districts	No requirement			50	50	100	200	No requirement			
Height (maximum)											
Feet	35	35	45	55	65	55	55	50	35	50	<u>50</u>
Stories	2	2	4	4	5	4	4	4	2	4	No require ment
Floor area ratio	No requirement					.30	No requirement		0.50	1.25	No require ment

If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

This local law shall take effect immediately upon filing in the office of the Secretary of State.

ALL PERSONS HAVING AN INTEREST IN THE MATTER ARE INVITED TO ATTEND
AND BE HEARD.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF HARRISON.

Jacqueline Greer
Town Clerk

Dated: Harrison, New York
July 5, 2023

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 accommodates 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:

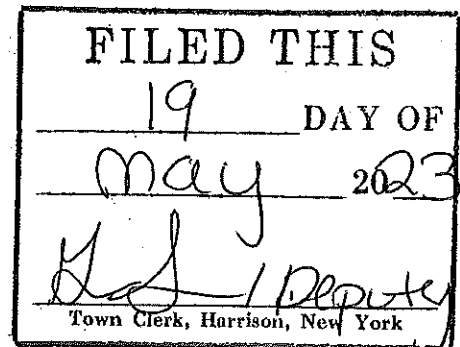
AYES: Joseph Stout, Chip Marrano, Jeffrey Spano, Kimberly Burkan and David Gelfarb

NAYES: None

ABSTAINED: None

ABSENT: Nonie Reich and Marshall Donat


Joseph Stout, Chairman



The resolution was thereupon duly adopted.